

ORIGINAL

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FILED
U.S. DIST. COURT
SOUTHERN DIST. OF GEORGIA

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UNITED STATES OF AMERICA)
)
 v.) CR 499-133
)
LAMOND GARRETT)

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 Harry D. Dixon, Jr., United States Attorney for the Southern District of Georgia, and notifies the Court and the defendant in the above-captioned case that the Government believes the circumstances of the offenses charged in Counts Ten through Twelve of the 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 Ten, tampering with a witness, victim, or informant by killing, resulting in the death of Joseph "Doobie" Smart, Sr., in violation of Title 18, United States Code, Sections 2 and 1512(a)(1)(A); Count Eleven, killing a person aiding a federal investigation, resulting in the death of Joseph "Doobie" Smart, Sr, in violation of Title 18, United States Code, Sections 2 and 1121(a)(2); and count Twelve, firearms murder during or in relation to a drug-trafficking crime, resulting in the death of Joseph "Doobie" Smart, Sr, in violation of Title 18, United States Code, Sections 2 and 924(j); each of which carries a possible sentence of death.

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

COUNT TEN

TAMPERING WITH A WITNESS, VICTIM OR INFORMANT BY KILLING

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

1. **Intentional Killing.** The defendant intentionally killed Joseph “Doobie” Smart, Sr. 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 Joseph “Doobie” Smart, Sr. Section 3591(a)(2)(B).

3. **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 Joseph “Doobie” Smart, Sr. died as a direct result of the act. Section 3591(a)(2)(C).

4. **Intentional Acts 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 Joseph “Doobie” Smart, Sr. 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. **Grave Risk of Death to Additional Persons.** The defendant, in the commission of the offense, or in escaping apprehension for the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense. Section

3592(c)(5).

2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. Section 3592(c)(9).

C. Other, Non-Statutory, Aggravating Factors Identified under 18 U.S.C. § 3593(a)(2).

1. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to the victim's family because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 501 U.S. 808, 825-26 (1991).

2. **Obstruction of Justice.** The defendant committed the offense for the purpose of preventing the victim from, or retaliating against the victim for, providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); U.S.S.G. 3C1.1.

COUNT ELEVEN

KILLING PERSON AIDING FEDERAL INVESTIGATION

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

1. **Intentional Killing.** The defendant intentionally killed Joseph "Doobie" Smart, Sr. 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 Joseph "Doobie" Smart, Sr. Section 3591(a)(2)(B).

3. **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 Joseph “Doobie” Smart, Sr. died as a direct result of the act. Section 3591(a)(2)(C).

4. **Intentional Acts 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 Joseph “Doobie” Smart, Sr. 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. **Grave Risk of Death to Additional Persons.** The defendant, in the commission of the offense, or in escaping apprehension for the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense. Section 3592(c)(5).

2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. Section 3592(c)(9).

C. Other, Non-Statutory, Aggravating Factors Identified under 18 U.S.C. § 3593(a)(2).

1. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to the victim’s family because of the victim's personal characteristics as an individual human being

and the impact of the death upon the victim's family. Payne v. Tennessee, 501 U.S. 808, 825-26 (1991).

2. **Obstruction of Justice.** The defendant committed the offense for the purpose of preventing the victim from, or retaliating against the victim for, providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); U.S.S.G. 3C1.1.

COUNT TWELVE

FIREARMS MURDER DURING OR IN RELATION TO DRUG TRAFFICKING CRIME

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

1. **Intentional Killing.** The defendant intentionally killed Joseph “Doobie” Smart, Sr. 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 Joseph “Doobie” Smart, Sr. Section 3591(a)(2)(B).

3. **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 Joseph “Doobie” Smart, Sr. died as a direct result of the act. Section 3591(a)(2)(C).

4. **Intentional Acts 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 Joseph “Doobie” Smart, Sr. 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. **Grave Risk of Death to Additional Persons.** The defendant, in the commission of the offense, or in escaping apprehension for the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense. Section 3592(c)(5).

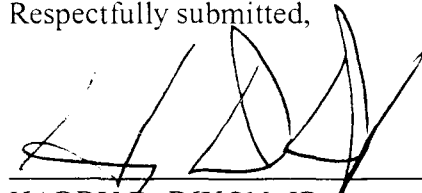
2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. Section 3592(c)(9).

C. Other, Non-Statutory, Aggravating Factors Identified under 18 U.S.C. § 3593(a)(2).

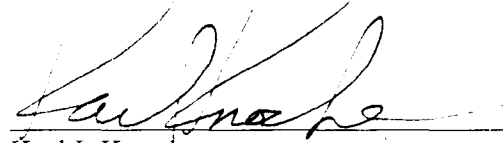
1. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to the victim’s family because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 501 U.S. 808, 825-26 (1991).

2. **Obstruction of Justice.** The defendant committed the offense for the purpose of preventing the victim from, or retaliating against the victim for, providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense. See 18 U.S.C. 1121(a)(2), 1510, 1512(a)(1), 1513(a)(1); U.S.S.G. 3C1.1.

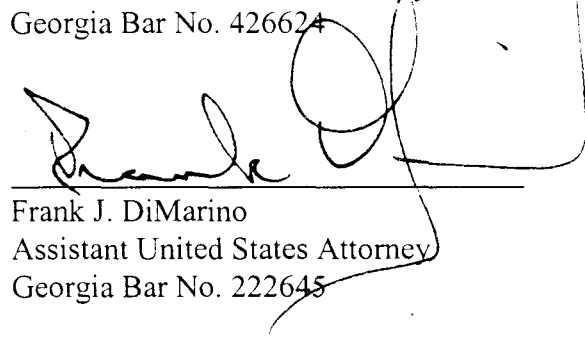
Respectfully submitted,



HARRY D. DIXON, JR.
UNITED STATES ATTORNEY



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Georgia Bar No. 426624



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Dated: January 14, 2000

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of January 2000, 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 of record:

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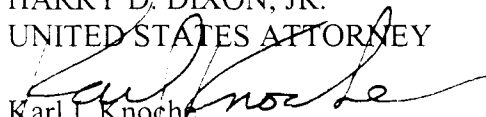
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This 14th day of January 2000

HARRY D. DIXON, JR.
UNITED STATES ATTORNEY


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