

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

FILED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF TENN.
FEB 27 1998

BY _____
DEPUTY CLERK

UNITED STATES OF AMERICA,)
Plaintiff,)
)
v.)
)
TIMOTHY LYNN HOLLOWAY,)
Defendant.)

No. 3:96-00004

RECEIVED

FEB 27 1998

Federal Public Defender's Office
Nashville, Tennessee

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW 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 of the offenses charged in Counts One through Five of the Second Superseding Indictment are such that, in the event of a conviction, 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, each of which carries a possible sentence of death. Counts One and Two: conspiracy to commit murder for hire and interstate travel with intent to commit murder for hire, resulting in the death of Denise Rogers, in violation of 18 U.S.C. § 1958(a);

Count Three and Alternative Counts Four and Five: premeditated murder of Denise Rogers to prevent her from attending and testifying in official proceedings and to prevent her from communicating information to a law enforcement officer, in violation of 18 U.S.C. § 1512(a)(1)(A)&(C).

The Government proposes to prove the following factors as justifying a sentence of death for each and all of the specified capital offenses.

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

1. **Intentional Acts to Take Life or Use Lethal Force.**

The defendant intentionally participated in an act, 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 one of the participants in the offense, and Denise Rogers died as a direct result of the act. Section 3591(a)(2)(C).

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

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 3592(c)(7).

2. **Conviction for Serious Federal Drug Offenses.** The defendant had previously been convicted of a federal narcotics offense for which a sentence of five or more years imprisonment may be imposed or has previously been convicted of engaging in a continuing criminal enterprise. Section 3592(c)(12).

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

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 the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to the capital offenses charged in the Second Superseding Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the defendant has engaged in a continuing pattern of violent conduct, has threatened others with violence, has demonstrated low rehabilitative potential, and/or has demonstrated lack of remorse, including but not limited to one or more of the following:

- a. The defendant has continued to make death threats against any witness who might testify against him.

2. **Victim Impact Evidence.** The victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The family of the victim has suffered injury and loss, as a result of the victim's death, including but not limited to one or more of the following:

- a. Denise Rogers' six year-old daughter has suffered injury and loss because of the brutal murder of her mother.
- b. Denise Rogers' mother has suffered injury and loss because of the brutal murder of her daughter.
- c. Denise Rogers' siblings have suffered injury and loss because of the brutal murder of their sister.

3. **Obstruction of Justice.** The defendant committed the offenses to prevent the victim from attending and/or testifying in an official federal proceeding and/or to prevent the victim from communicating information to a federal law enforcement officer relating to the commission of and/or possible commission of a federal offense, including but not limited to the following:

- a. The defendant had Denise Rogers murdered because she was under a subpoena to testify about the defendant's drug trafficking activities before a federal grand jury on September 27, 1995.
- b. The defendant had Denise Rogers murdered because she was expected to be an important witness against the defendant at his trial.

4. **Substantial Premeditation.** The defendant committed the offense after substantial premeditation to cause the death of Denise Rogers.

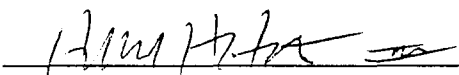
Respectfully submitted,

John M. Roberts
United States Attorney

By:



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Assistant United States Attorney



Hilliard H. Hester, III
Assistant United States Attorney

Dated: Feb 27, 1998

CERTIFICATE OF SERVICE

I hereby certify that on the 27 day of Jul, 1998, a true and correct copy of the foregoing notice of intent to seek the death penalty was mailed via first-class mail, postage prepaid thereon, to the following attorneys of record:

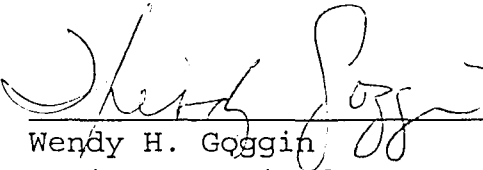
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