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Leave of Court  
to file.*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

**UNITED STATES OF AMERICA** )  
)  
**vs.** )  
)  
**SAMUEL STEPHEN EALY** )

**Criminal No. 1:00CR00104**

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

COMES NOW the United States of America, pursuant to 21 U.S.C. 848(h)(1), by and through its undersigned counsel, and notifies the Court and the defendant in the above-captioned case that the Government believes the circumstances of the offenses charged in Counts Two through Four of the Third Superseding Indictment are such that, in the event of a conviction on any one or more of the offenses charged therein, a sentence of death is justified under Chapter 13 (Section 848) of Title 21 of the United States Code, and that the Government will seek the sentence of death for these offenses: Title 21, United States Code, Section 848(e)(1)(A)(three counts), each of which carries a possible sentence of death.

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

**COUNT TWO: MURDER OF ROBERT DAVIS:**

A. Statutory Intent Factors Enumerated under 21 U.S.C. § 848(n)(1)

1. Intentional Killing under §848(n)(1)(A). The defendant intentionally killed Robert Davis.
2. Intentional Infliction of Serious Bodily Injury under §848(n)(1)(B). The defendant intentionally inflicted serious bodily injury that resulted in the death of Robert Davis.

3. Intentional Participation in a Lethal Act under §848(n)(1)(C). The defendant intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim and,

4. Intentionally Creating a Grave Risk of Death under §848(n)(1)(D)(i) and (ii). The Defendant intentionally engaged in conduct which the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense, and resulted in the death of the victim.

B. Statutory Aggravating Factors Enumerated under 21 U.S.C. 848(n)(2)-(12).

1. Ealy and his accomplice committed the offense as consideration for the receipt, or the expectation of the receipt of cocaine and cash. [21 U.S.C. 848(n)(7)]

2. Ealy committed the offense after substantial planning and premeditation. [21 U.S.C. 848(n)(8)].

**COUNT THREE: MURDER OF UNA DAVIS:**

A. Statutory Intent Factors Enumerated under 21 U.S.C. § 848(n)(1)

1. Intentional Killing under §848(n)(1)(A). The defendant intentionally killed Una Davis.

2. Intentional Infliction of Serious Bodily Injury under §848(n)(1)(B). The defendant intentionally inflicted serious bodily injury that resulted in the death of Una Davis.

3. Intentional Participation in a Lethal Act under §848(n)(1)(C). The defendant intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim and,

4. **Intentionally Creating a Grave Risk of Death under §848(n)(1)(D)(i) and (ii)**. The Defendant intentionally engaged in conduct which the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense, and resulted in the death of the victim.

B. **Statutory Aggravating Factors Enumerated under 21 U.S.C. 848(n)(2)-(12)**.

1. Ealy committed the offense as consideration for the receipt, or the expectation of the receipt of cocaine and cash. [21 U.S.C. 848(n)(7)]
2. Ealy committed the offense after substantial planning and premeditation. [21 U.S.C. 848(n)(8)].

**COUNT FOUR: MURDER OF ROBERT HOPEWELL:**

A. **Statutory Intent Factors Enumerated under 21 U.S.C. § 848(n)(1)**

1. **Intentional Killing under §848(n)(1)(A)**. The defendant intentionally killed Robert Hopewell.
2. **Intentional Infliction of Serious Bodily Injury under §848(n)(1)(B)**. The defendant intentionally inflicted serious bodily injury that resulted in the death of Robert Hopewell.
3. **Intentional Participation in a Lethal Act under §848(n)(1)(C)**. The defendant intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim and,

4. Intentionally Creating a Grave Risk of Death under §848(n)(1)(D)(i) and (ii).

The Defendant intentionally engaged in conduct which the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense, and resulted in the death of the victim.

B. Statutory Aggravating Factors Enumerated under 21 U.S.C. 848(n)(2)-(12).

1. Ealy committed the offense as consideration for the receipt, or the expectation of the receipt of cocaine and cash. [21 U.S.C. 848(n)(7)]

2. Ealy committed the offense after substantial planning and premeditation. [21 U.S.C. 848(n)(8)].

3. The 14 year old victim, Robert Hopewell, was a vulnerable victim by virtue of his youth and infirmity. [21 U.S.C. 848(n)(9)]

C. Non-Statutory Aggravating Factors per 21 U.S.C. 848(h)(1)(B)

The non-statutory aggravating factors under Section 848 (h)(1)(B) (“other aggravating factors which the Government will seek to prove as the basis for the death penalty”) which are applicable to the homicide and to the defendant are as follows.

