

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

FILED

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. S2-1:01CR00073RWS
	)	
TYRESE D. HYLES a/k/a	)	(To Be Filed Under Seal)
"Little Ty",	)	
	)	
Defendant.	)	

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY:**  
**TYRESE D. HYLES**

COMES NOW the United States of America, by and through its attorneys, Raymond W. Gruender, United States Attorney for the Eastern District of Missouri, and Thomas E. Dittmeier and Michael Price, Assistant United States Attorneys for said District, and pursuant to Title 18, United States Code, Sections 3591-3593, notifies this Court and the defendant, Tyrese D. Hyles, a/k/a "Little Ty", as follows:

**I. Introduction**

In the event the defendant, Tyrese D. Hyles, a/k/a "Little Ty" (hereinafter "Tyrese D. Hyles"), is convicted of any of the following offenses:

- A. The offense of conspiracy to commit the crime of murder-for-hire using facilities in interstate commerce and traveling or causing travel in interstate commerce resulting in the death of Coy L. Smith, Sr., in violation of Title 18, United States Code, Section 1958(a), as alleged in Count I of the Second Superseding Indictment in this case; or
- B. The offense of murder-for-hire using facilities in interstate commerce and traveling or

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causing travel in interstate commerce resulting in the death of Coy L. Smith, Sr., in violation of Title 18, United States Code, Sections 1958(a) and 2, as alleged in Count II of the Second Superseding Indictment in this case;

the United States will seek a sentence of death.

The United States believes that the circumstances of the offenses set forth above are such that, if the defendant is convicted, a sentence of death is justified under Chapter 228 of Title 18, United States Code, and, in particular, Title 18, United States Code, Sections 3591 through 3593.

**II. Statutory Proportionality Factors Relating to Intent Enumerated Under 18 U.S.C. §§3591(a)(2)(A) through (D)**

The United States of America may prove, at a hearing held pursuant to Title 18, United States Code, Section 3593, that:

- A. Tyrese D. Hyles was 18 years of age or older at the time of the offenses;
- B. **Intentional Killing:** The defendant, Tyrese D. Hyles, on or about August 21, 2000, did intentionally kill Coy L. Smith, Sr.;
- C. **Intentional Infliction Of Serious Bodily Injury:** The defendant, Tyrese D. Hyles, on or about August 21, 2000, did intentionally inflict serious bodily injury that resulted in the death of Coy L. Smith, Sr.;
- D. **Intentional Act To Take A Life Or Use Lethal Force:** The defendant, Tyrese D. Hyles, on or about August 21, 2000, did intentionally participate in an act, namely, shooting Coy L. Smith, Sr., with a firearm, Coy L. Smith, Sr., being a person other than one of the participants in the offense, contemplating that the life of Coy L. Smith, Sr., would be taken and intending that lethal force would be used in connection with Coy L. Smith, Sr.;

and Coy L. Smith, Sr., died as a direct result of the act;

**E. Intentional Act Of Violence Which Created A Grave Risk of Death:** The defendant, Tyrese D. Hyles, on or about August 21, 2000, did intentionally and specifically engage in an act of violence, namely shooting Coy L. Smith, Sr., knowing that the act created a grave risk of death to a person other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Coy L. Smith, Sr. died as a direct result of the act.

**III. Statutory Aggravating Factors For Homicide Enumerated Under 18 U.S.C. §3592(c)**

The United States of America may prove one or all of the following statutory aggravating factors to justify a sentence of death:

**A. Previous Conviction of Violent Felony Involving Firearm:** The evidence the United States may present in support of this factor includes, but is not limited to, the following:

The defendant, Tyrese D. Hyles, has previously been convicted of a State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm against another person, to wit: Unlawful Use of a Weapon - Shooting Into a Dwelling (18 U.S.C. §3592(c)(2)). The evidence may establish that on or about September 7, 1993, in the Circuit Court of Pemiscot County, Missouri, in State of Missouri v. Tyrese Hyles, cause number CR593-535F, the defendant, Tyrese D. Hyles, pleaded guilty to the offense of Unlawful Use of a Weapon - Shooting Into a Dwelling for events occurring on or about July 9, 1993, and was sentenced to a term of five years in the Missouri Department of Corrections for said offense. The details of these events are set out more fully in Caruthersville Police Department report number 0709933732 and the court records and the transcript of the plea and sentencing proceedings in cause number CR-593-535F.

