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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,) No. CR 02-938-GHK
13)
Plaintiff,) GOVERNMENT'S NOTICE OF INTENT
14) TO SEEK THE DEATH PENALTY
v.) AGAINST DEFENDANT LITTRELL
15)
16 GARY JOE LITTRELL,)
Defendant.)
17)

18 NOTICE OF INTENT TO SEEK THE DEATH PENALTY

19 The United States of America, pursuant to 18 U.S.C.
20 § 3593(a), notifies the Court and defendant GARY JOE LITTRELL
21 ("defendant") that the Government believes the circumstances of
22 the offenses charged in Count Five of the First Superseding
23 Indictment are such that, in the event of a conviction, a
24 sentence of death is justified under Chapter 228 (Sections 3591
25 through 3598) of Title 18 of the United States Code, and that the
26 Government will seek the sentence of death for the following
27 offense: commission of a violent crime in aid of racketeering
28 activity, to wit, the murder of Aaron Marsh, in violation of

1 Title 18, United States Code, Section 1959(a)(1) [Count Five],
2 which carries a possible sentence of death.

3 The Government proposes to prove the following factors as
4 justifying a sentence of death.

5 A. Statutory Proportionality Factor Enumerated under 18
6 U.S.C. § 3591(a)(2)(C)

7 The following statutory proportionality factors apply to
8 Count Five.

9 1. **Intentionally Killing the Victim**

10 The defendant intentionally killed Aaron Marsh. 18 U.S.C. §
11 3591(a)(2)(A).

12 2. **Intentionally Inflicted Serious Bodily Injury that**
13 **Resulted in the Death of the Victims**

14 The defendant intentionally inflicted serious bodily injury that
15 resulted in the death of Aaron Marsh. 18 U.S.C. § 3591(a)(2)(B).

16 3. **Intentional Act to Take Life or Use Lethal Force**

17 The defendant intentionally participated in an act, contemplating
18 that the life of a person would be taken or intending that lethal
19 force would be used in connection with a person, other than one
20 of the participants in the offense, and Aaron Marsh died as a
21 direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

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

24 The defendant intentionally and specifically engaged in an act of
25 violence knowing that the act created a grave risk of death to a
26 person, other than one of the participants in the offense, such
27

1 that participation in the act constituted a reckless disregard
2 for human life and Aaron Marsh died as a direct result of the
3 act. 18 U.S.C. § 3591(a)(2)(D).

4 B. Statutory Aggravating Factors Enumerated under 18
5 U.S.C. § 3592(c)

6 The following statutory aggravating factors apply to Count
7 Five.

8 1. **Previous Conviction of Violent Felony Involving**
9 **Firearm**

10 The defendant committed the offense charged after having
11 previously been convicted of a Federal or State offense
12 punishable by a term of imprisonment of more than one year,
13 involving the use or attempted or threatened use of a firearm (as
14 defined in 18 U.S.C. § 921) against another person, to wit,
15 conviction for robbery in Kern County Superior Court on April 7,
16 1982, in Case No. 23352. 18 U.S.C. § 3592(c)(2).

17 2. **Substantial Planning and Premeditation**

18 The defendant committed the offense charged in Count Five after
19 substantial planning and premeditation to cause the death of a
20 person. 18 U.S.C. § 3592(c)(9).

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

23 The following non-statutory, aggravating factor applies to
24 Count Five.

25 1. **Future Dangerousness of the Defendant**

26 The defendant is likely to commit criminal acts of violence in
27 the future that would constitute a continuing and serious threat

1 to the lives and safety of others, as evidenced by, at least, one
2 or more of the following:

3 a. Continuing Pattern of Violence

4 The defendant has engaged in a continuing pattern of violence,
5 attempted violence, and threatened violence, including, at least,
6 the crimes alleged against defendant in the First Superseding
7 Indictment, and the crime of which the defendant was previously
8 convicted, as described in ¶ B.1. of this Notice.

9 b. Institutional Misconduct

10 The defendant poses a future danger to the lives and safety of
11 other persons, as demonstrated by his institutional misconduct,
12 including, at least, defendant's repeated acts of institutional
13 misconduct while in the custody of the California Department of
14 Corrections, the Kern County Sheriff's Department, and other law
15 enforcement agencies.

16 c. Low rehabilitative potential

17 The defendant poses a future danger to the lives and safety of
18 other persons, as demonstrated by his low rehabilitative
19 potential, including, at least, defendant's repeated violations
20 of parole conditions by the commission of new crimes within
21 months of having been released on parole.

22
23 The Government further gives notice that in support of
24 imposition of the death penalty it intends to rely upon all the
25 evidence admitted by the Court at the guilt phase of the trial
26 and the offenses of conviction as described in the First
27 Superseding Indictment as they relate to the background and

