

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) Case No. RDB-03-0490
)
 JAMES ALLEN IRBY, III,)
)
 Defendant.)

NOTICE OF INTENTION TO SEEK THE DEATH PENALTY
AS TO DEFENDANT JAMES ALLEN IRBY, III

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 and Two of the Indictment are such that, in the event of the defendant's conviction of one or both of these offenses, 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: Count One, the retaliatory murder of Terrence Deadwyler in violation of 18 U.S.C. § 1513; and Count Two, causing the death of Terrence Deadwyler with a firearm, in violation of 18 U.S.C. § 924(j).

The Government proposes to prove the following factors beyond a reasonable doubt as justifying a sentence of death.

COUNT ONE

THE RETALIATORY MURDER OF TERRENCE DEADWYLER

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

1. **Intentional Killing.** The defendant intentionally killed the victim. 18 U.S.C. § 3591(a)(2)(A).

2. **Intentional Infliction of Injury Resulting in Death.** The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim. 18 U.S.C. § 3591(a)(2)(B).

3. **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 and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Terrence Deadwyler died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

4. **Intentional Acts of Violence Creating a Grave Risk of Death.** The defendant intentionally and specifically engaged in an act of violence, 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 Terrence Deadwyler died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

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

1. **Grave risk of death to additional persons** -- The defendant, in the commission of the offense, or in escaping apprehension for the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense. 18 U.S.C. § 3592(c)(5).

2. **Heinous, cruel or depraved manner of committing the offense** -- 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. 18 U.S.C. § 3592(c)(6).

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

1. **Victim Impact Evidence.** As demonstrated by the victim's personal characteristics as an individual human being and the impact of the death upon the victim and the victim's family and friends, the defendant caused injury, harm, and loss to the victim and the victim's family and friends.

2. **Callous Disregard for the Severity of the Offense.** The defendant has demonstrated a callous disregard for the severity of the offense, as evidenced by statements made by the defendant in which he callously disregarded the severity of his actions in the murder of Terrence Deadwyler.

3. **Obstruction of justice.** The defendant committed

the offense with the intent to retaliate against the victim for providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense.

4. Participation in additional serious acts of violence. Those serious acts of violence include, but are not limited to, the following:

- a) The robbery of Jeffrey Hill and Andrew Moore on or about April 8, 1996, which resulted in a conviction for Robbery in the Circuit Court of Prince George's County.

COUNT TWO
CAUSING THE DEATH OF TERRENCE DEADWYLER
WITH A FIREARM

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

1. **Intentional Killing.** The defendant intentionally killed the victim. 18 U.S.C. § 3591(a)(2)(A).

2. **Intentional Infliction of Injury Resulting in Death.** The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim. 18 U.S.C. § 3591 (a)(2)(B).

3. **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 and intending that lethal force would be used in connection with a person, other

than one of the participants in the offense, and Terrence Deadwyler died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

4. **Intentional Acts of Violence Creating a Grave Risk of Death.** The defendant intentionally and specifically engaged in an act of violence, 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 Terrence Deadwyler died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

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

1. **Grave risk of death to additional persons --** The defendant, in the commission of the offense, or in escaping apprehension for the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense. 18 U.S.C. § 3592(c)(5).

2. **Heinous, cruel or depraved manner of committing the offense --** 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. 18 U.S.C. § 3592(c)(6).

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

1. **Victim Impact Evidence.** As demonstrated by the victim's personal characteristics as an individual human being and the impact of the death upon the victim and the victim's family and friends, the defendant caused injury, harm, and loss to the victim and the victim's family and friends.

2. **Callous Disregard for the Severity of the Offense.** The defendant has demonstrated a callous disregard for the severity of the offense, as evidenced by statements made by the defendant in which he callously disregarded the severity of his actions in the murder of Terrence Deadwyler.

3. **Obstruction of justice.** The defendant committed the offense with the intent to retaliate against the victim for providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the commission or possible commission of another offense.

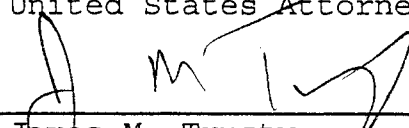
4. **Participation in additional serious acts of violence.** Those serious acts of violence include, but are not limited to, the following:

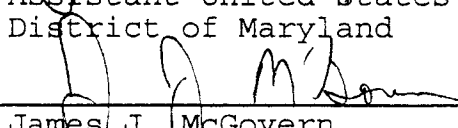
a) The robbery of Jeffrey Hill and Andrew Moore on or about April 8, 1996, which resulted in a conviction for Robbery in the Circuit Court of Prince George's County.

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 offenses of conviction as described in the Indictment as they relate to the background and character of the Defendant, in his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Respectfully submitted,

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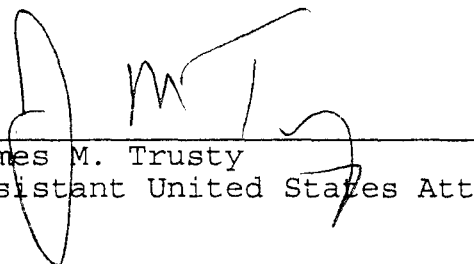
CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of August, 2004, a true and correct copy of the above and foregoing Notice of Intention to Seek the Death Penalty As To Defendant JAMES ALLEN IRBY, III to be mailed first class, postage prepaid to counsel for Irby as follows:

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