**B. Procurement of Offense By Payment:** The evidence the United States may present in support of this factor includes, but is not limited to, the following:

The defendant, **Tyrese D. Hyles**, procured the commission of the offenses by payment, or promise of payment, of anything of pecuniary value (18 U.S.C. §3592(c)(7)). The evidence may establish that **Tyrese D. Hyles**, either personally or through others, arranged for a handgun to be made available to David Carter and subsequently to Amesheo Cannon and made the promise to David Carter and Amesheo Cannon that each individual would receive a certain Pontiac automobile for his participation in the murder of Coy L. Smith, Sr.

**C. Substantial Planning and Premeditation:** The evidence the United States may present in support of this factor includes, but is not limited to, the following:

The defendant, **Tyrese D. Hyles**, committed the offenses after substantial planning and premeditation to cause the death of Coy L. Smith, Sr. (18 U.S.C. §3592(c)(9)). The evidence may establish that:

1. **Tyrese D. Hyles**, upon learning that Coy L. Smith, Sr., was going to testify against him, began, either personally or through others, to make arrangements to tamper with the witness, Coy L. Smith, Sr., by encouraging others to commit acts including, but not limited to, knowingly burning or exploding property in the possession of Coy L. Smith, Sr.
2. **Tyrese D. Hyles**, upon learning that Coy Smith, Sr., was going to testify against him at a preliminary hearing, began to make arrangements to have Coy L. Smith, Sr., killed;
3. **Tyrese D. Hyles** communicated, either personally or through others, with David Carter in furtherance of the conspiracy to kill Coy L. Smith, Sr.;

4. Tyrese D. Hyles made arrangements to have David Carter bonded out of the Pemiscot County Jail;
5. Tyrese D. Hyles promised David Carter a certain Pontiac automobile as consideration for the murder of Coy L. Smith, Sr.;
6. Tyrese D. Hyles arranged, either personally or through others, to have a weapon, a handgun, made available to David Carter so he could kill Coy L. Smith, Sr.;
7. Tyrese D. Hyles communicated, either personally or through others, with Amesheo Cannon in furtherance of the conspiracy to kill Coy L. Smith, Sr.;
8. Tyrese D. Hyles promised, either directly or through others, a certain Pontiac automobile to Amesheo Cannon as consideration for the murder of Coy L. Smith;
9. Tyrese D. Hyles arranged, either personally or through others, to have a handgun made available to Amesheo Cannon so he could kill Coy L. Smith, Sr.

**IV. Other, Non-Statutory Aggravating Factors Pursuant to 18 U.S.C. §3593(a)(2)**

The United States of America may prove one or all of the following non-statutory aggravating factors to justify a sentence of death:

**A. Future Dangerousness of the Defendant:** The defendant, Tyrese D. Hyles, is likely to commit acts of violence in the future which would be a continuing and serious threat to the lives and safety of others and society. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1974). In addition to the capital offense(s) charged in the indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the Government may establish that prior and subsequent to the capital offense(s) in this case the defendant:

1. engaged in a continuing pattern of violent conduct;

2. threatened others with violence;
3. demonstrated low rehabilitative potential; and/or
4. demonstrated by his statements and/or actions a lack of sincere remorse for the capital offense(s) committed in this case.

