

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS
(KANSAS CITY DOCKET)

FILED
U.S. DISTRICT COURT
KANSAS CITY, MISSOURI
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UNITED STATES OF AMERICA,

Plaintiff,

v.

DEMETRIUS R. HARGROVE,

Defendant.

ERIC MELGREN
UNITED STATES ATTORNEY
DISTRICT OF KANSAS
KANSAS CITY, MISSOURI

Case No. 03-20192-01-CM

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

The United States of America, by and through Eric Melgren, United States Attorney for the District of Kansas, notifies the defendant, **DEMETRIUS R. HARGROVE**, his counsel, and the Court that, in the event the defendant is convicted under Counts 1, 2, or 3 of the superseding indictment, the United States believes that the circumstances of each murder offense is such that a sentence of death is justified under Chapter 228 of Title 18 of the United States Code, and the United States will seek the sentence of death. At a death penalty hearing, the United States proposes to prove the following statutory and non-statutory factors justifying a sentence of death:

A. **Statutory Proportionality Factors**. At a death penalty hearing, the United States will prove, with regard to each of Counts 1, 2, and 3, as set forth in the Notice of Special Findings in the superseding indictment, that:

1. The defendant intentionally killed the victim named in the respective capital count of the superseding indictment, 18 U.S.C. § 3591(a)(2)(A);
2. The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim named in the respective capital count of the superseding indictment, 18 U.S.C. § 3591(a)(2)(B);

3. The defendant intentionally participated in one or more acts, 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 a participant in the offense, and the victim named in the respective capital count of the superseding indictment died as a direct result of such act or acts, 18 U.S.C. § 3591(a)(2)(C); and

4. The defendant intentionally and specifically engaged in one or more acts of violence, knowing that the act or acts created a grave risk of death to a person, other than one of the participants in the offense, such that participation in such act or acts constituted a reckless disregard for human life, and the victim named in the respective capital count of the superseding indictment died as a direct result of such act or acts, 18 U.S.C. § 3591(a)(2)(D).

B. Statutory Aggravating Factors. At a death penalty hearing, the United States will prove, as set forth in the Notice of Special Findings in the superseding indictment that:

1. The defendant committed the offenses in Counts 1 and 3 after substantial planning and premeditation to cause the death of the victim named in the respective capital count of the superseding indictment, 18 U.S.C. § 3592(c)(9);

2. In Counts 1 and 2, the defendant intentionally killed, or attempted to kill, more than one person in a single criminal episode, 18 U.S.C. § 3592(c)(16);

3. The defendant committed the offense in Count 3 in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to the victim named in Count 3 of the superseding indictment, 18 U.S.C. § 3592(c)(6); and

4. With regard to each of Counts 1, 2, and 3, the defendant committed the offenses after previously having been convicted of a state offense punishable

by a term of imprisonment of more than one year, involving the use or attempted use of a firearm against another person (18 U.S.C. § 3592(c)(2)), to wit: attempted robbery with a firearm or deadly weapon, in Indian River County, Florida Circuit Court, Case No. 93-134-CF-A, on April 28, 1993.

C. **Non-Statutory Aggravating Factors.** At a death penalty hearing, the United States will prove:

1. **Impact on the Victim.** The defendant caused severe and irreparable loss, injury, and harm to the victim named in the respective capital count of the superseding indictment and the victim's family, including but not limited to physical pain and suffering of the victim, and extreme emotional suffering of the family of the victim as a result of the impact of the killing on the victim's family. See Payne v. Tennessee, 501 U.S. 808, 825-827 (1991);
2. **Obstruction of Justice.** The defendant attempted to obstruct justice and killed a witness against him, as charged in Count 3 of the superseding indictment, and attempted and conspired to kill another witness against him, as charged in Counts 4 and 5 of the superseding indictment; and
3. **Future Dangerousness of the Defendant.** The defendant is likely to commit criminal acts of violence in the future that would be a continuing and serious threat to the lives and safety of others. See Simmons v. South Carolina, 512 U.S. 154 (1994). The evidence supporting this factor includes, but is not limited to, the acts and offenses alleged in the superseding indictment and the allegations set forth in this Notice, and also includes that the defendant has engaged in other criminal acts of violence involving firearms.

The United States further gives 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 offenses of conviction as described in the superseding indictment as they

relate to the background and character of the defendant, **DEMETRIUS R. HARGROVE**, his moral culpability, and the nature and circumstances of the offenses charged in the superseding indictment.

Dated this 30th day of July, 2004.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2004, I mailed the foregoing to the following individuals:

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