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11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,) No. CR 98-337-CBM
14)
Plaintiff,)
15 v.)
16 ROY C. GREEN,)
aka Haneef,)
17)
Defendant.)
18)

19
20 **NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

21
22 COMES NOW the United States of America, pursuant to 18
23 U.S.C. § 3593(a), by and through its undersigned counsel, and
24 hereby notifies the Court and defendant Roy C. Green, aka Haneef
25 (herein "defendant"), that the Government believes the
26 circumstances of the capital offenses charged in Counts One and
27 Two of the Indictment are such that, in the event of a
28

1 conviction, a sentence of death is justified under Chapter 228
2 (Sections 3591 through 3598) of Title 18 of the United States
3 Code, and that the Government will seek the sentence of death for
4 the offenses of willfully, deliberately, maliciously, and with
5 premeditation and malice aforethought, killing Correctional
6 Officer Scott Williams at the United States Penitentiary, Lompoc,
7 California, on April 3, 1997, in violation of Title 18, United
8 States Code, Sections 1111 and 1114, which offenses carry a
9 possible sentence of death.

10 The Government proposes to prove the following factors as
11 justifying a sentence of death for the above capital offenses in
12 this case.¹

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

15 1. **Intentional Killing.** The defendant intentionally
16 killed Scott Williams. Section 3591(a)(2)(A).

17 2. **Intentional Infliction of Serious Bodily Injury.**
18 The defendant intentionally inflicted serious bodily injury that
19 resulted in the death of Scott Williams. Section 3591(a)(2)(B).

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23 ¹ This Notice is based on the evidence currently available
24 to the government. The government will not seek to have
25 duplicative aggravating factors submitted to the jury. See
26 United States v. McCullah, 76 F.3d 1087, 1111 (10th Cir. 1996)
27 ("[D]ouble counting of aggravating factors, especially under a
weighing scheme, has a tendency to skew the weighing process and
creates the risk that the death sentence will be imposed
arbitrarily and thus, unconstitutionally"), aff'd 87 F.3d 1139
(10th Cir. 1996).

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

3 1. **Previous Conviction of Violent Felony Involving**
4 **Firearm.**

5 Section 3592(c)(2) states:

6 For any offense, other than an offense for
7 which a sentence of death is sought on the
8 basis of section 924(c), the defendant has
9 previously been convicted of a Federal or
10 State offense punishable by a term of
11 imprisonment of more than one year, involving
12 the use or attempted or threatened use of a
13 firearm (as defined in section 921) against
14 another person.

15 18 U.S.C. § 3592(c).

16 Defendant has been convicted of the following offenses,
17 which were punishable by a term of imprisonment of more than one
18 years and which involved the use or attempted or threatened use
19 of a firearm:

20 1. On November 21, 1978, defendant was convicted
21 in Los Angeles County Superior Court of attempted murder,
22 attempted robbery, and first degree burglary, in violation of
23 California Penal Code §§ 664/187, 664/211, and 459.

24 2. On December 26, 1978, defendant was convicted
25 in Los Angeles County Superior Court of assault by means of force
26 likely to produce great bodily injury, and with a deadly weapon,
27 on a peace officer, in violation of California Penal Code

1 § 245(b).

2 2. Previous Conviction of Other Serious Offenses

3 Section 3592(c)(4) states:

4 The defendant has previously been convicted
5 of two or more Federal or State offenses,
6 each punishable by a term of imprisonment of
7 more than one year, committed on different
8 occasions, involving the infliction of, or
9 attempted infliction of, serious bodily
10 injury or death upon another person.

11 18 U.S.C. § 3592(c)(4).

12 Defendant has been convicted of the following offenses,
13 which were punishable by a term of imprisonment of more than one
14 year, were committed on different occasions, and which involved
15 the infliction of, or attempted infliction of, serious bodily
16 injury upon another person.

17 1. On November 21, 1978, defendant was convicted
18 in Los Angeles County Superior Court of attempted murder,
19 attempted robbery, and first degree burglary, in violation of
20 California Penal Code §§ 664/187, 664/211, and 459.

21 2. On December 26, 1978, defendant was convicted
22 in Los Angeles County Superior Court of assault by means of force
23 likely to produce great bodily injury, and with a deadly weapon,
24 on a peace officer, in violation of California Penal Code
25 § 245(b).

