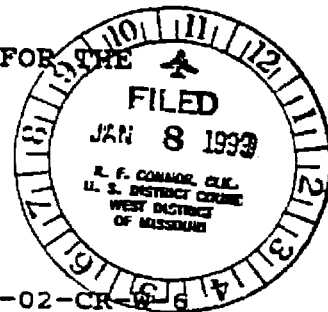


IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION



UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 XAVIER LIGHTFOOT,)
)
 Defendant.)

No. 98-00149-02-CR-6-6

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

Comes now the United States of America, by Stephen L. Hill, Jr., United States Attorney and Mark A. Miller, Assistant United States Attorney, both for the Western District of Missouri, pursuant to Title 18, United States Code, Section 3593(a), notifies the Court and the defendant, Xavier Lightfoot, that in the event the defendant is convicted of intentionally killing Jovan S. Ross, as alleged in Count Two of the superseding indictment, the government will seek a sentence of death.

The government will seek to prove the following aggravating factors as the basis for imposition of the death penalty.

A. Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3591(A) through (D)

1. Xavier Lightfoot intentionally killed or caused to be killed Jovan S. Ross. [18 U.S.C. § 3591(a)(2)(A)].

2. Xavier Lightfoot intentionally inflicted or caused to be inflicted serious bodily injury which resulted in the death of Jovan S. Ross. [18 U.S.C. § 3591(a)(2)(B)].

3. Xavier Lightfoot intentionally engaged or caused others to engage in conduct intending that Jovan S. Ross be killed and

that lethal force be employed against Jovan S. Ross, which resulted in Jovan S. Ross' death. [18 U.S.C. § 3591(a)(2)(C)].

4. Xavier Lightfoot intentionally engaged or caused others to engage in conduct which:

(i) Xavier Lightfoot knew would create a grave risk of death to a person, other than one of the participants in the offense; and

(ii) resulted in the death of Jovan S. Ross.

[18 U.S.C. § 3591(a)(2)(D)].

B. Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3592(c)(1) through (16)

1. The defendant committed the offenses described in Count Two of the superseding indictment after substantial planning and premeditation. [18 U.S.C. § 3592(c)(9)].

2. The defendant procured the commission of the murder described in Count Two of the superseding indictment by payment or promise of payment of United States currency. [18 U.S.C. § 3592(c)(7)].

C. Other, Non-Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 848(h)(1)(B) and 848(K)

1. Future dangerousness based upon the probability that Xavier Lightfoot would commit criminal acts of violence that would constitute a continuing threat to society, as evidenced for example, by one or more of the following, among others:

(a) Armed Robbery of a Credit Union. Defendant and two other persons committed the robbery of the Educator's Federal Credit Union in Omaha, Nebraska on November 28, 1997.

(b) Armed Robbery of a Jewelry Store. Defendant Lightfoot and others committed the armed robbery of Malashook's Jewelry Store in Omaha, Nebraska, on November 3, 1997. Jewelry valued at approximately \$80,000.00 was taken. A handgun was used during the robbery.

(c) Armed Robbery of a Jewelry Store. Defendant Lightfoot and others committed the armed robbery of Enrique's Jewelry Store in Omaha, Nebraska, on October 15, 1997. Jewelry valued at \$132,000.00 was taken. A handgun was used during the robbery.

(d) Sexual Assault. Defendant Lightfoot committed forcible sodomy against an inmate at the Douglas County Jail in Omaha, Nebraska on or about 1998, while awaiting trial for federal robbery charges in Omaha, Nebraska.

(e) Burglary of a Residence. On or about December 24, 1989, defendant committed a burglary of a residence at 12500 N. Skyview, Kansas City, Platte County, Missouri during which a rifle was stolen.

(f) Burglary of a Residence. On or about December 28, 1989, defendant committed a burglary of a residence at 1703 Windsor, Liberty, Clay County, Missouri.

(g) Burglary of a Residence. On or about December 30, 1989, defendant committed a burglary of a residence at 1902 Larkspur, Liberty, Clay County, Missouri.

(h) Burglary of a Residence. On or about December 31, 1989, defendant committed a burglary of a residence at 711 Bruening, Liberty, Clay County, Missouri.

(i) Burglary of a Residence. On or about January 10, 1990, defendant committed a burglary of a residence at 2101 Winding Wood Drive, Liberty, Clay County, Missouri while the owner was in the residence.

(k) Burglary of a Residence. On or about January 11, 1990, defendant committed a burglary of a residence at 1009 Northwyck, Liberty, Clay County, Missouri while the owner was in the residence.

(l) Possession of a Weapon During the Commission of a Felony. On or about January 18, 1990, defendant possessed a .32 caliber weapon during the commission of the Felony Theft of an Auto.

2. Xavier Lightfoot has previously been convicted of several State felony offenses, each punishable by a term of imprisonment of more than one year including the following:

(a) On or about June 27, 1991, defendant was convicted of Burglary Second Degree and Stealing over \$150.00 in the Circuit Court of Clay County, Missouri in Case No. 190-06214F and sentenced to a term of five (5) years imprisonment;

(b) On or about October 24, 1996, defendant was convicted of Tampering First Degree in the Circuit Court of Jackson County, Missouri in Case No. CR96-0757 and sentenced to a term of Time served;

(c) On or about March 28, 1991, defendant was convicted of Burglary in the District Court of Johnson County, Kansas in Case No. K63275 and sentenced to a term of three to ten years;

(d) On or about July 20, 1990, defendant was convicted of Felony Theft and Unlawful Possession of a Weapon in the District court of Wyandotte County, Kansas in Case No. 90CR0108 and sentenced to a term of 1-2 years for Theft and 2-5 years for Unlawful Possession of a Weapon;

(e) On or about January 31, 1985, defendant was convicted of Receiving Stolen Property in the Circuit Court of Saline County, Missouri, in Case No. 683-412FX and sentenced to a term of four years; and

(f) On or about September 8, 1987, defendant was convicted of Tampering First Degree in the Circuit Court of Jackson County, Missouri, in Case No. CR87-0587.

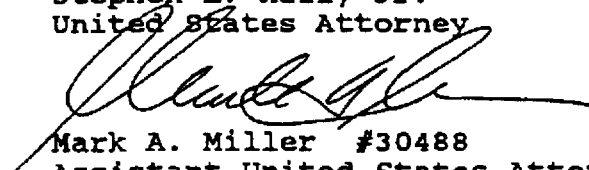
3. Victim impact, as evidenced by the impact of the murder upon Jovan Ross' family, particularly his mother.

4. The victim was killed by the defendant to obstruct justice, tamper with the witness and in retaliation for cooperating with law enforcement authorities.

Respectfully submitted,

Stephen L. Hill, Jr.
United States Attorney

By


Mark A. Miller #30488
Assistant United States Attorney

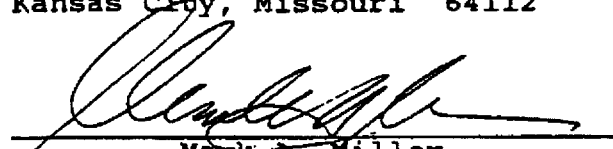
Charles Evans Whittaker Courthouse
400 East 9th Street, 5th Floor
Kansas City, Missouri 64106
(816) 426-3122

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed
this 07 day of January, 1999, to the following:

Charles M. Rogers
1300 Mercantile Tower
1101 Walnut
Kansas City, Missouri 64106-2122

Susan Elliott
4600 Madison, Suite 650
Kansas City, Missouri 64112



Mark A. Miller
Assistant United States Attorney

MAM/nlg