

MILLER, MURTHA & PSORAS, LLC
ATTORNEYS AT LAW

JAY D. MILLER
JOSEPH MURTHA
GEORGE PSORAS, JR.
GREGORY E. PSORAS
FRANCIS C. LANASA

1301 YORK ROAD, SUITE 108
LUTHERVILLE, MARYLAND 21093
(410) 583-6969
FAX (410) 583-4706

1055 ENGLESLIDE AVENUE
CATONSVILLE, MD 21228
3697 PARK AVENUE, STE. 200
BELLICOFF CITY, MD 21045

FAX COVER PAGE

TO: Gary Proctor, Esquire
FACSIMILE #: (866) 230-4455
FROM: Joseph Murtha, Esquire
TOTAL PAGES: 11 (including cover page)
DATE: January 27, 2008
RE: United States v. James Dinkins
MESSAGE: Please see accompanying notice.

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**U.S. Department of Justice**

*United States Attorney
District of Maryland
Northern Division*

*Rod J. Rosenstein
United States Attorney*

*Debra L. Dwyer
Assistant United States Attorney*

*36 South Charles Street
Fourth Floor
Baltimore, Maryland 21201*

*DIRECT: 410-209-4813
MAIN: 410-209-4800
FAX: 410-962-3124
TTY/TDD: 410-962-4462
Debbie.Dwyer@usdoj.gov*

January 25, 2008

The Honorable J. Frederick Motz
United States District Judge
United States Courthouse
101 West Lombard Street
Baltimore, Maryland 21201

Re: United States v. James Dinkins
United States v. Melvin Gilbert
JFM-06-0309

Dear Judge Motz:

Enclosed please find copies of the Notice of Intent to Seek the Death Penalty in the above captioned cases. The original of each Notice has been filed with the court. Copies will also be sent to defense counsel.

Thank you.

Very truly yours,

Rod J. Rosenstein
United States Attorney

By: 

Debra L. Dwyer
Assistant United States Attorney

cc: Joseph Murtha, Esq.
Miller, Murtha & Psoras, LLC
Suite 108
1301 York Road
Lutherville, MD 21093

Gary Proctor, Esq.
Law Offices of Gary E. Proctor, LLC
8 E. Mulberry Street,
Baltimore, MD 21202

Arcangelo M. Tuminelli, Esq.
1005 North Calvert Street
Baltimore, MD 21202

Jonathan P. Van Hoven, Esq.
1 N. Charles Street, Suite 1215
Baltimore, MD 21201-3720

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

*

v.

*

**JAMES DINKINS,
a/k/a "Miami"**

* **CRIMINAL NO. JFM-06-0309**

*

Defendant.

*

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States of America, pursuant to 18 U.S.C. § 3593(a), by and through its undersigned counsel, and notifies the Court and the defendant James Dinkins in the above-captioned case that the Government believes the circumstances of the offenses charged in Counts Seven, Nine, and Twelve of the Fourth Superseding Indictment are such that, in the event of the defendant's conviction of one or more of these offenses, a sentence of death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 of the United States Code, and that the Government will seek the sentence of death for these offenses: Count Seven charges witness tampering by homicide in connection with the murder of Shannon Jemmison, in violation of Title 18, United States Code, Sections 1512(a)(1)(A) and 1512(a)(1)(C), which carries a possible sentence of death, and Counts Nine and Twelve charge causing the death of a person through the use of a firearm by murder (violations of Title 18 United States Code, Section 924(j)) in connection with the murders of of Shannon Jemmison and Michael Bryant, which each carry a possible sentence of death.