**COUNTS TWO THROUGH FOUR:**

1. Victim impact: The impact on the family and friends of the victims caused by their murders. *Payne v. Tennessee*, 501 U.S. 808 (1991). Specifically, the surviving members of the Davis family, including the daughter of Robert Davis, his mother, father, brothers, and the family of Una Davis and Robert Hopewell, have been deprived of their loved ones and the benefits of having those loved ones in their lives. As a result, their lives have changed and they have

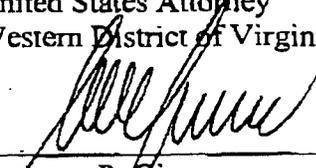
experienced significant emotional trauma.

2. Obstruction of Justice: All three victims were killed in an effort by Ealy to obstruct justice by preventing them from providing information about the commission of a possible federal crime to law enforcement officials or in retaliation for cooperating with authorities.<sup>1</sup>

3. Multiple killings: The defendant murdered all three members of the Davis family in a single criminal episode.

The government gives further notice that in support of imposition of the death penalty it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offense of conviction as described in the Third Superseding Indictment as they relate to the background and character of the defendant, his moral culpability and the nature and circumstances of the offense of conviction.

Respectfully submitted,  
JOHN L. BROWNLEE  
United States Attorney  
Western District of Virginia



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Anthony P. Giorno  
Assistant United States Attorney  
Western District of Virginia

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<sup>1</sup> See 18 U.S.C. §§ 1510, 1512, and 1513.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the Second Amended Notice of Intent to Seek the Death Penalty has been mailed to

Thomas Blaylock, Esq. P.O. Box 134 Roanoke, Virginia 24002	James C. Turk, Jr., Esq. P.O. Box 2968 Radford, Virginia 24143
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Thomas Scott, Jr., Esq. P.O. Box 2100 Grundy, Virginia 24614	Beverly Davis, Esq. P.O. Box 3448 Radford, Virginia 24143
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on this \_\_\_\_\_ day of February, 2002.

  
\_\_\_\_\_  
Anthony E. Giorno  
Assistant United States Attorney  
VSB Code # 15830

IN THE UNITED STATES DISTRICT COURT,  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION

UNITED STATES OF AMERICA )  
 )  
vs. ) Criminal No. 1:00CR00104  
 )  
SAMUEL STEPHEN EALY )

AMENDED NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States of America, pursuant to 21 U.S.C. 848(h)(1), by and through its undersigned counsel, and notifies the Court and the defendant in the above-captioned case that the Government believes the circumstances of the offenses charged in Counts Two through Four of the Second Superseding Indictment are such that, in the event of a conviction on any one or more of the offenses charged therein, a sentence of death is justified under Chapter 13 (Section 848) of Title 21 of the United States Code, and that the Government will seek the sentence of death for these offenses: Title 21, United States Code, Section 848(e)(1)(A)(three counts), each of which carries a possible sentence of death.

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

COUNT TWO: MURDER OF ROBERT DAVIS:

A. Statutory Intent Factors Enumerated under 21 U.S.C. § 848(n)(1)

1. Intentional Killing under §848(n)(1)(A). The defendant intentionally killed Robert Davis.

2. Intentional Infliction of Serious Bodily Injury under §848(n)(1)(B). The defendant intentionally inflicted serious bodily injury that resulted in the death of Robert Davis.

3. Intentional Participation in a Lethal Act under §848(n)(1)(C). The defendant intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim and,

4. Intentionally Creating a Grave Risk of Death under §848(n)(1)(D)(i) and (ii). The Defendant intentionally engaged in conduct which the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense, and resulted in the death of the victim.

B. Statutory Aggravating Factors Enumerated under 21 U.S.C. 848(n)(2)-(12).

1. Ealy and his accomplice committed the offense as consideration for the receipt, or the expectation of the receipt of cocaine and cash. [21 U.S.C. 848(n)(7)]

2. Ealy and his accomplice committed the offense after substantial planning and premeditation. [21 U.S.C. 848(n)(8)].

**COUNT THREE: MURDER OF UNA DAVIS:**

A. Statutory Intent Factors Enumerated under 21 U.S.C. § 848(n)(1)

1. Intentional Killing under §848(n)(1)(A). The defendant intentionally killed Una Davis.

2. Intentional Infliction of Serious Bodily Injury under §848(n)(1)(B). The defendant intentionally inflicted serious bodily injury that resulted in the death of Una Davis.

3. Intentional Participation in a Lethal Act under §848(n)(1)(C). The defendant intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim and,

4. **Intentionally Creating a Grave Risk of Death under §848(n)(1)(D)(i) and**

**(ii)**. The Defendant intentionally engaged in conduct which the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense, and resulted in the death of the victim.

