

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

DERIC FRANK, :

Defendant. :

S1 97 Cr. 269 (DLC)

AMENDED NOTICE OF INTENT
TO SEEK THE DEATH PENALTY

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Pursuant to the requirements of 18 U.S.C. Section 3593(a), the United States hereby gives notice that it believes that the circumstances of this case are such that, in the event that the defendant is convicted of the capital offense relating to the kidnapping and death of Shaneika Price, 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 Count Five of the Indictment (kidnapping in which death results).

Pursuant to 18 U.S.C. Section 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 intentionally killed the victim.

18 U.S.C. § 3591(a)(2)(A).

2. The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim.

18 U.S.C. §3591(a)(2)(B).

3. 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. 18 U.S.C. § 3591(a)(2)(C).

4. 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. Section 3592(c), the United States will rely on the following statutory aggravating factors as justifying a sentence of death:

1. The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under 18 U.S.C. Section 1201, which prohibits kidnapping. 18 U.S.C. § 3592(c)(1).

2. The defendant committed the offense in an especially heinous, cruel or depraved manner in that it involved torture or serious physical abuse to the victim. 18 U.S.C. § 3592(c)(6).

3. The defendant committed the offense 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:

1. The victim was killed in an effort to obstruct justice, to tamper with a witness, and in retaliation for the victim's cooperating with law-enforcement authorities, each as part of an effort by the defendant to protect his illegal narcotics distribution activities and in furtherance of those activities.

2. The defendant represents a continuing danger to the lives and safety of other persons.

3. The defendant caused severe and irreparable harm to the family of his victim.

4. The defendant kidnapped and caused the death of his victim in violation of a judicial order of protection.

DATED: June 2, 1998

Respectfully submitted,



MARY JO WHITE
United States Attorney

AFFIRMATION OF SERVICE

JAMES H. WILLIAMS, pursuant to Title 28, United States code, Section 1746, hereby declares under the penalty of perjury:

That he is employed in the office of the United States Attorney for the Southern District of New York.

That on the 4th day of June, 1998 he caused the foregoing Government's Amended Notice Of Intent TO Seek The Death Penalty,

to be served as follows:

BY HAND for Leonard Joy, ESQ. Legal Aid Society, Federal Defenders 52 Duane Street 10th Floor New York, New York 10007

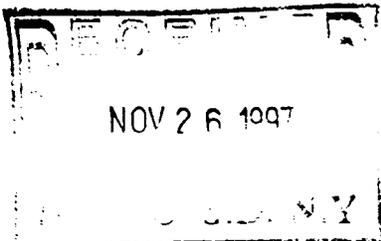
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 4, 1998.



James H. Williams
Legal Assistant

F-8



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SOUTHERN DISTRICT OF NEW YORK

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

4. 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).

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2. The defendant committed the offense in an especially heinous, cruel or depraved manner in that it involved torture or serious physical abuse to the victim. 18 U.S.C. § 3592(c)(6).

3. The defendant committed the offense 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:

1. The victim was killed in an effort to obstruct justice, to tamper with a witness, and in retaliation for the victim's cooperating with law-enforcement authorities, each as part of an effort by the defendant to protect his illegal narcotics distribution activities and in furtherance of those activities.

2. The defendant lacks remorse for the offense which he has committed.

3. The defendant represents a continuing danger to the lives and safety of other persons.

4. The defendant caused severe and irreparable harm to the family of his victim.

5. The defendant kidnapped and caused the death of his victim in violation of a judicial order of protection.

DATED: November 26, 1997

Respectfully submitted,



MARY JO WHITE *MJP*
United States Attorney