

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

KENNETH JAMAL LIGHTY,)
Defendant.)

Criminal No. PJM 03-0457

GOVERNMENT'S NOTICE OF INTENT TO SEEK THE DEATH PENALTY

The United States of America, pursuant to 18 U.S.C. § 3593(a), notifies the Court and defendant **KENNETH LIGHTY** ("defendant"), that the Government 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 that is charged in Count One of the Indictment, that is, kidnapping resulting in the death of Eric Larry Hayes II, in violation of Title 18, United States Code, Section 1201(a)(1), which carries a possible sentence of death.

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 to Count 1:

1. **Intentionally Killed the Victim**

The defendant intentionally killed Eric Larry Hayes II. 18 U.S.C. § 3591(a)(2)(A).

2. **Intentionally Inflicted Serious Bodily Injury that Resulted in the Death of the Victim**

The defendant intentionally inflicted serious bodily injury that resulted in the death of Eric Larry Hayes II. 18 U.S.C. § 3591(a)(2)(B).

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

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 Eric Larry Hayes II died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

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

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 Eric Larry Hayes II 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 to Count One:

1. **Death During the Commission of Another Crime**

The death of Eric Larry Hayes II occurred during the commission of, attempted commission of, and during the immediate flight from the commission of, an offense under 18 U.S.C. § 1201 to wit: kidnapping. 18 U.S.C. § 3592(c)(1).

C. **Other Non-Statutory Aggravating Factors Identified under 18 U.S.C. § 3593(a)(2)**

The following non-statutory aggravating factors apply to Count One:

1. **Victim Impact Evidence**

The defendant caused injury, harm, and loss to the family and friends of Eric Larry Hayes, II, including but not limited to his son who was born after the victim's death, as evidenced by the personal characteristics of Eric Larry Hayes, II as a human being and the impact of his death on his family and friends.

2. **Lack of Remorse**

The defendant has demonstrated a lack of remorse for the capital offense charged in Count One, as indicated by defendant's statements made following the commission of the capital offense charged in Count One, and by defendant's actions during the course of and following the commission of the capital offense charged in Count One.

3. **Commission of Other Serious Acts of Violence, including Murder**

Apart from the offenses charged in the Indictment, the defendant has engaged in other acts of violence including but not limited to one or more of the following:

- a. The drive-by shooting resulting in the death of Antoine Newbill which occurred on January 30, 2002, in Prince George's County, Maryland:
- b. A robbery and assault that occurred on May 8, 2001, in Prince George's County, Maryland:

4. **Commission of the Capital Offense While the Defendant Was Subject to Conditions Pertaining to Other Charges and Adjudications**

At the time of the commission of the capital offense charged in Count One, the defendant was under court ordered conditions in one or more of the following cases:

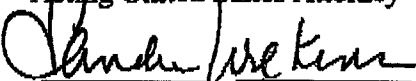
- a. Under case number JA 00-0875, filed in the Circuit Court (Juvenile Division) for Prince George's County Maryland, the defendant was on probation for possession of a controlled substance.
- b. Under case number CT 01-1322X filed in the Circuit Court for Prince George's County, Maryland, the defendant was on bond awaiting trial for robbery and related offenses.

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 offenses of conviction as described in the Indictment as they relate to the background and character of the defendant, **KENNETH JAMAL LIGHTY**, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

DATE: December ____, 2004.

Respectfully submitted,

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CERTIFICATE OF SERVICE

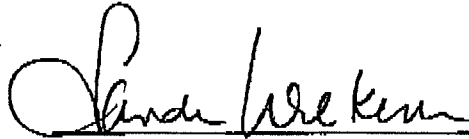
This is to certify that on this 28th day of December, 2004, I caused a copy of the

foregoing Government's Notice of Intent to Seek the Death Penalty to be mailed, by first-class mail, postage prepaid, to the following:

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