The evidence that the United States may present in support of this factor, in addition to evidence presented during the guilt/innocence phase of the trial, includes, but is not limited to, the following:

1. The possession of a controlled substance, cocaine base, with the intent to distribute by Tyrese D. Hyles, as a juvenile, in Cook County, Illinois, as set out more fully in Missouri State Highway Patrol, DDCC Violent Crimes Support Unit report number 08210028.
2. The assault of Joshon Hyles by Tyrese D. Hyles on or about September 3, 1993, as set out more fully in the in the arrest report, complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division.
3. The stealing of a .380 Lorcin handgun from Terrence Price by Tyrese D. Hyles, the possession of said weapon, and the possession of a controlled substance, marijuana, by Tyrese D. Hyles on or about November 26, 1993, as set out more fully in the complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division, and the Missouri Department of Corrections Board of Probation and Parole violation report dated December 2, 1993, and prepared by Dan Machiran.
4. The possession of a controlled substance and the sale of a controlled substance by Tyrese D. Hyles, on or about January 26, 1994, as set out more fully in Bootheel

Drug Task Force report number BDTF 93061 and court documents from the Circuit Court of Pemiscot County, Missouri, cause number CR595-31F.

5. The assault of Dyvonne Miller and destruction of private property belonging to Dyvonne Miller by Tyrese D. Hyles on or about March 29, 1994, as set out more fully in the witness statements, arrest report and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division.
6. The assault of Dyvonne Miller by Tyrese D. Hyles on or about October 28, 1994, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division.
7. The assault of Dyvonne Miller by Tyrese D. Hyles on or about March 15, 1995, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division. Tyrese D. Hyles pleaded guilty to said offense.
8. The assault of Dyvonne Miller by Tyrese D. Hyles on or about April 9, 1995, as set out more fully out in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division.
9. Peace disturbance by using profane and abusive language upon Althea Miller by Tyrese D. Hyles on or about April 12, 1995, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division. Tyrese D. Hyles was found guilty of this offense.
10. The assault of Althea Miller by Tyrese D. Hyles on or about April 13, 1995, as set out more fully in the arrest report, and complaint and information filed in the Circuit

Court of Pemiscot County, Municipal Division. Tyrese D. Hyles was found guilty of this offense.

11. The murder in the first degree of Charles Foreman by Tyrese D. Hyles, acting with others, on or about May 20, 1995, as set out more fully in Caruthersville Police Department report number 05209524333640-23, accompanying witness statements, Bootheel Drug Task Force report number BDTF 93061, court documents from the Circuit Court of Pemiscot County, Missouri, cause number CR595-31F, and Missouri State Highway Patrol DDCC Violent Crimes Support Unit report number 08210028.
12. The assault of Dyvonne Miller by Tyrese D. Hyles on or about May 29, 1995, as well as trespassing and peace disturbance by Tyrese D. Hyles, as set out more fully in the complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division and the Missouri Department of Corrections Board of Probation and Parole violation report dated June 12, 1995, and prepared by Dan Machiran.
13. The intimidation with a weapon of Althea Miller by Tyrese D. Hyles on or about March 30, 1996, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division. Tyrese D. Hyles was found guilty of this offense.
14. The unlawful use of a weapon for discharging a firearm along a public roadway by Tyrese D. Hyles on or about April 5, 1996, as set out more fully in Caruthersville Police Department report number 0405962128 and court documents from the Circuit Court of Pemiscot County, State of Missouri, cause number CR596-464M.
15. The assault of Dyvonne Miller by Tyrese D. Hyles on or about April 20, 1996, as well



as resisting arrest and trespassing committed on April 20, 1996, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division. Tyrese D. Hyles was found guilty of resisting arrest and trespassing.