The Government proposes to prove the following factors as justifying a sentence of death:

COUNTS SEVEN AND NINE: THE MURDER OF SHANNON JEMMISON

A. Eligibility Factors Applicable To Counts Seven And Nine

**1. Statutory Proportionality Factors Enumerated
Under 18 U.S.C. § 3591(a)(2)(A)-(D) Applicable to Counts Seven and Nine.**

a. **Intentional Killing.** The defendant intentionally killed Shannon Jemmison. Section 3591(a)(2)(A).

b. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Shannon Jemmison. Section 3591(a)(2)(B).

c. **Intentional Act to Take Life or Use Lethal Force.** The defendant intentionally 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 Shannon Jemmison died as a direct result of the act. Section 3591(a)(2)(C).

d. **Intentional Act in Reckless Disregard for Life.** 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 Shannon Jemmison died as a direct result of the act. Section 3591(a)(2)(D).

**2. Statutory Aggravating Factors Enumerated
Under 18 U.S.C. § 3592(c) Applicable to Counts Seven and Nine.**

a. **Previous Conviction of Other Serious Offenses.** The defendant has previously been convicted of 2 or more Federal or State offenses, punishable by a term of imprisonment of

more than 1 year, committed on different occasions, involving the infliction of, or attempted infliction of serious bodily injury upon another person, including at least the following: a 1991 conviction for discharging a firearm, in which he fired four shots outside the victim's house, and a 1998 conviction for robbery, in which he robbed a victim at an ATM machine at gunpoint. Section 3592(c)(4).

b. **Grave Risk of Death to Additional Persons.** During the commission of the charged offense resulting in the death of Shannon Jemmison, the defendant created a grave risk of death to several people who were seated near the victim at the time of his shooting. Section 3592(c)(5).

c. **Pecuniary Gain.** The defendant committed the offense resulting in the death of Shannon Jemmison in consideration for, or in the expectation of the receipt, of payment from Melvin Gilbert. Section 3592(c)(8).

e. **Substantial Planning and Premeditation.** The defendant committed the charged offenses resulting in the death of Shannon Jemmison after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. **Statutory Aggravating Factors Enumerated Under 18 U.S.C. § 3592(c) Applicable to Count Seven.**

a. **Previous Conviction of Violent Felony Involving a Firearm.** The defendant has previously been convicted of two state offenses, each punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined by 18 U.S.C. § 921) against another person, including at least the following: a 1991 conviction for discharging a firearm, in which he fired four shots outside the victim's house, and a 1998 conviction for robbery, in which he robbed a victim at an ATM machine at gunpoint. Section

3592(c)(2).

4. Other, Non-Statutory, Aggravating Factors Identified Under 18 U.S.C. § 3593(a)(2) Applicable to Counts Seven and Nine.

a. **Victim Impact Evidence.** As evidenced by the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family and friends, the defendant caused injury, harm and loss to the victim and the victim's family and friends.

b. **Obstruction of justice.** The victim Shannon Jemmison was killed in an effort by the defendant to obstruct justice, tamper with a witness, or in retaliation for cooperating with authorities. Jemmison was murdered in retaliation for his suspected cooperation in a federal prosecution of other drug dealers.

c. **Pattern of Prior Convictions for Serious and Violent Offenses.** The defendant has engaged in a continuing pattern of serious and violent criminality including, at least, the crimes of which the defendant was previously convicted: an August 21, 1998 conviction for robbery, for which he received a sentence of 10 years, all of which was suspended and 5 years probation; a May 18, 1998 conviction for robbery, for which he received a sentence of 10 years; a September 12, 1991 conviction for handgun on person, discharging a firearm, pistol-illegal possession, for which he received a sentence of 3 years, 1 year of which was suspended, and 3 years probation; and a May 8, 1991 conviction for robbery, violation of probation, for which he was sentenced to 4 years, of which 3 years and 3 months were suspended, and 5 years probation.

d. **Contemporaneous Convictions.** The defendant faces contemporaneous convictions for multiple murders and other serious offenses.

e. **Lack of Remorse.** The defendant demonstrated a lack of remorse for his commission of violent offenses by, at least, making statements expressing regret that one of his

shooting victims had survived.

