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CLERK OF DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____

1 PAUL L. SEAVE
United States Attorney
2 ROBERT J. CLEARY
STEPHEN P. FRECCERO
3 BERNARD F. HUBLEY
R. STEVEN LAPHAM
4 J. DOUGLAS WILSON
Special Attorneys to the
5 United States Attorney General

6 650 Capitol Mall
Sacramento, California 95814
7 Telephone: (916) 554-2700

8 Attorneys for Plaintiff

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA

11	UNITED STATES OF AMERICA,)	CR NO. S-96-0259 GEB
12)	
13	Plaintiff,)	
14	v.)	NOTICE OF INTENT TO
15	THEODORE JOHN KACZYNSKI,)	SEEK THE DEATH PENALTY
16)	
17	Defendant.)	

18
19 Pursuant to the requirements of 18 U.S.C § 3593(a), the
20 United States hereby gives notice that it believes that the
21 circumstances of this case are such that, in the event that the
22 defendant is convicted of either of the capital offenses relating
23 to the death of Gilbert B. Murray, a sentence of death is
24 justified and that the United States will seek the death penalty.
25 Specifically, the United States will seek a sentence of death for
26 each of the following counts charged in the indictment: Count
27 Eight (transportation of an explosive device with intent to kill
28 or injure in violation of 18 U.S.C. § 844(d)) and Count Nine

1 (mailing of an explosive device with intent to kill or injure in
2 violation of 18 U.S.C. § 1716).

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

6 1. The defendant intentionally killed the victim. 18
7 U.S.C. § 3591(a)(2)(A).

8 2. The defendant intentionally inflicted serious
9 bodily injury that resulted in the death of the victim. 18
10 U.S.C. § 3591(a)(2)(B).

11 3. The defendant intentionally participated in an act,
12 contemplating that the life of a person would be taken or
13 intending that lethal force would be used in connection with a
14 person, other than one of the participants in the offense, and
15 the victim died as a direct result of the act. 18 U.S.C. §
16 3591(a)(2)(C).

17 4. The defendant intentionally and specifically
18 engaged in an act of violence, knowing that the act created a
19 grave risk of death to a person, other than one of the
20 participants in the offense, such that participation in the act
21 constituted a reckless disregard for human life and the victim
22 died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

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

26 1. The death, or injury resulting in death, occurred
27 during the commission or attempted commission of an offense under
28 18 U.S.C. § 844(d) which prohibits transportation of an explosive

1 device in interstate commerce with intent to kill. 18 U.S.C. §
2 3592(c)(1).

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

6 3. The defendant committed the offense after
7 substantial planning and premeditation to cause the death of one
8 or more persons and to commit an act of terrorism. 18 U.S.C. §
9 3592(c)(9).

10 In addition to the statutory aggravating factors set
11 forth above, the United States will rely on the following non-
12 statutory aggravating factors to justify a sentence of death:

13 1. The defendant has committed two other murders and
14 numerous other significant acts of violence and attempted acts of
15 violence and has made threats of violence against others.

16 2. The defendant has a low potential for
17 rehabilitation.

18 3. The defendant lacks remorse for any of the murders
19 and other acts of violence which he has committed.

20 4. The defendant represents a continuing danger to the
21 lives and safety of other persons.

22 5. The defendant caused severe and irreparable harm to
23 the families of three murder victims and caused life altering

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1 injuries to the survivors of his acts of violence.

2 DATED: 5/15/97

3 Respectfully submitted,

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5 PAUL L. SEAVE
6 United States Attorney

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1 CERTIFICATE OF SERVICE

2 The undersigned hereby certifies that she is an employee in the
3 Office of the United States Attorney for the Eastern District of
4 California and is a person of such age and discretion to be
5 competent to serve papers.

6 That on May 15, 1997, she served a copy of the NOTICE OF INTENT
7 TO SEEK THE DEATH PENALTY by placing said copy in a postpaid
8 envelope addressed to the person(s) hereinafter named, at the
9 place(s) and address(es) stated below, which is/are the last known
10 address(es), and by depositing said envelope and contents in the
11 United States Mail at Sacramento, California or by depositing said
12 envelope and contents in the inter-office mailbox at the Clerk's
13 office, Federal Building, Sacramento, California.

14 Addressee(s):

15 Quin Denvir
16 Federal Defender
17 801 K Street, Suite 1024
18 Sacramento, CA 95814

19 Judy Clarke
20 Executive Director of Federal Defenders
21 of Eastern Washington & Idaho
22 10 North Post, Suite 700
23 Spokane, WA 99201

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25 SANDRA CALLAHAN
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