16. The trespassing on federal housing property by Tyrese D. Hyles on or about May 5, 1996, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division. Tyrese D. Hyles pleaded guilty to this offense.
17. The robberies of Chad Weiss and Robert Koonyz and armed criminal action by Tyrese D. Hyles on or about May 18, 1996, as set out more fully in Caruthersville Police Department report number 06049628, witness statements associated with said police report and court documents from the Circuit Court of Pemiscot County, Missouri, cause number CR596-543F.
18. The assault of fellow inmate Kowalski by Tyrese D. Hyles at the Boonville Correctional Center on or about July 20, 1997, as set out more fully in the records of the Missouri Department of Corrections.
19. The assault of fellow inmate Harrison by Tyrese D. Hyles at the Boonville Correctional Center on or about July 20, 1997, as set out more fully in the records of the Missouri Department of Corrections.
20. The sale and possession of a controlled substance by Tyrese D. Hyles on or about August 13, 1999, as set out more fully in Bootheel Drug Task Force report number 99161-01 and documents from the Circuit Court of Pemiscot County, Missouri, cause

number CR500-402F.

21. The possession and use of a controlled substance, cocaine, by Tyrese D. Hyles on or about November 7, 1999, as set out more fully in Missouri Department of Corrections Board of Probation and Parole Field Violation report dated November 17, 1999, and prepared by Katherine Harris.
22. The sale and possession of a controlled substance by Tyrese D. Hyles on or about January 18, 2000, for which Tyrese D. Hyles was convicted, on or about December 19, 2000, of the sale of a controlled substance in the Circuit Court of Pemiscot County, Missouri, in State of Missouri v. Tyrese Hyles, cause number CR500-403F, and was sentenced to a term of eight years in the Missouri Department of Corrections, as set out more fully in Bootheel Drug Task Force report number 99161-02 and documents from the Circuit Court of Pemiscot County, cause number CR500-403F.
23. The assault of Kevin Greene by Tyrese D. Hyles on or about January 20, 2000, at Lee's Market in Caruthersville, Missouri, as set out more fully in Missouri Department of Corrections Board of Probation and Parole Field Violation Report dated February 1, 2000.
24. The assault of Dyvonne Miller by Tyrese D. Hyles on or about February 25, 2000, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division.
25. The property damage of property of another, Tonya Johnson, by Tyrese D. Hyles on or about April 2, 2000, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division.

26. The knowingly burning or exploding, armed criminal action, and tampering with a witness upon Coy L. Smith, Sr., by Tyrese D. Hyles, acting with others, known and unknown, on or about June 6, 2000, at or near East 18<sup>th</sup> Street in Caruthersville, Missouri, as set out more fully in the Records of Fires of the Caruthersville Fire Department from June 6, 2002, Caruthersville Police Department Offense report, number 060040, and documents from the Circuit Court of Pemiscot County, Missouri, in State of Missouri v. Tyrese Hyles, cause numbers CR500-402F and CR500-403F.
27. The unlawful use of a weapon - exhibiting and felon in possession of a firearm by Tyrese D. Hyles on or about April 11, 2002, as more fully set forth in Caruthersville Police Department report number 0411002830333S and documents from the Circuit Court of Pemiscot County, Missouri, cause number CR500-329F.
28. The assault of fellow inmate Jacky Wayne Gray, Jr., at the Cape Girardeau County Jail, by Tyrese D. Hyles on or about May 13, 2002, as set out more fully in the records maintained by the Cape Girardeau Sheriff's Department.
29. The defendant Tyrese Hyles' lengthy history of conduct violations and threatening statements and behavior while incarcerated in the State of Missouri, as set out more fully in the records of the Missouri Department of Corrections and records maintained by the various county jails in which Tyrese Hyles has been incarcerated.
30. The defendant Tyrese Hyles' lengthy history of probation and parole violations while under supervision for probation or parole in the State of Missouri, as set out more fully in the records of the Board of Probation and Parole of the State of Missouri.

**B. Obstruction of Justice:** The evidence the United States may present in support of this factor includes, but is not limited to, the following:

The defendant, **Tyrese D. Hyles**, killed and caused the death of the victim, **Coy L. Smith, Sr.**, in an effort to obstruct justice, that is, to prevent the victim, **Coy L. Smith, Sr.**, from testifying against defendant in any criminal prosecution of defendant for a crime or crimes committed by the defendant. The evidence may also show that **Tyrese D. Hyles**, to insure the achievement of this obstruction of justice, contemplated and encouraged the commission of burglary in the first degree, tampering with a public utility, and the shooting of **Coy L. Smith, Sr.**, multiple times.

