

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

Bill Ruddy

C. Fry
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UNITED STATES OF AMERICA,

Plaintiff,

vs.

DONALD LEE FEREBE

Defendant.

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CASE NO. L-97-0329

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**NOTICE OF INTENTION TO SEEK THE DEATH PENALTY
AS TO DEFENDANT DONALD LEE FEREBE**

Pursuant to the requirements of 18 U.S.C. 3593(a), the United States of America hereby provides notice to this Court and to defendant Donald Lee Ferebe that the government believes that the circumstances of the capital offenses charged in the indictment are such that, in the event of a conviction, a sentence of death is justified and that the government will seek the death penalty. Specifically, the government will seek a sentence of death for each of the following counts charged in the indictment, each of which provides for a sentence of death upon a finding of guilt: Counts Two and Three (Firearms Murder During or in Relation to a Drug Trafficking Crime under 18 U.S.C. § 924(j)(1);

During a bifurcated capital penalty hearing, the United States of America will prove the following factors as justifying a sentence of death:

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

1. **Intentional Acts 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 Benjamin Page, as to Count Two and Yolanda Evans, as to Count Three, died as a direct result of the act. Section 3591(a)(2)(C).

2. **Intentional Acts of Violence 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 Benjamin Page, as to Count Two and Yolanda Evans, as to Count Three, died as a direct result of the act. 18 U.S.C. §3591(a)(2)(D).

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

1. **Prior Violent Felony Conviction.** That Donald Lee Ferebe has a previous conviction of a violent felony involving the murder of Richard Thomas in July of 1994. Mr. Ferebe was convicted of murder in furtherance of racketeering activity in violation of 18 U.S.C. § 1959. Ferebe was sentenced to life by the Honorable Walter E. Black, a judge of this court under Criminal Number B-96-

0401. The offense occurred on July 18, 1994 and involved the defendant firing a handgun at Richard Thomas, fatally wounding him. 18 U.S.C. § 3592(c)(2).

2. Previous Conviction of Offense for Which Life Imprisonment was Authorized. That Donald Lee Ferebe has previously been convicted of a serious federal felony, to wit: in the District of Maryland, case number B-96-0401, the defendant was convicted of murder in furtherance of racketeering activity in violation of 18 U.S.C. § 1959 and was sentenced to life. 18 U.S.C. § 3592(c)(3).

3. Grave Risk of Death to Additional Persons. That Donald Lee Ferebe intended the death of Benjamin Page under circumstances wherein the shooting was to be publicly accomplished, by multiple shooters, thus creating a grave risk to other persons. 18 U.S.C. § 3592(c)(5).

4. Substantial Planning and Premeditation. Mr. Ferebe carefully planned the death of Benjamin Page in a public place and secured an alibi for himself to avoid suspicion by law enforcement. The motive to kill Mr. Page was to prevent Page's testimony at an upcoming murder trial of Mr. Ferebe. 18 U.S.C. § 3592(c)(9).

C. Non-Statutory Aggravating Factors.

In addition to the statutory aggravating factors outlined above that are contained in 18 U.S.C. § 3592(c), the United States will rely on the following non-statutory aggravating factors to justify a sentence of death:

1. **Victim Impact Evidence.** Victim impact evidence concerning the effect of the defendant's offenses on the victims and the victims' families, as evidenced by oral testimony and victim impact statements that identify the victims of the offenses and the extent and scope of injury and loss suffered by the victims and the victims' families.

2. **Future Dangerousness.** Donald Lee Ferebe represents a continuing, serious threat to the lives and safety of others. His future dangerousness is shown by his commission of the offenses charged in this indictment, by his commission of other acts of violence or potential violence, by his low potential for rehabilitation, by his lack of remorse for violent acts he has committed, and by his threats of violence to others.

3. **Lack of Remorse.** Donald Lee Ferebe's lacks remorse for his violent acts. This is shown by facts including, but not limited to the fact that, since the murders of Page and Evans, Mr. Ferebe laughed when informed about the details of the murders by his associates.

4. **Obstruction of Justice.** Donald Lee Ferebe has attempted to and did in fact obstruct the investigation of the murders of Page and Evans. This is shown by facts including but not limited to:

a. Mr. Ferebe encouraged, enticed and induced other individuals to lie about his whereabouts, to provide a false alibi

and to deny any knowledge concerning his involvement in the murders.

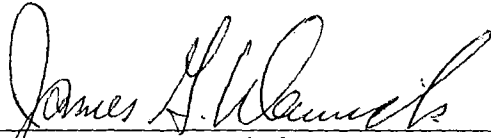
5. **Ruthlessness of Killings.** The defendant caused the murders in an especially callous and ruthless manner shown by facts to include, but not limited to,

By ordering his partners in crime, William Thorne and Haywood Carmichael, to shoot Mr. Page and make sure it was publicly accomplished in order to fix a firm time and place for his own alibi.

