

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON

UNITED STATES OF AMERICA

v.

CRIMINAL No. 3:02-00232

CHARLES HATTEN

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

The United States hereby notifies the Court and defendant Charles Hatten under Chapter 228 (Sections 3591-3598) of Title 18, United States Code, that if defendant is convicted of the intentional killing of Ben Daniel Lucas, as charged in Count Two of the Superseding Indictment, the United States believes that the circumstances of the offense are such that a sentence of death is justified under this Chapter, and the United States will seek a sentence of death.

The United States intends to prove beyond a reasonable doubt the following factors justifying a sentence of death as to Count Two of the Superseding Indictment:

1. Statutory proportionality factors set forth in 18 U.S.C. § 3591(a)(2); to wit:

A. Intentional Killing. Defendant Charles Hatten intentionally killed Ben Daniel Lucas. 18 U.S.C. § 3591(a)(2)(A);

B. Intentional Infliction of Serious Bodily Injury that Resulted in the Death of the Victim. Defendant Charles Hatten intentionally inflicted serious bodily injury upon Ben Daniel Lucas which resulted in Lucas's death. 18 U.S.C. § 3591(a)(2)(B).

2. A statutory aggravating factor set forth in 18 U.S.C. § 3592(c)(9); to wit: Substantial Planning and Premeditation. Defendant committed the killing of the victim named in Count Two of the Superseding Indictment after substantial planning and premeditation causing the death of Ben Daniel Lucas.

3. As permitted by 18 U.S.C. § 3593(a) and (d), the United States intends to prove certain non-statutory aggravating factors set forth herein; to wit:

A. Future Dangerousness. Defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of other persons. The circumstances demonstrating defendant's future dangerousness include: a continuing pattern of violent criminal conduct; defendant's specific admissions of violence; defendant's threats of violence toward others; defendant's demonstrated low rehabilitative potential; and defendant's demonstrated lack of remorse.

B. Victim Impact Evidence. Defendant caused injury, harm, and loss to the victim and to the victim's family and friends as demonstrated by the impact of death upon the victim's family and friends. The United States intends to present evidence concerning

the effect of the offense on the victim's family and friends; such evidence may include oral testimony, victim impact statements, and evidence of the extent and scope of the injury and loss suffered by the victim, his family and friends.


C. Obstruction of Justice. Defendant committed the offense set out in Count Two of the Superseding Indictment with the intent to prevent the victim from providing additional information and assistance to law enforcement authorities regarding a criminal investigation and prosecution, to retaliate against the victim for having provided law enforcement authorities with information regarding defendant's criminal activity, or both.

The Government 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 offense or offenses of conviction as they relate to the background and character of defendant in his moral culpability, and the nature and circumstances of the offenses charged in the Superseding Indictment.

Respectfully submitted,

KASEY WARNER  
United States Attorney

By:

  
MILLER A. BUSHONG III  
Assistant United States Attorney

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing "NOTICE OF INTENT TO SEEK THE DEATH PENALTY" has been made on opposing counsel by mailing a true copy thereof, on the 2nd day of July 2003, to the following counsel of record:

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