

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

UNITED STATES OF AMERICA

v.

NO. LR-CR-97-243 (2)

CHEVIE O'BRIEN KEHOE,
a/k/a CHEVIE KEHOE
CHEVIE COLLINS, JONATHAN
COLLINS and BUD

and

DANIEL LEWIS LEE,
a/k/a DANNY LEE, D.L. GRAHAM,
DANIEL L. LEE, DANIEL LOUIS
LEE, DANIEL LEWIS GRAHAM,
D MAN and DAVID

AMENDED NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH

COMES NOW the United States of America, pursuant to Title 18, United States Code, Sections 1959(a)(1) and 3593(a), by and through its undersigned counsel, Paula J. Casey, United States Attorney, and pursuant to the Court's Order of August _____, 1998 files an Amended Notice of Intent to Seek a Sentence of Death. The United States notifies the Court and defendant DANIEL LEWIS LEE and his counsel that in the event of the defendant's conviction on any of Counts Three, Four or Five, of the Superseding Indictment, wherein the defendant is charged with murdering, and aiding and abetting the murder of, William Mueller, Nancy Mueller and Sarah Powell, respectively, in violation of the laws of the State of Arkansas and for the purpose of pecuniary gain from, or maintaining or increasing his position in, an enterprise engaged in racketeering activity, the United States will seek the sentence of death.

I. AGGRAVATING FACTORS AS TO COUNT THREE

The United States will seek to prove the following aggravating factors as the basis for imposition of the death penalty in relation to Count Three of the Superseding Indictment for the murder of William Mueller:

the following:

a. On or about July 24, 1990, in Oklahoma City, Oklahoma, the defendant DANIEL LEWIS LEE, then a juvenile being 17 years of age, became involved in an altercation with Joseph John Wavra during a party where alcohol and LSD were being consumed. DANIEL LEWIS LEE struck Wavra about the face with his fists, and kicked Wavra once Wavra had collapsed. DANIEL LEWIS LEE then assisted John David Patton in forcibly moving Wavra to a sewer tunnel entrance, after DANIEL LEWIS LEE took items from Wavra's personal possession. When Patton requested a knife after an unidentified person watching the event suggested that Wavra be killed, DANIEL LEWIS LEE obtained the knife from a house and delivered it to Patton. Patton thereupon murdered Wavra in the sewer tunnel. DANIEL LEWIS LEE thereafter assisted Patton by disposing of the victim's clothing.

b. On December 2, 1990, DANIEL LEWIS LEE entered a plea of guilty to robbery, whereupon the murder charge was dismissed. DANIEL LEWIS LEE was sentenced to five years imprisonment, imposition of sentence suspended.

c. On May 3, 1995, DANIEL LEWIS LEE, was convicted of the misdemeanor offense of carrying a concealed weapon, blunt object, case number 95-01839MMA, in Martin County Court, Florida. DANIEL LEWIS LEE was sentenced to six months probation.

d. On or about April 29, 1996, DANIEL LEWIS LEE transported and placed an improvised explosive device at the Spokane City Hall building in Washington, which detonated and damaged the building.

e. DANIEL LEWIS LEE admitted to Gloria Kehoe, the mother of enterprise leader Chevie O'Brien Kehoe, that he had participated in the Mueller murders and has never stated or displayed any indication of remorse for his actions. To the contrary, DANIEL LEWIS LEE trivialized the murders by stating he had put the Mueller family "on a liquid diet," referring to the fact that the Mueller familys' bodies had been dumped in the Illinois Bayou near Russelville, Arkansas.

f. In February 1998, DANIEL LEWIS LEE attempted to recruit a fellow Pope County Detention Center inmate to smuggle a firearm into the facility for the purpose of effecting DANIEL LEWIS LEE's escape. Consistent with the information provided, a subsequent search of DANIEL LEWIS LEE's cell revealed a disassembled radio, which was suspected of being the intended vehicle for smuggling the firearm back into the Detention Center.

2. The defendant DANIEL LEWIS LEE committed the offense described in Count Four of the Superseding Indictment after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. In committing the offense described in Count Four of the Superseding Indictment, defendant DANIEL LEWIS LEE intentionally killed or attempted to kill more than one person during a single criminal episode. Section 3592(c)(16).

