

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	Case No. 1:08CR404
)	
Plaintiff,)	JUDGE SOLOMON OLIVER, JR.
)	
V.)	
)	
ANTUN LEWIS,)	<u>NOTICE OF INTENT TO SEEK</u>
Defendant.)	<u>THE DEATH PENALTY</u>
)	

Now comes the United States of America, by and through its counsel, William Edwards, United States Attorney, David A Sierleja, First Assistant United States Attorney, and Robert F. Corts and Michael L. Collyer, Assistant United States Attorneys, and pursuant to 18 U.S.C. § 3593(a), notifies the Court and Defendant ANTUN LEWIS (“Defendant”), that the United States believes the circumstances of the offense charged in Count One of the Indictment are such that, in the event of a conviction, a sentence of death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 of the United States Code, and that the Government will seek the sentence of death for the offense of Arson Resulting in Death (Count 1), in violation of Title 18, United States Code, Section 844(i), which carries a possible sentence of death.

-2-

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)(A)-(D)

The following statutory proportionality factors apply:

1. **Intentional Acts to Take Life or Use Lethal Force**

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 Medeia Carter, Devonte Carter, Moses Williams, Jr., Malee'ya Williams, Fakh Jones, Antwon Jackson, Ernest Tate, Jr., Miles Cockfield, and Shauntavia Mitchell died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

2. **Intentionally and Specifically Engaged in an Act of Violence Creating a Grave Risk of Death**

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 Medeia Carter, Devonte Carter, Moses Williams, Jr., Malee'ya Williams, Fakh Jones, Antwon Jackson, Ernest Tate, Jr., Miles Cockfield, and Shauntavia Mitchell 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)

The following statutory aggravating factors apply.

1. The deaths occurred during the commission of an offense under Section 844(i) of Title 18. 18 U.S.C. § 3592(c)(1).

2. The Defendant has previously been convicted of two state offenses, punishable by

-3-

a term of imprisonment of more than one year, involving the infliction of, or the attempted infliction of, serious bodily injury or death upon another person, and the offenses were committed on separate occasions. 18 U.S.C. § 3592(c)(4).

3. The Defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to Medeia Carter, Devonte Carter, Moses Williams, Jr., Malee'ya Williams, Fakh Jones, Antwon Jackson, Ernest Tate, Jr., Miles Cockfield, and Shauntavia Mitchell. 18 U.S.C. § 3592(c)(5).

4. The Defendant committed the offense after substantial planning and premeditation to cause the death of a person. 18 U.S.C. § 3592(c)(9).

5. Eight of the victims, Devonte Carter (age 15), Moses Williams, Jr. (age 14), Malee'ya Williams (age 12), Fakh Jones (age 7), Antwon Jackson (age 14), Ernest Tate, Jr. (age 13), Miles Cockfield (age 13), and Shauntavia Mitchell (age 12), were particularly vulnerable due to youth. 18 U.S.C. § 3592(c)(11).

6. 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)

The following non-statutory aggravating factors apply.

1. **Victim Impact Evidence**

Defendant caused injury, harm, and loss to the family and friends of Medeia Carter, Devonte D. Carter, Moses L. Williams, Jr., Malee'ya L. Williams, Fakh Jones, Jr., Antwon L. Jackson, Jr., Earnest Tate, Jr., Miles Anthony Cockfield, and Shauntavia M. Mitchell as

-4-

evidenced by their personal characteristics as human beings and the impact of their death on their families and friends.

2. Future Dangerousness

Defendant has two separate aggravated assault convictions. In each case Defendant assaulted another inmate while Defendant was incarcerated. Defendant therefore continues to represent a danger within the prison community. Defendant also exhibits a lack of remorse for his actions. In addition to future dangerousness, the United States intends to rely upon each of the foregoing facts (prior convictions while incarcerated and lack of remorse) as independent, non-statutory aggravating factors.

The Government further gives notice that in support of imposition of the death penalty it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offense of conviction as described in the Indictment as they relate to the background and character of Defendant, his moral culpability, and the nature and circumstances of the offense charged in the Indictment.

Respectfully submitted,

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-5-

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Government's Notice of Intent to Seek the Death Penalty was filed electronically on September 16, 2009. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this system through the Court's system.

/s/Michael L. Collyer

Michael L. Collyer
Assistant U. S. Attorney