B. **Statutory Aggravating Factors Enumerated under 21 U.S.C. 848(n)(2)-(12)**.

1. Ealy and his accomplice committed the offense as consideration for the receipt, or the expectation of the receipt of cocaine and cash. [21 U.S.C. 848(n)(7)]

2. Ealy and his accomplice committed the offense after substantial planning and premeditation. [21 U.S.C. 848(n)(8)].

**COUNT FOUR: MURDER OF ROBERT HOPEWELL:**

A. **Statutory Intent Factors Enumerated under 21 U.S.C. § 848(n)(1)**

1. **Intentional Killing under §848(n)(1)(A)**. The defendant intentionally killed Robert Hopewell.

2. **Intentional Infliction of Serious Bodily Injury under §848(n)(1)(B)**. The defendant intentionally inflicted serious bodily injury that resulted in the death of Robert Hopewell.

3. **Intentional Participation in a Lethal Act under §848(n)(1)(C)**. The defendant intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim and,

4. Intentionally Creating a Grave Risk of Death under §848(n)(1)(D)(i) and (ii).

The Defendant intentionally engaged in conduct which the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense, and resulted in the death of the victim.

B. Statutory Aggravating Factors Enumerated under 21 U.S.C. 848(n)(2)-(12).

1. Ealy and his accomplice committed the offense as consideration for the receipt, or the expectation of the receipt of cocaine and cash. [21 U.S.C. 848(n)(7)]
2. Ealy and his accomplice committed the offense after substantial planning and premeditation. [21 U.S.C. 848(n)(8)].
3. The 14 year old victim, Robert Hopewell, was a vulnerable victim by virtue of his youth and infirmity. [21 U.S.C. 848(n)(9)]

C. Non-Statutory Aggravating Factors per 21 U.S.C. 848(h)(1)(B)

The non-statutory aggravating factors under Section 848 (h)(1)(B) ("other aggravating factors which the Government will seek to prove as the basis for the death penalty") which are applicable to the homicide and to the defendant are as follows.

**COUNTS TWO THROUGH FOUR:**

1. Victim impact: The impact on the family and friends of the victims caused by their murders. *Payne v. Tennessee*, 501 U.S. 808 (1991). Specifically, the surviving members of the Davis family, including the daughter of Robert Davis, his mother, father, brothers, and the family of Una Davis and Robert Hopewell, have been deprived of their loved ones and the benefits of having those

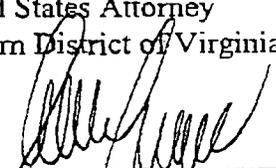
loved ones in their lives. As a result, their lives have changed and they have experienced significant emotional trauma.

2. Obstruction of Justice: All three victims were killed in an effort by Ealy and his accomplice to obstruct justice by preventing them from providing information about the commission of a possible federal crime to law enforcement officials or in retaliation for cooperating with authorities.<sup>1</sup>

3. Multiple killings: The defendant and his accomplice murdered all three members of the Davis family in a single criminal episode.

The government gives further notice that in support of imposition of the death penalty it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offense of conviction as described in the Second Superseding Indictment as they relate to the background and character of the defendant, his moral culpability and the nature and circumstances of the offense of conviction.

Respectfully submitted,  
RUTH PLAGENHOEF  
United States Attorney  
Western District of Virginia



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Anthony P. Giomo  
Assistant United States Attorney  
Western District of Virginia

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<sup>1</sup> See 18 U.S.C. §§ 1510, 1512, and 1513.

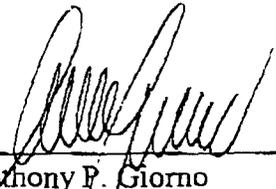
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the Notice of Intent to Seek the Death Penalty has been mailed to

Thomas Blaylock, Esq. P.O. Box 134 Roanoke, Virginia 24002	James C. Turk, Jr., Esq. P.O. Box 2968 Radford, Virginia 24143
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Thomas Scott, Jr., Esq. P.O. Box 2100 Grundy, Virginia 24614	Beverly Davis, Esq. P.O. Box 3448 Radford, Virginia 24143
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on this 26<sup>th</sup> day of July, 2001.

  
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Anthony P. Giorno  
Assistant United States Attorney  
VSB Code # 15830

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION

CLERK'S OFFICE U.S. DIST. COURT  
AT ROANOKE, VA  
FILED  
*for Abingdon*  
MAY 11 2000

UNITED STATES OF AMERICA )  
 )  
vs. )  
 )  
SAMUEL STEPHEN EALY )

MORGAN E. SCOTT, JR., CLERK  
BY: *[Signature]*  
DEPUTY CLERK  
Criminal No. 1:00CR00104

**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 in the above-captioned case that the Government believes the circumstances of the offenses charged in Counts Five, Six and Seven of the Superseding Indictment are such that, in the event of a conviction on any one or more of the offenses charged therein, 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: Title 18, United States Code, Section 1512(a)(1)(C), which carries a possible sentence of death.