1 than one year, committed on different
2 occasions, involving the distribution of a
3 controlled substance.

4 18 U.S.C. § 3592(c)(10).

5 Defendant has been convicted of the following offenses, which are
6 punishable by a term of imprisonment of more than one year, were
7 committed on different occasions, and which involved the
8 distribution of a controlled substance:

9 1. On December 30, 1987, defendant was convicted
10 in San Diego County Superior Court of possession of rock cocaine
11 for sale, in violation of California Health and Safety Code
12 § 11351.

13 2. On February 21, 1989, defendant was convicted
14 in United States District Court for the Eastern District of
15 Missouri of possession with intent to distribute cocaine, in
16 violation of 21 U.S.C. § 841(a)(1).

17 **6. Conviction for Serious Federal Drug Offenses**

18 Section 3592(c)(12) states:

19 The defendant had previously been convicted
20 of violating title II or III of the
21 Comprehensive Drug Abuse Prevention and
22 Control Act of 1970 for which a sentence of 5
23 or more years may be imposed or had
24 previously been convicted of engaging in a
25 continuing criminal enterprise.

26 18 U.S.C. § 3592(c)(12).

1 On February 21, 1989, defendant was convicted in United
2 States District Court for the Eastern District of Missouri of
3 possession with intent to distribute cocaine, in violation of 21
4 U.S.C. § 841(a)(1).

5 **7. High Public Officials**

6 Section 3592(c)(14) states in pertinent part:

7 The defendant committed the offense against:

8
9 * * *

10 (D) a federal public servant who is a judge,
11 a law enforcement officer, or an
12 employee of a United States penal or
13 correctional institution

14 (i) while engaged in the
15 performance of official
16 duties,

17 (ii) because of the performance of official
18 duties, or

19 (iii) because of status as a public servant.

20 Defendant murdered Correctional Officer Scott Williams, who
21 was an employee of the United States Penitentiary, Lompoc,
22 California, while Officer Williams was engaged in the performance
23 of his official duties.

24 **8. Multiple Killings or Attempted Killings**

25 Section 3592(c)(16) states:
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1 The defendant intentionally killed or
2 attempted to kill more than one person in a
3 single criminal episode.

4 Defendant intentionally killed Correctional Officer Scott
5 Williams and attempted to kill Correctional Officers Mark
6 Stephenson, Marcos Marquez and Scot Elliott in a single criminal
7 episode.

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

10 1. **Future dangerousness of the Defendant.**

11 The defendant is likely to commit criminal act of violence
12 in the future that would be a continuing and serious threat to
13 those around him, Simmons v. South Carolina, 512 U.S. 154, 162
14 (1994), based upon evidence including but not limited to the
15 following:

16 a. Other Acts of Violence

17 The defendant has committed, attempted to commit, and/or
18 threatened to commit other acts of violence, in addition to the
19 capital offenses committed in this case and the statutory factors
20 alleged in this Notice, including but not limited to one or more
21 of the following:

22 (1) On March 29, 1990, defendant was
23 convicted in the Western District of Wisconsin on two counts of
24 assault on a correctional officer, in violation of Title 18,
25 United States Code, Section 111(a)(1).

26 (2) On February 23, 1998, at the
27 Metropolitan Detention Center in Los Angeles, defendant

1 threatened to kill someone if he was not moved to his preferred
2 cell.

3 (3) On April 1, 1998, at the Metropolitan
4 Detention Center in Los Angeles, defendant threatened to kill one
5 of the correctional officers on duty at that time.

6 (4) On May 13, 1998, at the Metropolitan
7 Detention Center in Los Angeles, defendant refused orders to
8 submit to hand restraints so that he could be moved from the
9 shower to his cell, threatened to kill correctional officers, and
10 made two knives from a metal soap dish and plastic light cover in
11 the shower.