C. Other, Non-Statutory, Aggravating Factors Identified under 18 U.S.C. §§ 3592(c) and 3593(a):

1. Defendant DANIEL LEWIS LEE's criminal history, low rehabilitative potential and lack of remorse establishes DANIEL LEWIS LEE's future dangerousness, that is, the probability that the defendant would commit criminal acts of violence constituting a continuing threat to society, as evidenced by some or all of the following:

a. On or about July 24, 1990, in Oklahoma City, Oklahoma, the defendant DANIEL LEWIS LEE, then a juvenile being 17 years of age, became involved in an altercation with Joseph John Wavra during a party where alcohol and LSD were being consumed. DANIEL LEWIS LEE struck Wavra about the face with his fists, and kicked Wavra once Wavra had collapsed. DANIEL LEWIS LEE then assisted John David Patton in forcibly moving Wavra to a sewer tunnel entrance, after DANIEL LEWIS LEE took items from Wavra's personal possession. When Patton requested a knife after an unidentified person watching the event suggested that Wavra be killed, DANIEL LEWIS LEE obtained the knife from a house and delivered it to Patton. Patton thereupon murdered Wavra in the sewer tunnel. DANIEL LEWIS LEE thereafter assisted Patton by disposing of the victim's clothing.

b. On December 2, 1990, DANIEL LEWIS LEE entered a plea of guilty to robbery, whereupon the murder charge was dismissed. DANIEL LEWIS LEE was sentenced to five years imprisonment, imposition of sentence suspended.

c. On May 3, 1995, DANIEL LEWIS LEE, was convicted of the misdemeanor offense of carrying a concealed weapon, blunt object, case number 95-01839MMA, in Martin County Court, Florida. DANIEL LEWIS LEE was sentenced to six months probation.

d. On or about April 29, 1996, DANIEL LEWIS LEE transported and placed an improvised explosive device at the Spokane City Hall building in Washington, which detonated

person, other than one of the participants in the offense, and the victim, Sarah Powell, died as a direct result of the act. Section 3591(a)(2)(C).

3. 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 the victim, Sarah Powell, died as a direct result of the act. Section 3591(a)(2)(D).

B. Statutory Aggravating Factors Enumerated under 18 U.S.C. §§ 3592(c)(2) through (16):

1. The defendant DANIEL LEWIS LEE committed the offense described in Count Five of the Superseding Indictment as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value. Section 3592(c)(8).

2. The defendant DANIEL LEWIS LEE committed the offense described in Count Five of the Superseding Indictment after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. The defendant DANIEL LEWIS LEE committed the offense described in Count Five of the Superseding Indictment against a victim who was particularly vulnerable due to her youth, that being eight years of age. Section 3592(c)(11).

4. In committing the offense described in Count Five of the Superseding Indictment, defendant DANIEL LEWIS LEE intentionally killed or attempted to kill more than one person during a single criminal episode. Section 3592(c)(16).

C. Other, Non-Statutory, Aggravating Factors Identified under 18 U.S.C. §§ 3592(c) and 3593(a):

1. Defendant DANIEL LEWIS LEE's criminal history, low rehabilitative potential and lack of remorse establishes DANIEL LEWIS LEE's future dangerousness, that is, the probability that the defendant would commit criminal acts of violence constituting a continuing threat to society, as evidenced by some or all of the following:

a. On or about July 24, 1990, in Oklahoma City, Oklahoma, the defendant DANIEL LEWIS LEE, then a juvenile being 17 years of age, became involved in an altercation

with Joseph John Wavra during a party where alcohol and LSD were being consumed. DANIEL LEWIS LEE struck Wavra about the face with his fists, and kicked Wavra once Wavra had collapsed. DANIEL LEWIS LEE then assisted John David Patton in forcibly moving Wavra to a sewer tunnel entrance, after DANIEL LEWIS LEE took items from Wavra's personal possession. When Patton requested a knife after an unidentified person watching the event suggested that Wavra be killed, DANIEL LEWIS LEE obtained the knife from a house and delivered it to Patton. Patton thereupon murdered Wavra in the sewer tunnel. DANIEL LEWIS LEE thereafter assisted Patton by disposing of the victim's clothing.

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f. In February 1998, DANIEL LEWIS LEE attempted to recruit a fellow Pope County Detention Center inmate to smuggle a firearm into the facility for the purpose of effecting DANIEL LEWIS LEE's escape. Consistent with the information provided, a subsequent search of DANIEL LEWIS LEE's cell revealed a disassembled radio, which was suspected of being the intended vehicle for smuggling the firearm back into the Detention Center.