Respectfully submitted,

Stephen M. Schenning
United States Attorney

By:



James G. Warwick
Assistant United States Attorney
6625 United States Courthouse
101 West Lombard Street
Baltimore, Maryland 21201-2692
410-209-4800

CERTIFICATE OF SERVICE

This is to certify that on this 1st day of August, 2001, a true and correct copy of the above and foregoing Notice of Intention to Seek the Death Penalty As to Defendant was mailed first-class, postage prepaid, to the following counsel for Donald Lee Ferebe:

Charles G. Bernstein, Esquire
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Suite 1622
401 E. Pratt Street
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James G. Warwick
Assistant United States Attorney

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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CASE NO. L-97-0329
)	
vs.)	
)	
DONALD LEE FEREBE)	
)	
Defendant.)	

**AMENDED NOTICE OF INTENTION TO SEEK THE DEATH PENALTY
AS TO DEFENDANT DONALD LEE FEREBE**

Pursuant to the requirements of 18 U.S.C. 3593(a), the United States of America hereby provides an amended notice to this Court and to defendant Donald Lee Ferebe that the government believes that the circumstances of the capital offenses charged in the indictment are such that, in the event of a conviction, a sentence of death is justified and that the government will seek the death penalty. Specifically, the government will seek a sentence of death for each of the following counts charged in the indictment, each of which provides for a sentence of death upon a finding of guilt: Counts Two and Three (Firearms Murder During or in Relation to a Drug Trafficking Crime under 18 U.S.C. § 924(j)(1);

During a bifurcated capital penalty hearing, the United States of America will present evidence pertaining to each of the victims individually that will justify a sentence of death:

As to Count Two of the Indictment, relating to the death of Benjamin Page, the United States will prove the following factors as justifying a sentence of death:

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

1. **Intentional Acts 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 did set in motion events with the intent that Benjamin Page be killed, and that Benjamin Page died as a direct result of those events and actions. Section 3591(a) (2) (C).

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

1. **Prior Violent Felony Conviction.** That Donald Lee Ferebe has a previous conviction of a violent felony involving the murder of Richard Thomas in July of 1994. Mr. Ferebe was convicted of murder in furtherance of racketeering activity in violation of 18 U.S.C. § 1959. Ferebe was sentenced to life by the Honorable Walter E. Black, a judge of this court under Criminal Number B-96-0401. The offense occurred on July 18, 1994 and involved the defendant firing a handgun at Richard Thomas, fatally wounding him.

18 U.S.C. § 3592(c) (2) .

2. **Grave Risk of Death to Additional Persons.** That Donald Lee Ferebe intended the death of Benjamin Page under circumstances wherein the shooting was to be publicly accomplished, by multiple shooters, thus creating a zone of danger and a grave risk to other persons, such as Charon Peterson, who sustained a gunshot wound as a direct consequence of the defendant's actions. 18 U.S.C. § 3592(c) (5) .

3. **Substantial Planning and Premeditation.** Evidence will be presented that Mr. Ferebe, among other things, carefully planned the death of Benjamin Page in a public place and secured an alibi for himself to avoid suspicion by law enforcement. 18 U.S.C. § 3592(c) (9) .

C. Non-Statutory Aggravating Factors.

In addition to the statutory aggravating factors outlined above that are contained in 18 U.S.C. § 3592(c), the United States will rely on the following non-statutory aggravating factors to justify a sentence of death:

1. **Victim Impact Evidence.** Victim impact evidence concerning the effect of the defendant's offenses on the victim and the victim's family, as evidenced by oral testimony and victim impact statements that identify the victim of the offenses and the extent and scope of injury and loss suffered by the victim and the

victim's family.

2. **Lack of Remorse.** Donald Lee Ferebe's lacks remorse for his violent acts. This is shown by proof including, but not limited to facts that, after the murders of Page and Evans, Mr. Ferebe laughed when informed about the details of the murders by his associates and complimented them for the professional manner in which they carried out the execution of Page. Mr. Ferebe also laughed when his attorney mentioned Benjamin Page when they discussed the list of witnesses to be called by the prosecution at the upcoming trial and stated to his attorney that they didn't have to worry about Page.

3. **Post- Homicide Obstruction of Justice.** Donald Lee Ferebe has attempted to and did in fact obstruct the investigation of the murders of Page and Evans. This is shown by facts including but not limited to:

Mr. Ferebe encouraged, enticed and induced other individuals to lie about his whereabouts, to provide a false alibi and to deny any knowledge concerning his involvement in the murders. He also wrote to and spoke with the assailants, his co-conspirators, in a effort to keep their stories consistent and referenced paying money or using other methods to prevent the testimony of Charon Peterson and others which supported state charges for the double murder.

4. **Contemporaneous Convictions for Additional Homicide and**

Crime of Violence. The defendant set in motion events and actions with the intent to kill Benjamin Page, and as a result of said events and actions, Benjamin Page and Yolanda Evans were killed and Charon Peterson was shot and wounded. 18U.S.C. Section 3592 (c)(16).