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

**COUNT FIVE : MURDER OF ROBERT DAVIS**

A. Statutory Eligibility Factors Enumerated under 18 U.S.C. § 3591(a)(2)(A)-(D)

1. **Intentional Killing.** The defendant intentionally killed Robert Davis. Section 3591(a)(2)(A);
2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Robert Davis. Section 3591(a)(2)(B);

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3. **Intentional Participation in a Lethal Act.** 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 the victim died as a direct result of the act. Section 3591(a)(2)(C); or,

4. **Intentionally Creating a Grave Risk of Death.** 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. Section 3591(a)(2)(D).

B. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592(c).

1. **Pecuniary Gain under § 3592(c)(8).** Ealy and his accomplice committed the offense as consideration for the receipt, or the expectation of the receipt of cocaine and cash.

2. **Multiple killings under § 3592(c)(16).** Ealy and his accomplice intentionally murdered three members of the Davis family in a single criminal episode.

**COUNT SIX : MURDER OF UNA DAVIS**

A. Statutory Eligibility Factors Enumerated under 18 U.S.C. § 3591(a)(2)(A)-(D)

1. **Intentional Killing.** The defendant intentionally killed Una Davis. Section 3591(a)(2)(A);

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

3. **Intentional Participation in a Lethal Act.** 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 the victim died as a direct result of the act. Section 3591(a)(2)(C); or,

**4. Intentionally Creating a Grave Risk of Death.** 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. Section 3591(a)(2)(D).

**B. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592(c).**

**1. Multiple killings under § 3592(c)(16).** Ealy and his accomplice intentionally murdered three members of the Davis family in a single criminal episode.

**COUNT SEVEN : MURDER OF ROBERT HOPEWELL**

**A. Statutory Eligibility Factors Enumerated under 18 U.S.C. § 3591(a)(2)(A)-(D)**

**1. Intentional Killing.** The defendant intentionally killed Robert Hopewell. Section 3591(a)(2)(A);

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

**3. Intentional Participation in a Lethal Act.** 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 the victim died as a direct result of the act. Section 3591(a)(2)(C); or,

**4. Intentionally Creating a Grave Risk of Death.** 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 victims died as a direct result of the act. Section 3591(a)(2)(D).

**B. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592(c).**

1. **Vulnerable Victim under § 3592(c)(11).** Robert Hopewell was an especially vulnerable victim because of his age.

2. **Multiple killings under § 3592(c)(16).** Ealy and his accomplice intentionally murdered three members of the Davis family in a single criminal episode.

**C. Non-Statutory Aggravating Factors per 18 U.S.C. § 3593(a).**

The non-statutory aggravating factors under Section 3593(a) (other “factors concerning the effect of the offense on the victim and the victim’s family. . .and any other relevant information”) which are applicable to the homicide and to the defendant are as follows.

**COUNTS FIVE THROUGH SEVEN:**

1. The impact on the family and friends of the victims caused by their murders. *Payne v. Tennessee*, 501 U.S. 808 (1991).

2. All three victims were killed in an effort by Ealy and his accomplice to obstruct justice by preventing them from providing information about the commission of a possible federal crime to law enforcement officials or in retaliation for cooperating with authorities.<sup>1</sup>

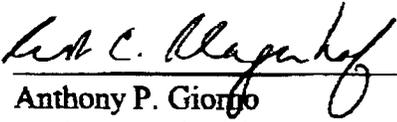
The government gives further notice that in support of imposition of the death penalty it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offense of conviction as described in the Indictment as they relate to the background and character

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<sup>1</sup> See 18 U.S.C. §§ 1510, 1512, and 1513.

of the defendant, his moral culpability and the nature and circumstances of the offense of conviction.

Respectfully submitted,  
RUTH PLAGENHOEF  
United States Attorney  
Western District of Virginia

  
\_\_\_\_\_  
Anthony P. Giorgio  
Assistant United States Attorney  
Western District of Virginia

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the Notice of Intent to Seek the Death Penalty has

been mailed to

Thomas Blaylock, Esq.  
P.O. Box 134  
Roanoke, Virginia 24002

James C. Turk, Jr., Esq.  
P.O. Box 2968  
Radford, Virginia 24143

Thomas Scott, Jr., Esq.  
P.O. Box 2100  
Grundy, Virginia 24614

Beverly Davis, Esq.  
P.O. Box 3448  
Radford, Virginia 24143

on this 11<sup>th</sup> day of May, 2001.

  
\_\_\_\_\_  
Anthony P. Giorno  
Assistant United States Attorney  
VSB Code # 15830