

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

KEVIN V. RYAN (CSBN 118321)
United States Attorney

CHARLES B. BURCH (CSBN 79002)
Chief, Criminal Division

JANE SHOEMAKER (CSBN 125815)
MARCIA JENSEN (CSBN 99814)
Assistant United States Attorneys
LANE LIROFF (CSBN 71703)
Special Assistant United States Attorney

280 South First St., Rm 371
San Jose, California 95113
(408) 535-5061

Attorneys for the United States

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
DAVID LIEN,)
a/k/a David Lin,)
)
Defendant.)

No. CR 01-20071 RMW
NOTICE OF INTENT TO SEEK DEATH
PENALTY

The United States of America, by and through Kevin V. Ryan, United States Attorney for the Northern District of California, pursuant to Title 18, United States Code, Section 3593(a), notifies the defendant David Lien, a/k/a David Lin, his counsel, and the Court that, in the event the defendant is convicted under Count One of the indictment, relating to the death of Patrick Hsu, the United States will seek the sentence of death.

The Government believes that the circumstances are such that if the defendant is convicted of Count One, a sentence of death is justified. At a death penalty hearing, the Government will prove the threshold culpability factors and aggravating factors listed below.

MAR - 6 2003
ORIGINAL FILED
MAR 6 2003
RECEIVED
CLERK
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

1 **I. Threshold Culpability Factors Enumerated Under 18 U.S.C. § 3591(a)(2)**

2 1. The defendant intentionally killed Patrick Hsu (18 U.S.C. § 3591(a)(2)(A)).

3 2. The defendant intentionally inflicted serious bodily injury that resulted in the
4 death of Patrick Hsu (18 U.S.C. § 3591(a)(2)(B)).

5 3. The defendant intentionally participated in one or more acts, contemplating that
6 the life of a person would be taken or intending that lethal force would be used in connection
7 with a person, other than a participant in the offense, and Patrick Hsu died as a direct result of
8 such act or acts (18 U.S.C. § 3591(a)(2)(C)).

9 4. The defendant intentionally and specifically engaged in one or more acts of violence,
10 knowing that the act or acts created a grave risk of death to a person, other than a participant in
11 the offense, such that participation in such act or acts constituted a reckless disregard for human
12 life, and Patrick Hsu died as a direct result of such act or acts (18 U.S.C. § 3591(a)(2)(D)).

13 **II. Aggravating Factors Enumerated Under 18 U.S.C. § 3592(c)(1) Through (16)**

14 1. The death of Patrick Hsu occurred during the commission of a violation of 18
15 U.S.C. § 844(d) (transportation of an explosive in interstate commerce for certain purposes) (18
16 U.S.C. § 3592(c)(1)).

17 2. The defendant, in the commission of the offense, knowingly created a grave risk of
18 death to one or more persons in addition to the victim of the offense (18 U.S.C. § 3592(c)(5)).

19 3. The defendant committed the offense in an especially heinous, cruel, or depraved
20 manner in that it involved serious physical abuse to Patrick Hsu (18 U.S.C. § 3592(c)(6)).

21 4. The defendant committed the offense after substantial planning and premeditation to
22 cause the death of Patrick Hsu (18 U.S.C. § 3592(c)(9))

23 **III. Other Aggravating Factors Identified Under 18 U.S.C. § 3593(a)**

24 1. As reflected by the impact of the offense on the victim's family, the defendant
25 caused severe and irreparable loss, injury, and harm to the victim's family, including but not
26 limited to extreme emotional suffering. See Payne v. Tennessee, 501 U.S. 808, 825-827 (1991).

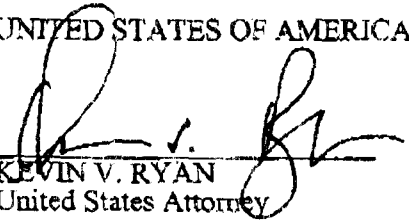
27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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, David Lien, a/k/a David Lin, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Dated this 3rd day of MARCH, 2003.

Respectfully submitted,
UNITED STATES OF AMERICA

KEVIN V. RYAN
United States Attorney

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

No. 01-20071 - RMW

I, Susan Kreider, declare that I am a citizen of the United States, over the age of 18 years and not a party to the within action.

I hereby certify that a copy of the foregoing:

NOTICE OF INTENT TO SEEK DEATH PENALTY

was served today ___ by hand; ___ by facsimile; ___ by Federal Express; ___ by first class mail by placing a true copy of each such document(s) in a sealed envelope with postage thereon fully paid, either in a U.S. Mail mailbox or in the designated area for outgoing U.S. Mail in accordance with the normal practice of the United States Attorney's Office; X by placing in the Public Defender's pickup box located in the District Court Clerk's Office and addressed to the following:

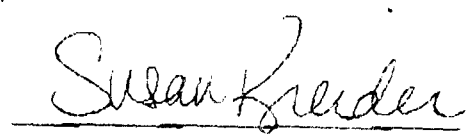
Nick Humy
Assistant Federal Public Defender

and by mail to

Paul Meltzer
340 Soquel Ave #212
Santa Cruz CA 95062

I declare under penalty of perjury that the foregoing is true and correct, and that this certificate was executed at San Jose, California.

DATED: March 6, 2003



Susan Kreider
Legal Assistant
U.S. Attorney's Office