

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
 v.) Criminal No. CR2-06-0039
)
THOMAS HENDERSON)

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

NOW comes the United States of America, pursuant to 18 U.S.C. §3593(a), by and through its undersigned counsel, and notifies the Court and the defendant in the above-captioned case that the Government believes the circumstances involved in the offenses charged in Counts 1 and 3 of the Indictment are such that, in the event of the defendant's conviction on those Counts, 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: Killing with Intent to Retaliate for Providing Law Enforcement Information Relating to the Commission of a Federal Offense, in violation of 18 U.S.C. §1513(a)(1)(B); and Killing with Intent to Retaliate for Attendance as a Witness and/or Testimony Given at a Trial Relating to the Commission of a Federal Offense, in violation of 18 U.S.C. §1513(a)(1)(A).

COUNTS ONE AND THREE

The Government believes that the evidence will support

submission of the following factors to the jury justifying a sentence of death as these factors relate to Count 1 and 3 of the Indictment:

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

1. **Intentional Killing.** The defendant intentionally killed Robert Bass and/or Ecolia Washington. (18 U.S.C. §3591(a)(2)(A)).

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Robert Bass and/or Ecolia Washington. (18 U.S.C. §3591(a)(2)(B)).

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

1. **Previous conviction of violent felony involving firearms.** The defendant has previous convictions for violent felonies involving firearms, these are, Armed Bank Robbery in violation of 18 U.S.C. §2113(d), on October 30, 1981, in the United States District Court for the Middle District of Georgia, and/or Voluntary Manslaughter in violation of §2903.03 O.R.C., on October 4 1982, in the Court of Common Pleas, Franklin County, Ohio (18 U.S.C. §3592(c)(2));

2. **Conviction for serious Federal drug offense.** The defendant has a previous conviction for a serious Federal drug

offense, specifically: Conspiracy to distribute over 100 kilograms of marijuana in violation of 21 U.S.C. §846 on or about April 29, 2002, in the United States District Court for the Southern District of Ohio, case number CR-2-00-177. (18 U.S.C. §3592(c)(12)).

3. **Substantial planning and premeditation.** The defendant committed the offenses after substantial planning and premeditation (18 U.S.C. §3592(c)(8)).

C. Other Non-Statutory Aggravating Factors Identified Under 18 U.S.C. §§ 3593(a)(2)& 3592(c).

1. **Continuing pattern of violent conduct** - In addition to the capital offenses charged in the Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the defendant has engaged in a continuing pattern of violent conduct, including but not limited to one or more of the following:

- i. the defendant's conspiracy and/or complicity, along with Stanley Humphrey, as it relates to the intentional killing of Edward Boyd on or about June 26, 1981;
- ii. the defendant's intentional killing of Ronald Beauford on or about May 30, 1981;
- iii. the defendant's intentional killing of Robert Catchings on or about May 30, 1981.

2. **Previous felony convictions** - The defendant has previously been convicted for the felony offense of Bank Robbery, on or about April 27, 1973, in the Southern District of Ohio. The defendant has also previously been convicted of the felony offense of Making a False Statement in the Acquisition of a Firearm and twelve counts of Money Laundering on or about April 29, 2002, in the Southern District of Ohio.

3. **Future dangerousness of the Defendant** - The defendant is likely to commit or attempt to commit criminal acts of violence in the future that would constitute a continuing and serious threat to the lives and safety of others. This factor is evidenced by, among other facts, his committing both of the capital offenses charged in the Indictment less than four years after being released from serving fourteen years in federal prison.

4. **Victim Impact Evidence.** - Victim impact, as evidenced by the impact of the murder Robert Bass and/or Ecolia Washington

upon their families, friends and community, due to their personal characteristics.

Respectfully submitted,

GREGORY G. LOCKHART
United States Attorney

s/David M. DeVillers
DAVID M. DEVILLERS (0059456)
Assistant United States Attorney

s/Kevin W. Kelley
KEVIN W. KELLEY (0042406)
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Intention to Seek the Death Penalty was served this, electronically on: David Stebbins and Diane Menashe, attorneys for Defendant Thomas Henderson.

s/Kevin W. Kelley
KEVIN W. KELLEY (0042406)
Assistant United States Attorney