12 b. Low Rehabilitative Potential

13 Defendant has low rehabilitative potential.

14 (1) Defendant has demonstrated that he will
15 continue to violate the law, both in and out of custody.
16 Defendant served approximately seven years, from 1978 until 1985,
17 in California state prison. Two years later, in September 1987,
18 the Los Angeles County Sheriff's Department arrested him for
19 possession of cocaine. Defendant received diversion so that he
20 could participate in a drug rehabilitation program. Defendant
21 failed to participate in the program. By the time the court
22 reactivated the case, defendant was in federal custody on the
23 cocaine charges in the Eastern District of Missouri, and the
24 state case was dismissed. During the diversion period, defendant
25 was convicted in San Diego for possession of cocaine for sale,
26 and his criminal conduct in Missouri violated the terms of the
27 probationary sentence imposed in San Diego.

1 (2) Defendant's conduct at the Metropolitan
2 Detention Center, as set forth above, also demonstrates his low
3 rehabilitative potential.

4 c. Lack of Remorse

5 Defendant has demonstrated a lack of remorse for the capital
6 offenses charged in Counts One and Two of the Indictment by
7 statements and actions, including but not limited to his conduct
8 at the Metropolitan Detention Center, as set forth above.

9 2. **Victim Impact Evidence.**

10 The impact of the victim's death upon the victim's family.
11 Payne v. Tennessee, 501 U.S. 808, 824-828 (1991).

12 Scott Williams was 29 years old when defendant killed him.
13 Scott Williams left behind his wife Kristy and two young
14 daughters. Scott Williams' family, including his widow and
15 children, have been devastated by his death.

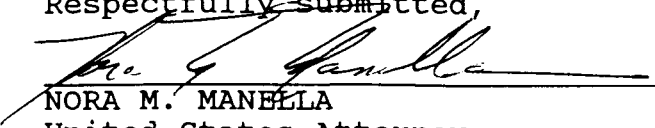
16 3. **Deterrence**


17 Imposition of the death penalty would deter defendant
18 specifically, and other inmates generally, from attacking
19 correctional officers. Imposition of the death penalty will send
20 a message to other inmates serving long sentences that if they
21 murder a correctional officer, they will face capital punishment,
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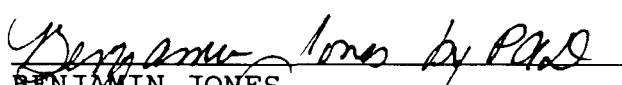
1 not simply additional time on a sentence that the inmate may view
2 as tantamount to life imprisonment.

3 DATED: December 10, 1998

4 Respectfully submitted,

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6 NORA M. MANELLA
United States Attorney

7 
8 PATRICIA A. DONAHUE
Assistant United States Attorney

9 
10 BENJAMIN JONES
11 Assistant United States Attorney

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13 Attorneys for Plaintiff
14 United States of America
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1 CERTIFICATE OF SERVICE BY MAIL

2 I, Raquel J. Garcia declare:

3 That I am a citizen of the United States and resident or employed in Los Angeles County,
4 California, that my business address is Office of United States Attorney, U.S. Courthouse, 312 N.
5 Spring Street, Los Angeles, California 90012; that I am over the age of eighteen years, and am not
6 a party to the above-entitled action.

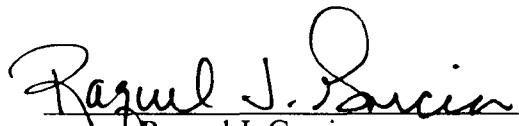
7 That I am employed by the United States Attorney for the Central District of California who
8 is a member of the Bar of the United States District court for the Central District of California, at
9 whose direction the service by mail described in this Certificate was made on; that on December 10,
10 1998, I deposited in the United States mails in at the U.S. Courthouse at 312 North Spring Street,
11 Los Angeles, California, in the above-entitled action, in an envelope bearing the requisite postage,
12 a copy of: NOTICE OF INTENT TO SEEK THE DEATH PENALTY

13 addressed to: Bernard Rosen, Esq. Joseph Walsh
14 1717 Fourth Street, 3rd Floor 316 W. Second Street, Suite 1200
Santa Monica, California 90401 Los Angeles, California 90012

15 at their last known address, at which place there is a delivery service by United States mail.

16 This Certificate is executed on December 10, 1998, at Los Angeles, California.

17 I certify under penalty of perjury that the foregoing is true and correct.

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19 
20 Raquel J. Garcia
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