

FILED

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

JUN 8 - 2000

ARLEN B. COYLE, CLERK  
By J. Adams Deputy

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:99CR102-S

MICHAEL ROBBIE KENDALL

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States, pursuant to 18 U.S.C. § 3593(a), and notifies the Court and defendant MICHAEL ROBBIE KENDALL that it believes the circumstances of the offenses charged in Counts One and Two of the *Indictment* are such that, if the defendant is convicted of one or more of those offenses, a sentence of death is justified under Sections 3591 through 3598 of Title 18 of the Code, and that the Government will seek sentences of death for both of these offenses: Count One, the first degree murder of Devan Lowery in violation of 18 U.S.C. § 1111(a), and Count Two, use of a firearm during and in relation to that offense, in violation of 18 U.S.C. § 924(c) and (j).

With respect to each of Count One and Count Two, the Government will prove the following factors to justify a sentence of death.

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

1. **Intentional Killing.** MICHAEL ROBBIE KENDALL, defendant, did intentionally kill Devan Lowery. Section 3591(a)(2)(A).

2. **Intentional Infliction of Serious Bodily Injury.** MICHAEL ROBBIE KENDALL, defendant, did intentionally inflict serious bodily injury that resulted in the death of Devan Lowery. Section 3591(a)(2)(B).

3. **Intentional Acts to Take Life or Use Lethal Force.** MICHAEL ROBBIE

KENDALL, 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 offenses, and Devan Lowery died as a direct result of the act. Section 3591(a)(2)(C).

4. **Intentional Acts in Reckless Disregard for Life.** MICHAEL ROBBIE

KENDALL, defendant, did intentionally and specifically engage 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 Devan Lowery died as a direct result of the act. Section 3591(a)(2)(D).

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

1. **Grave Risk of Death to Additional Persons.** MICHAEL ROBBIE KENDALL,

defendant, in the commission of the offense, knowingly created a grave risk of death to another person in addition to the victim of the offense. Section 3592(c)(5).

2. **Multiple Killings or Attempted Killings.** MICHAEL ROBBIE KENDALL,

defendant, intentionally attempted to kill more than one person in a single criminal episode. Section 3592(c)(16).

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

1. **Commission of Other Unlawful Acts.** MICHAEL ROBBIE KENDALL,

defendant, engaged in a series of other increasingly violent crimes, including but not limited to: burglary (breaking and entering) of an automobile belonging to Katie Clark in May 1999 at Clear Creek Boat Landing on Sardis Lake in Lafayette County, Mississippi, stealing her wallet, credit cards, a portable compact disk player, and a number of compact disks (CDs); burglary (breaking


and entering) of an automobile belonging to Kelly Howell, and larceny of her wallet, credit cards, cell phone, and keys, at Plum Creek Boat Landing on Enid Lake in Panola County, Mississippi on 6 June 1999; and burglary (breaking and entering) of Tom Brown's sports utility vehicle (SUV) and the larceny of his wallet and credit card at Puskus Lake in the Holly Springs National Forest in Lafayette County, Mississippi on 8 June 1999, all of the aforesaid crimes being in the general area of the murder during the month (approximately) preceding the murder.

2. **Victim Impact.** MICHAEL ROBBIE KENDALL, defendant, caused injury, harm, and loss to the victim and the victim's family because of the effect of the offense on the victim, the victim's personal characteristics as an individual human being, and the impact of the death upon the victim's family.

3. **Emotional Harm and Injury to Others.** MICHAEL ROBBIE KENDALL, defendant, caused emotional harm and injury to Kostas Matheos and Tom Brown by shooting and killing the victim Devan Lowery near their persons and in their presence.

Respectfully submitted,

CALVIN "BUCK" BUCHANAN  
United States Attorney

By:   
ROBERT H. NORMAN  
Assistant United States Attorney

By:   
WILLIAM C. LAMAR  
Assistant United States Attorney

**CERTIFICATE OF SERVICE**

We, Robert H. Norman and William C. Lamar, Assistant United States Attorneys for the Northern District of Mississippi, hereby certify that I have this day served the foregoing ***NOTICE OF INTENT TO SEEK THE DEATH PENALTY***, by mailing, postage prepaid, a true copy of said Notice to:

David O. Bell, Esq.  
P.O. Box 1504  
Oxford MS 38655

C. Jackson Williams, Esq.  
P. O. Box 1381  
Oxford MS 38655

This the 8<sup>th</sup> day of June, 2000.



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ROBERT H. NORMAN  
Assistant United States Attorney