

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA :

-v- :

CHARLES MICHAEL KEE, : S1 98 Cr. 788 (DLC)

Defendants. :
-----X

GOVERNMENT'S NOTICE OF INTENT TO SEEK THE DEATH PENALTY

MARY JO WHITE
United States Attorney for the
Southern District of New York

LOUISE APONTE
Assistant United States Attorney
-Of Counsel-

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

S1 98 Cr. 788 (DLC)

CHARLES MICHAEL KEE, :

NOTICE OF INTENT TO
SEEK THE DEATH PENALTY

Defendant. :

-----X

Pursuant to the requirements of Title 18, United States Code, Section 3593(a), the United States hereby gives notice that it believes that the circumstances of this case are such that, in the event that the defendant is convicted of the capital offense relating to the murder of Mark Bruce, a sentence of death is justified and the United States will seek the death penalty. Specifically, the United States will seek a sentence of death for Count Four of the superseding Indictment, murder in aid of racketeering, in violation of Title 18, United States Code, Section 1959(a)(1).

Preliminary Factors

Pursuant to Title 18, United States Code, Section 3591(a)(2), the United States will rely on the following preliminary factors to establish the defendant's eligibility for the death penalty:

1. The defendant intentionally killed Mark Bruce.
Section 3591(a)(2)(A).

2. The defendant intentionally inflicted serious bodily injury that resulted in the death of Mark Bruce. Section 3591(a)(2)(B).

3. 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 Mark Bruce died as a direct result of the act. Section 3591(a)(2)(C).

4. 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 Mark Bruce died as a direct result of the act. Section 3591(a)(2)(D).

Statutory Factor

Pursuant to Title 18, United States Code, Section 3592(c), the United States will rely on the following statutory aggravating factor as justifying a sentence of death:

1. The defendant committed the offense after substantial planning and premeditation to cause the death of Mark Bruce. Section 3592(c)(9).

Non-statutory Factors

In addition to the statutory aggravating factor set forth above, the United States will rely on the following non-

statutory aggravating factors to justify a sentence of death:

1. **Participation in other serious acts of violence.**

a. The defendant kidnaped, held hostage and sexually assaulted a female minor for several days in or about June 1998.

b. The defendant sexually assaulted a second female minor in or about June 1998.

c. The defendant directed minors to commit robberies and other violent crimes for his personal and financial gain from in or about September 1996 up to and including in or about June 1998.

2. **Future Dangerousness.** The defendant represents a continuing, serious threat to the lives and safety of others as shown by one or more of the following:

a. Since his arrest for the instant offenses, the defendant has directly and indirectly threatened persons whom he believed might be witnesses against him at trial.

b. The defendant has a low potential for rehabilitation, as shown by one or more of the following:

i. The defendant was convicted, on or about June 3, 1987, of attempted criminal sale of a controlled substance and was sentenced to one to three years' imprisonment.

ii. The defendant was convicted, on or about

September 9, 1993, of criminal possession of a controlled substance and sentenced to three to six years' imprisonment.

DATED: February 7, 2000

Respectfully submitted,



MARY JO WHITE *ARK*
United States Attorney

AFFIRMATION OF SERVICE

Heidi-Marie Sico, pursuant to Title 28, United States code, Section 1746, hereby declares under the penalty of perjury:

That she is employed in the office of the United States Attorney for the Southern District of New York.

That on the 7th day of February, 2000 she caused the Government's Notice of Intent to Seek the Death Penalty to be served by Facsimile and US Mail upon:

Jonathan Bach, Esq.
Legal Aid- Federal Defenders
52 Duane Street
New York, NY 10007

Kevin McNally, Esq.
513 Capitol Avenue
Frankfort, KY 40601

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED on February 7, 2000



Heidi-Marie Sico

Legal Assistant