COUNT TWELVE: THE MURDER OF MICHAEL BRYANT

A. Eligibility Factors Applicable To Count Twelve

**1. Statutory Proportionality Factors Enumerated
Under 18 U.S.C. § 3591(a)(2)(A)-(D) Applicable to Count Twelve.**

- a. **Intentional Killing.** The defendant intentionally killed Michael Bryant.

Section 3591(a)(2)(A).

b. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Michael Bryant.

Section 3591(a)(2)(B).

c. **Intentional Act to Take Life or Use Lethal Force.** The defendant intentionally 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 Michael Bryant died as a direct result of the act. Section 3591(a)(2)(C).

d. **Intentional Act in Reckless Disregard for Life.** 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 Michael Bryant died as a direct result of the act. Section 3591(a)(2)(D).

**2. Statutory Aggravating Factors Enumerated
Under 18 U.S.C. § 3592(c) Applicable To Count Twelve.**

a. **Previous Conviction of Other Serious Offenses.** The defendant has previously been convicted of 2 or more Federal or State offenses, punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the infliction of, or attempted

infliction of serious bodily injury upon another person, including at least the following: a 1991 conviction for discharging a firearm, in which he fired four shots outside the victim's house, and a 1998 conviction for robbery, in which he robbed a victim at an ATM machine at gunpoint. Section 3592(c)(4).

b. **Substantial Planning and Premeditation.** The defendant committed the charged offense resulting in the death of Michael Bryant after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. **Other, Non-Statutory, Aggravating Factors Identified Under 18 U.S.C. § 3593(a)(2) Applicable to Count Twelve.**

a. **Victim Impact Evidence.** As evidenced by the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family and friends, the defendant caused injury, harm and loss to the victim and the victim's family and friends.

b. **Pattern of Prior Convictions for Serious and Violent Offenses.** The defendant has engaged in a continuing pattern of serious and violent criminality including, at least, the crimes of which the defendant was previously convicted: an August 21, 1998 conviction for robbery, for which he received a sentence of 10 years, all of which was suspended and 5 years probation; a May 18, 1998 conviction for robbery, for which he received a sentence of 10 years; a September 12, 1991 conviction for handgun on person, discharging a firearm, pistol-illegal possession, for which he received a sentence of 3 years, 1 year of which was suspended, and 3 years probation; and a May 8, 1991 conviction for robbery and violation of probation, for which he was sentenced to 4 years, of which 3 years and 3 months were suspended, and 5 years probation.

c. **Contemporaneous Convictions.** The defendant faces contemporaneous

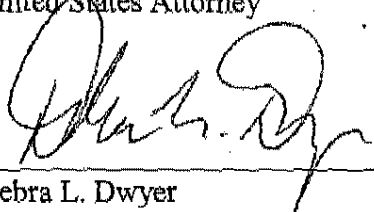
convictions for multiple murders and other serious offenses.

d. **Lack of Remorse.** The defendant demonstrated a lack of remorse for his commission of violent offenses by, at least, making statements expressing regret that one of his shooting victims had survived.

Respectfully submitted,

Rod J. Rosenstein
United States Attorney

By:



Debra L. Dwyer
Stephanie A. Gallagher
Assistant United States Attorneys

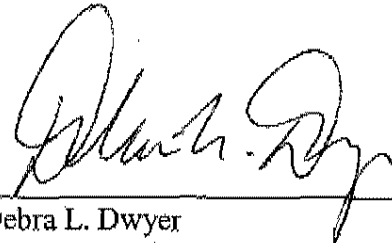
Dated: January 24, 2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of January, 2008, a true and correct copy of the foregoing Notice of Intent to Seek the Death Penalty was mailed via first class mail, postage prepaid thereon, to the following attorneys for James Dinkins:

Joseph Murtha, Esq.
Miller, Murtha & Psoras, LLC
Ste 108
1301 York Road
Lutherville, MD 21093

Gary Proctor
Law Offices of Gary E. Proctor, LLC
8 E. Mulberry Street,
Baltimore, MD 21202



Debra L. Dwyer
Assistant United States Attorney