

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA

**FILED**

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U.S. DISTRICT COURT  
N.D. OF ALABAMA

UNITED STATES OF AMERICA, )  
Plaintiff, )  
 )  
v. )  
 )  
MARVIN LEE HOLLEY, )  
Defendant. )

Crim. No. CR 96-B-0208-NE

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

COMES NOW the United States of America, pursuant to 21 U.S.C. § 848(h)(1) (A) and (B), by and through its undersigned counsel, and notifies the Court and the defendant in the above-captioned case that in the event of the defendant's conviction for the intentional killing of Ronald Avans, as charged in Count Three of the Superseding Indictment, the Government will seek the sentence of death.

The Government will seek to prove the following aggravating factors as the basis for imposition of the death penalty.

A. Alternative Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (1) (A) through (D):

1. **Intentional Acts to Take Life or Use Lethal Force.** The defendant intentionally engaged in conduct intending that the victim be killed and that lethal force be employed against the victim, which resulted in the death of the victim. Section 848(n)(1)(C).

B. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (2) through (12):

1. **Procurement of Offense by Payment.** The defendant procured the commission of the offense by payment, or promise of payment of anything of pecuniary value. Section 848(n)(6).

2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation. Section 848(n)(8).

3. **Heinous, Cruel and Depraved Manner.** The defendant committed the offense in an especially heinous, cruel or depraved manner in that it involved torture or serious physical abuse to the victim. Section 848(n)(12).

C. Other, Non-Statutory, Aggravating Factors Identified under 21 U.S.C. § 848 (h)(1)(B) and § 848(k):

1. **Future Dangerousness of the Defendant.** The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to society. Simmons v. South Carolina, 114 S. Ct. 2187, 2193 (1994). The evidence of this includes, but is not limited to, one or more of the following:

a. This defendant has solicited at least three different individuals on separate occasions since his incarceration in state prison in Alabama for the term he currently is serving, to murder several named individuals including witnesses in the pending federal case, at least one law enforcement officer and both federal and state prosecutors.

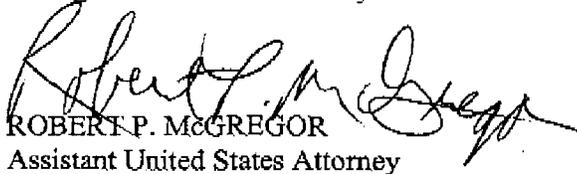
b. While a fugitive from the drug charges for which he currently is serving a prison term, the defendant attempted to have Carol Trippe lure an individual named Lonnie Fritts from Florida to Tennessee so that he could murder him.

2. **Obstruction of Justice.** The defendant murdered Ronald Avans in order to prevent his testifying against Marvin Holley in the state drug trial. In addition, Holley has attempted to recruit several individuals to destroy evidence, that being the green Chrysler automobile which Holley and Charles Holland used to abduct Ronald Avans before murdering him, and also to contact jurors with the intent either to bribe them or intimidate them into voting "not guilty" in the pending federal case.

3. **Victim Impact Evidence.** The family of the victim has suffered injury and loss as a result of his death. Payne v. Tennessee, 111 S. Ct. 2597, 2608-09 (1991).

Respectfully submitted this the 14th day of November, 1997.

CARYL P. PRIVETT  
Acting United States Attorney

  
ROBERT P. MCGREGOR  
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of November, 1997, a true and correct copy of the foregoing notice of intent to seek the death penalty was [delivered by hand / mailed via first class mail, postage prepaid thereon], to the following attorneys of record:

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