As to Count Three of the Indictment, relating to the death of Yolanda Evans, the United States will prove the following factors as justifying a sentence of death:

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

1. Intentional Acts 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 did set in motion events with the intent that Benjamin Page be killed, and by said events, Yolanda Evans was hit with gunfire intended for Page and died as a direct result thereof.

2. Intentional Acts of Violence Creating a Grave Risk of Death. The defendant intentionally set in motion events which were acts of violence, knowing that the events and actions created a grave risk of death to a person, other than one of the participants

in the offense, such that participation in the events and actions constituted a reckless disregard for human life and Yolanda Evans died as a direct result of those events and actions. These events and actions were, among other things, the intended public execution of Page by assailants using multiple weapons. 18 U.S.C. Section 3591 (a) (2) (D).

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

1. **Prior violent Felony Conviction.** Donald Ferebe has a previous conviction of a violent felony involving the murder of Richard Thomas in July of 1994. Mr. Ferebe was convicted of murder in furtherance of racketeering activity in violation of 18 U.S.C. Section 1959. He was sentenced to life by the Honorable Walter E. Black, a judge of the court under Criminal Number B-96-0401. The offense occurred on July 18, 1994 and involved the defendant firing a handgun at Richard Thomas, fatally wounding him. 18 U.S.C. Section 3592 (c) (2).

2. **Grave Risk of Death to Additional Persons.** That Donald Ferebe intended the death of Benjamin Page under circumstances wherein the shooting was to be publicly accomplished, by multiple shooters, thus creating a zone of danger and a grave risk of death to other persons, such as Charon Peterson, who sustained a gunshot wound as a direct consequence of the defendant's actions. 18 U.S.C. Section 3592 (c) (5).

3. **Substantial Planning and Premeditation.** Evidence will be presented that Mr. Ferebe, among other things, carefully planned the death of Benjamin Page in a public place and secured a alibi for himself to avoid suspicion by law enforcement. 18 U.S.C. Section 3592 (c) (9).

Non-Statutory Aggravating Factors.

In addition to the statutory aggravating factors outlined above that are contained in 18 U.S.C. Section 3592 (c), the United States will rely on the following non-statutory aggravating factors to justify a sentence of death:

1. **Victim Impact Evidence.** Victim impact evidence concerning the effect of the defendant's offenses on the victim and the victim's family, as evidenced by oral testimony and victim impact statements that identify the victim of the offenses and the extent and the scope of injury and loss suffered by the victim and the victim's family.

2. **Lack of Remorse.** Donald Lee Ferebe's lacks remorse for his violent acts. This is shown by proof including, but not limited to facts that, after the murders of Page and Evans, Mr. Ferebe laughed when informed about the details of the murders by his associates and complimented them for the professional manner in which they carried out the execution of Page.

3. **Post- Homicide Obstruction of Justice.** Donald Lee Ferebe

has attempted to and did in fact obstruct the investigation of the murders of Page and Evans. This is shown by facts including but not limited to:

Mr. Ferebe encouraged, enticed and induced other individuals to lie about his whereabouts, to provide a false alibi and to deny any knowledge concerning his involvement in the murders. He also wrote to and spoke with the assailants, his co-conspirators, in a effort to keep their stories consistent and referenced paying money or using other methods to prevent the testimony of Charon Peterson and others which supported state charges for the double murder.

4. Contemporaneous Convictions for Additional Homicide and Crime of Violence. The defendant set in motion events and actions with the intent to kill Benjamin Page, and as a result of said events and actions, Benjamin Page and Yolanda Evans were killed and Charon Peterson was shot and wounded. 18U.S.C. Section 3592 (c)(16).

Respectfully submitted,

Thomas M. Dibiagio
United States Attorney

By: 

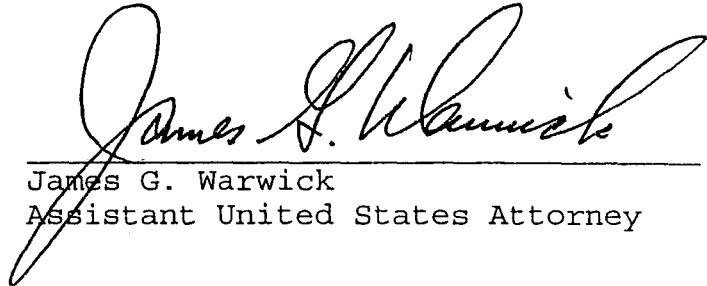
James G. Warwick
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6625 United States Courthouse
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Baltimore, Maryland 21201-2692
410-209-4800

CERTIFICATE OF SERVICE

This is to certify that on this 12th day of October
2001, a true and correct copy of the above and foregoing Answer Notice of
Intention to Seek the Death Penalty As to Defendant was mailed
first-class, postage prepaid, to the following counsel for Donald
Lee Ferebe:

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James G. Warwick
Assistant United States Attorney