Future dangerousness is a recognized non-statutory aggravating factor. See Simmons v. South Carolina, 517 U.S. 154, 162, 114 S.Ct. 2187, 2193 (1994); Jurek v. Texas, 428 U.S. 262, 275, 96 S.Ct. 2950, 2958, 49 L.Ed.2d 929 (1976). This includes

information about defendant's participation in uncharged homicides. Cf. United States v. Pitera, 795 F.Supp. 546, 562-64 (E.D.N.Y.), aff'd, 986 F.2d 499 (2d Cir. 1992). This information assists, during capital sentencing phase, in determining an accurate and complete picture of the defendant, and qualifies as "any other relevant information" within the meaning of 18 U.S.C. § 3593(a).

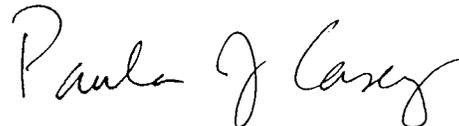
IV. MITIGATING FACTORS

The United States brings to this Court's attention the non-statutory mitigating factor that may be applicable to defendant DANIEL LEWIS LEE, pursuant to 18 United States Code § 3592(a).

A. Other, Non-Statutory, Mitigating Factor Identified under 18 U.S.C. §§ 3592(a)(8):

1. Defendant DANIEL LEWIS LEE was 23 years-old when he committed the Mueller murders, and this Court may consider the relative youth of the offender as a mitigating factor. Cf. Eddings v. Oklahoma, 455 U.S. 104, 115-16, 102 S.Ct. 869, 877, 71 L.Ed.2d 1 (1982) ("youth is more than a chronological fact"); see also Johnson v. Texas, 509 U.S. 350, 366, 113 S.Ct. 2658, 2668, 125 L.Ed.2d 290 (1993) (same).

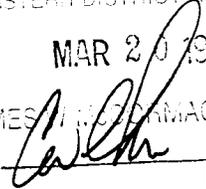
Respectfully submitted,



PAULA J. CASEY
United States Attorney
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FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

MAR 20 1993

JAMES J. MCDONALD, CLERK
By:  DEP. CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

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NO. LR-CR-97-243

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DANIEL LEWIS LEE,
a/k/a DANNY LEE, D.L. GRAHAM,
DANIEL L. LEE, DANIEL LEWIS
LEE, DANIEL LEWIS GRAHAM,
D MAN and DAVID

AND

FARON EARL LOVELACE,
a/k/a DAN and LEM

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

TO: DANIEL LEWIS LEE

YOU ARE HEREBY NOTIFIED that in the event of your conviction on Count III, Count IV, or Count V of the indictment in this case, each of which Counts charges a violation of 18 United States Code 1959(a)(1), or in the event of your conviction on Count VII of the indictment which charges a violation of 18 United States Code 924(c) and 924(j), the United States will seek the sentence of death.

YOU ARE FURTHER NOTIFIED that the United States will seek to prove the following aggravating factors as the basis for the death penalty:

1. You intentionally killed William Mueller. 18 United States Code 3591(a)(2)(A)
2. You intentionally killed Nancy Mueller. 18 United States Code 3591(a)(2)(A).
3. You intentionally killed Sarah Powell. 18 United States Code 3591(a)(2)(A).

4. You committed the offenses as consideration for the receipt, or the expectation of the receipt, of a thing of pecuniary value. 18 United States Code 3592(c)(8).

5. You committed the offenses after substantial planning and premeditation. 18 United States Code 3592(c)(9).

6. You committed the offense against a victim, Sarah Powell, who was particularly vulnerable due to youth. 18 United States Code 3592(c)(11).

7. You intentionally killed more than one person in a single criminal episode. 18 United States Code 3592(c)(16).

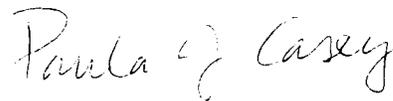
8. You participated in a criminal act that resulted in the death of Joseph J. Wavra.

9. You participated in a criminal act that resulted in the death of Jon Cox.

10. The intentional killing of William Mueller, Nancy Mueller, and Sarah Powell adversely affected the families of the victims.

The United States is not aware, at this time, of any evidence which would constitute a mitigating factor as defined in 21 United States Code 848(m).

Respectfully submitted,



PAULA J. CASEY
United States Attorney
P.O. Box 1229
Little Rock, Arkansas 72203

CERTIFICATE OF SERVICE

20th A copy of the foregoing has been mailed to the defendants' attorneys listed below on the day of March 1998, by depositing it in the United States mail.

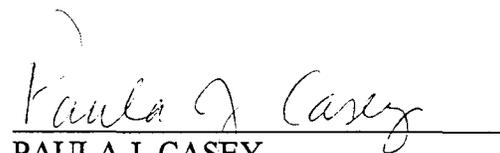
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