**C. Other Criminal Activity:** The defendant, **Tyrese D. Hyles**, has committed, attempted to commit, and/or threatened to commit other criminal acts, in addition to the capital offense(s) committed by him in this case and the statutory factors alleged in this Notice, including but not limited to one or more of the following:

1. The possession of a controlled substance, cocaine base, with the intent to distribute by **Tyrese D. Hyles**, as a juvenile, in Cook County, Illinois, as set out more fully in Missouri State Highway Patrol, DDCC Violent Crimes Support Unit report number 09210028.
2. The assault of **Joshon Hyles** by **Tyrese D. Hyles** on or about September 3, 1993, as set out more fully in the in the arrest report, complaint and information filed in the Circuit Court of Pemisset County, Municipal Division.
3. The stealing of a .380 Lorcin handgun from **Terrence Price** by **Tyrese D. Hyles**, the possession of said weapon, and the possession of a controlled substance, marijuana,

by **Tyrese D. Hyles** on or about November 26, 1993, as set out more fully in the complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division and the Missouri Department of Corrections Board of Probation and Parole violation report dated December 2, 1993, and prepared by Dan Machiran.

5. The assault of Dyvonne Miller and destruction of private property belonging to Dyvonne Miller by **Tyrese D. Hyles** on or about March 29, 1994, as set out more fully in the witness statements, arrest report and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division.
6. The assault of Dyvonne Miller by **Tyrese D. Hyles** on or about October 28, 1994, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division.
7. The assault of Dyvonne Miller by **Tyrese D. Hyles** on or about March 15, 1995, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division. **Tyrese D. Hyles** pleaded guilty to said offense.
8. The assault of Dyvonne Miller by **Tyrese D. Hyles** on or about April 9, 1995, as set out more fully out in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division.
9. Peace disturbance by using profane and abusive language upon Aithca Miller by **Tyrese D. Hyles** on or about April 12, 1995, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division. **Tyrese D. Hyles** was found guilty of this offense.

10. The assault of Althea Miller by **Tyrese D. Hyles** on or about April 15, 1995, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division. **Tyrese D. Hyles** was found guilty of this offense.
11. The murder in the first degree of Charles Foreman by **Tyrese D. Hyles**, acting with others, on or about May 20, 1995, as set out more fully in Caruthersville Police Department report number 05209524333640-23, accompanying witness statements, Bootheel Drug Task Force report number BDTF 93061, court documents from the Circuit Court of Pemiscot County, Missouri, cause number CR595-31E, and Missouri State Highway Patrol DDCC Violent Crimes Support Unit report number 08210726.
12. The assault of Davonne Miller by **Tyrese D. Hyles** on or about May 29, 1995, as well as trespassing and peace disturbance by **Tyrese D. Hyles**, as set out more fully in the complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division and the Missouri Department of Corrections Board of Probation and Parole violation report dated June 12, 1995, and prepared by Dan Machiran.
13. The intimidation with a weapon of Althea Miller by **Tyrese D. Hyles** on or about March 30, 1996, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division. **Tyrese D. Hyles** was found guilty of this offense.
14. The unlawful use of a weapon for discharging a firearm along a public roadway by **Tyrese D. Hyles** on or about April 5, 1996, as set out more fully in Caruthersville Police Department report number 0405962128 and court documents from the Circuit

