

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	:	
	:	
v.	:	<b>No. 3: CR-13-123</b>
	:	
<b>JESSIE CON-UI</b>	:	
	:	
<b>Defendant</b>	:	

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

COMES NOW, pursuant to the requirements of 18 U.S.C.

§ 3593(a), the United States and hereby gives notice that it believes that the circumstances of this case are such that, in the event that the defendant is convicted of either of the capital offenses relating to the death of victim Eric Williams, a sentence of death is justified and that the United States will seek the death penalty. Specifically, the United States will seek a sentence of death for Counts 1 and 2 of the Indictment which charge murder in violation of 18 U.S.C. § 1111, and murder of a federal corrections officer in violation of 18 U.S.C. § 1114.

Pursuant to 18 U.S.C. § 3591(a)(2), the United States will rely on the following preliminary factors to establish the defendant’s eligibility for the death penalty:

1. The defendant was more than 18 years old at the time of the offenses. 18 U.S.C. § 3591(a).

2. The defendant intentionally killed the victim. 18 U.S.C. § 3591(a)(2)(A).

3. The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim. 18 U.S.C. § 3591(a)(2)(B).

4. The defendant participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

5. The defendant intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

Pursuant to 18 U.S.C. § 3592(c), the United States will rely on the following statutory aggravating factors as justifying a sentence of

death:

1. **Previous conviction of offense for which a sentence of death or life imprisonment was authorized.** The defendant has previously been convicted of another state offense resulting in the death of a person, for which a sentence of life imprisonment was authorized by statute. 18 U.S.C. § 3592(c)(3).

2. **Previous conviction for a violent felony involving firearm.** The defendant has previously been convicted of a State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm (as defined in 18 U.S.C. § 921) against another person. 18 U.S.C. § 3592(c)(2).

3. **Heinous, cruel, or depraved manner of committing the offense.** The defendant committed the offenses in an especially heinous, cruel, or depraved manner involving torture or serious physical abuse to the victim. 18 U.S.C. § 3592(c)(6).

4. **Conviction for serious Federal drug offense.** The defendant has previously been convicted of violating Title II or III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 for which a sentence of 5 or more years may be imposed. 18 U.S.C. §

3592(c)(12).

5. **Federal public servant.** The defendant committed the offenses against a federal public servant who was an employee of a United States penal or correctional institution while he was engaged in the performance of his duties. 18 U.S.C. § 3592(c)(14)(D)(i).

6. **Substantial planning and premeditation.** The defendant committed the offenses after substantial planning and premeditation to cause the death of a person. 18 U.S.C. § 3592(c)(9).

In addition to the statutory aggravating factors set forth above, the United States will rely on the following non-statutory aggravating factors to justify a sentence of death pursuant to 18 U.S.C. §§ 3592(c) and 3593(a)(2).

1. **Participation in additional uncharged serious acts of violence.** The defendant has committed and participated in serious acts of violence and attempted violence including, but not limited to:

a) In September-October 1999, the defendant agreed to participate in the stabbing of other inmates at ASPC Florence;

b) On June 2, 2000, the defendant assaulted another inmate with a metal food tray at ASPC Winslow;

c) In May-June 2003, in Phoenix, Arizona, the defendant agreed to participate in multiple murders, including the murder of a law enforcement officer, but was arrested by police before the murders could be committed;

d) On October 23, 2009, while an inmate at U. S. P. Victorville, the defendant threatened to physically harm a federal corrections officer;

e) On November 21, 2010, the defendant, while an inmate at U. S. P. Pollock, assaulted and stabbed another inmate with a homemade weapon;

2. **Future Dangerousness of the Defendant.** The defendant represents a continuing danger to the lives and safety of other persons. The defendant has committed the acts alleged in the capital offenses charged in the Indictment and in the statutory and non-statutory aggravating factors contained in this Notice, and, in addition, has committed and exhibited acts and characteristics including but not limited to the following:

a) **Low Rehabilitative Potential.** The defendant demonstrated a

low potential for rehabilitation as evidenced by, among other things, his commission of these crimes while serving a sentence of confinement, his prior serious criminal convictions for murder and drug trafficking, his uncharged involvement in a plan to murder a police officer, and his involvement in numerous disciplinary infractions, including assaults, threatening, and possession of weapons while serving sentences of confinement, and his active membership in a prison and street gang, the Arizona Mexican Mafia.

b) **Lack of Remorse.** After the commission of the offenses charged in the Indictment, the defendant, through his actions and statements, demonstrated utter lack of remorse over having committed the offenses.

3. **Victim Impact.** As demonstrated by the victim's personal characteristics as an individual human being and the impact of the death upon the victim and the victim's family and friends, the defendant caused injury, harm, and loss to the victim and the victim's family and friends, including but not limited to Jean Williams, Donald Williams, Mark Williams, Kyle Williams, Lauren Williams, Todd Hrivinak, Joseph Brozowski, and Lindsey Stackhouse.

The Government further gives notice that in support of the imposition of the death penalty on Counts 1 and 2, it intends to rely upon all evidence admitted by the Court at the guilt phase of the trial and the offenses of conviction as described in the Indictment as it relates to the background and character of the defendant, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Respectfully submitted,  
PETER J. SMITH  
United States Attorney

/Francis P. Sempa  
FRANCIS P. SEMPA  
Assistant United States Attorney  
PA ID 41294  
William J. Nealon Federal Bldg.  
235 N. Washington Ave., Suite 311  
Scranton, PA 18501-0309  
Tele: (570) 348-2800  
FAX: (570) 348-1908  
[fran.sempa@usdoj.gov](mailto:fran.sempa@usdoj.gov)

s/ Robert J. O'Hara  
ROBERT J. O'HARA  
Assistant United States Attorney  
PA ID 47264  
William J. Nealon Federal Bldg.  
235 N. Washington Ave., Suite 311  
Scranton, PA 18501-0309  
Tele: (570) 348-2800  
FAX: (570) 348-1908  
[robert.ohara@usdoj.gov](mailto:robert.ohara@usdoj.gov)

s/ Amanda Haines  
Trial Attorney/Capital Case Section  
Criminal Division,  
U.S. Dept. of Justice  
1331 F Street, NW, 3<sup>rd</sup> Floor, Rm. 330  
Washington DC 20530  
202-514-0175  
[Amanda.Haines@usdoj.gov](mailto:Amanda.Haines@usdoj.gov)

Date: October 2, 2014

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :  
 :  
 v. : 3: CR-13-123  
 :  
 JESSIE CON-UI :  
 :  
 Defendant :

**CERTIFICATE OF ELECTRONIC SERVICE**

We hereby certify that we caused a true and correct copy of the foregoing

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

by filing electronically on October 2, 2014, to:

James A. Swetz, Esquire  
Mark Fleming, Esquire

/s/Francis P. Sempa  
FRANCIS P. SEMPA  
Assistant United States Attorney

/s/Robert J. O'Hara  
ROBERT J. O'HARA  
Assistant United States Attorney