

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:07-CR-9-T-27TGW

JERMAINE MICHAEL JULIAN
a/k/a "Kid"

NOTICE

The United States of America, by James R. Klindt, Acting United States Attorney for the Middle District of Florida pursuant to the requirements of 18 U.S.C. § 3593(a), hereby gives notice that it believes that the circumstances of this case are such that, in the event that the defendant JERMAINE MICHAEL JULIAN, a/k/a "Kid" is convicted of a capital offense relating to the death of victim Carlton Potts, a sentence of death is justified and that the United States will seek the death penalty.

Specifically, the United States will seek a sentence of death for Count Three of the Indictment, which charges use of a firearm to kill another during and in relation to a crime of violence in violation of 18 U.S.C. §§ 924(c)(1)(A), 924(j)(1) and 1111(a), and Count Seven of the Indictment which charges use of a firearm to kill another during and in relation to a drug trafficking crime in violation of 18 U.S.C. §§ 924(c)(1)(A), 924(j)(1) and 1111(a).

The Government proposes to prove the following factors as justifying a sentence of death:

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

Pursuant to 18 U.S.C. § 3591(a)(2), the United States will rely on the following proportionality factors to establish the defendant's eligibility for the death penalty:

1. Intentional Killing

The defendant intentionally killed Carlton Potts. (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 Carlton Potts. (18 U.S.C. § 3591(a)(2)(B)).

3. Intentional Acts to Take Life

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 Carlton Potts died as a direct result of the act. (18 U.S.C. § 3591(a)(2)(C)).

4. Intentional Acts of Violence Creating 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 Carlton Potts 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)

Pursuant to 18 U.S.C. § 3592(c), the United States will rely on the following statutory aggravating factors as justifying a sentence of death:

1. Grave Risk of Death to Others

In the commission of the offense, the defendant knowingly created a grave risk of death to one or more persons in addition to the victim of the offense, Carlton Potts (18 U.S.C. § 3592 (c)(5)).

2. Multiple Killings or Attempted Killings

The defendant intentionally killed or attempted to kill more than one person in a single criminal episode. (18 U.S.C. § 3592(c)(16)).

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

Contemporaneous Convictions

The defendant faces contemporaneous convictions for other serious drug crimes and acts of violence.

The Government further gives notice that in support of imposition of the death penalty on Counts One and Seven, that 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, 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 October 15, 2007, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Patrick D. Doherty, Esquire

Daniel M. Hernandez, Esquire

s/ James A. Muench

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