Court of Pemiscot County, Missouri, cause number CR596-464M

15. The assault of Dyvonne Miller by **Tyrese D. Hyles** on or about April 20, 1996, as well as resisting arrest and trespassing committed on April 20, 1996, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division. **Tyrese D. Hyles** was found guilty of resisting arrest and trespassing.
16. The trespassing on federal housing property by **Tyrese D. Hyles** on or about May 5, 1996, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division. **Tyrese D. Hyles** pleaded guilty to this offense.
17. The robberies of Chad Weiss and Robert Koonz and armed criminal action by **Tyrese D. Hyles** on or about May 18, 1996, as set out more fully in Caruthersville Police Department report number 06049628, witness statements associated with said police report and court documents from the Circuit Court of Pemiscot County, Missouri, cause number CR596-543F.
18. The assault of fellow inmate Kowalski by **Tyrese D. Hyles** at the Boonville Correctional Center on or about July 20, 1997, as set out more fully in the records of the Missouri Department of Corrections
19. The assault of fellow inmate Harrison by **Tyrese D. Hyles** at the Boonville Correctional Center on or about July 20, 1997, as set out more fully in the records of the Missouri Department of Corrections.
20. The sale and possession of a controlled substance by **Tyrese D. Hyles** on or about

August 13, 1999, as set out more fully in Bootheel Drug Task Force report number 99161-01 and documents from Pemiscot County Circuit Court, State of Missouri cause number CR500-402F.

21. The possession and use of a controlled substance, cocaine, by **Tyrese D. Hyles** on or about November 7, 1999, as set out more fully in Missouri Department of Corrections Board of Probation and Parole Field Violation report dated November 17, and prepared by Katherine Harris.
22. The sale and possession of a controlled substance by **Tyrese D. Hyles** on or about January 18, 2000, for which **Tyrese D. Hyles** was convicted, on or about December 19, 2000, of the sale of a controlled substance in the Circuit Court of Pemiscot County, Missouri, in State of Missouri v. Tyrese Hyles, cause number CR500-403F, and was sentenced to a term of eight years in the Missouri Department of Corrections, as set out more fully in Bootheel Drug Task Force report number 99161-02 and documents from the Circuit Court of Pemiscot County, Missouri, cause number CR500-403F.
23. The assault of Kevin Greene by **Tyrese D. Hyles** on or about January 20, 2000, at Lee's Market in Caruthersville, Missouri as set out more fully in Missouri Department of Corrections Board of Probation and Parole Field Violation Report dated February 1, 2000.
24. The assault of Dyvonne Miller by **Tyrese D. Hyles** on or about February 25, 2000, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division.



25. The property damage of property of another, Tonya Johnson, by Tyrese D. Hyles on or about April 2, 2000, as set out more fully in the arrest report, and complaint and information filed in the Circuit Court of Pemiscot County, Municipal Division.
26. The knowingly burning or exploding, armed criminal action, and tampering with a witness upon Coy L. Smith, Sr., by Tyrese D. Hyles, acting with others, known and unknown, on or about June 6, 2000, at or near East 18<sup>th</sup> Street in Caruthersville, Missouri, as set out more fully in the Records of Fires of the Caruthersville Fire Department from June 6, 2002, Caruthersville Police Department Offense report number 060040, and documents from the Circuit Court of Pemiscot County, Missouri, in State of Missouri v. Tyrese D. Hyles, cause numbers CR500-402F and CR500-403F.
27. The unlawful use of a weapon - exhibiting and felon in possession of a firearm by Tyrese D. Hyles on or about April 11, 2002, as more fully set forth in Caruthersville Police Department report number 04110028303335 and documents from the Circuit Court of Pemiscot County, Missouri, cause number CR500-329F.
28. The assault of fellow inmate Jacky Wayne Gray, Jr., at the Cape Girardeau County Jail, by Tyrese D. Hyles on or about May 13, 2002, as set out more fully in the records maintained by the Cape Girardeau Sheriff's Department.

D. Participation In An Uncharged Murder: Evidence of a defendant's participation in other murders is relevant to his character and his propensity to commit violent crimes. United States v. Pitera, 795 F.Supp 546, 564, aff'd 986 F.2d 499 (2<sup>nd</sup> Cir. 1992); see, e.g. United States v. Allen, 247 F.3d 741, 789 (8<sup>th</sup> Cir. 2001), judgment vacated and remanded on other grounds, 122 S. Ct. 2653

(2002). The evidence the United States may present in support of this factor includes, but is not limited to, the following:

The defendant, **Tyrese D. Hyles**, acting with others, participated in the murder in the first degree of Charles Foreman on or about May 20, 1995, as set out more fully in Caruthersville Police Department report number 05209524333640-23, accompanying witness statements, Bootheel Drug Task Force report number BDTF 93061, court documents from the Circuit Court of Pemiscot County, Missouri, cause number CR595-31F, and Missouri State Highway Patrol DDCC Violent Crimes Support Unit report number 08210028.

**E. Victim Impact Evidence:** 18 U.S.C. §3593(a); **Payne v. Tennessee**, 501 U.S. 808, 825-30 (1991). The evidence the United States may present in support of this factor includes, but is not limited to, the following:

The victim, **Coy L. Smith, Sr.**, possessed numerous positive personal characteristics and the instant offense(s) have had an adverse effect on **Coy L. Smith, Sr.**, **Coy L. Smith, Sr.'s** family and **Coy L. Smith, Sr.'s** friends and acquaintances. Specifically, the United States of America may show, among other facts, that the commission of the instant offenses caused emotional injury and anguish to **Coy L. Smith, Sr.**, and emotional injury, anguish, sorrow, mental duress, and loss to his family and friends. Evidence in support of this circumstance will include victim impact statements, testimony of **Coy L. Smith, Sr.'s** family, friends and acquaintances, and physical, photographic and videotape evidence which sets forth the character of **Coy L. Smith, Sr.** and the nature, extent and scope of the injury suffered by **Coy L. Smith, Sr.**, his family and friends.

1. **Characteristics:** The positive personal characteristics possessed by **Coy L. Smith, Sr.**, as an individual human being that may be established by the evidence include, but are

not limited to, the following:

- a) He helped and brought comfort to his family and friends;
- b) He attended church;
- c) He enjoyed and was competent at carpentry.

**2. Impact Of Death:** Coy L. Smith, Sr.'s family, friends and acquaintances have suffered injury and loss as a result of his death, including but not limited to one or more of the following:

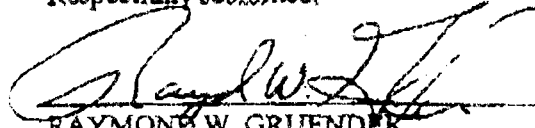
- a) Coy L. Smith, Sr., was the loving and caring son of his elderly mother, Susie Davis. Ms. Davis misses her son's love and affection and has suffered emotional injury and trauma as a result of his violent death.
- b) Coy L. Smith, Sr., was the loving and caring husband of Mae Helen Smith. Mrs. Smith misses her husband's love and affection and has been greatly traumatized by his violent death. Mrs. Smith moved out of her home, the location of the homicide, for a period of eight months following the events of August 21, 2000.
- c) Coy L. Smith, Sr., was the loving and caring father of Carol Smith, Elizabeth Smith, Coy Smith, Jr., Cheryl Smith, and Kim Smith. His children miss his love, affection, and companionship.

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 nature of the offenses as alleged in the Indictment as they relate to the background and character of the defendant, Tyrese D. Hyles, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

V. REQUEST TO FILE NOTICE UNDER SEAL

Because this document contains information concerning acts committed by the defendant as a juvenile and also identifies victims of the defendant's other crimes, some of whom were juveniles, the Government respectfully requests that this "Notice of Intent To Seek The Death Penalty" be filed under seal.

Respectfully submitted,

  
RAYMOND W. GRUENDER  
United States Attorney

  
THOMAS E. DITTMER  
Assistant United States Attorney

  
MICHAEL PRICE  
Assistant United States Attorney

CERTIFICATE OF SERVICE

A copy of the foregoing has been mailed this 5<sup>th</sup> of December, 2002 to:

All Counsel of Record

  
Assistant United States Attorney