

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT OWENSBORO

UNITED STATES OF AMERICA

PLAINTIFF

vs.

Case No. 4:99CR-11-M

BILLY JOE LYON

DEFENDANT

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States of America, pursuant to 18 U.S.C. § 3593(a), by and through its undersigned counsel, and notifies the Court and the defendant in the above-captioned case that the United States believes the circumstances of the offenses charged in Counts 1-3 of the Indictment are such that, in the event of a conviction of any of those counts, a sentence of death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 of the United States Code, and that the United States will seek the sentence of death for convictions for any of those offenses listed in Counts 1-3: Count 1, conspiracy to travel in interstate commerce with the intent to commit murder, in violation of 18 U.S.C. § 1958; Count 2, traveling in interstate commerce with intent to commit murder, in violation of 18 U.S.C. § 1958, which resulted in the death of Jack Norris; Count 3, traveling in interstate commerce with intent to commit murder, in violation of 18 U.S.C. § 1958, which resulted in the murder of James Nichols, all three offenses carry a possible sentence of death.

The United States proposes to prove the following factors as justifying a sentence of death.

A. Statutory Factors Enumerated under 18 U.S.C. § 3591(a)(2)(A) - (D).

Murder of Jack Norris

1. Intentional Killing. The defendant intentionally killed Jack Norris. Section 3591(a)(2)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury that resulted in the death of Jack Norris. Section 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 a victim died as a direct result of the act. Section 3591(a)(2)(C).

4. Intentional Acts to Create Grave Risk of Death. The defendant intentionally and specifically engaged in acts of violence knowing that the acts 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 the victim died as a direct result of the act. Section 3591 (a)(2)(D).

Murder of James Nichols

1. Intentional Killing. The defendant intentionally killed James Nichols. Section 3591(a)(2)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant intentionally inflicted serious bodily injury that resulted in the death of James Nichols. Section 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 a victim died as a direct result of the act. Section 3591(a)(2)(C).

4. Intentional Acts to Create Grave Risk of Death. The defendant intentionally and specifically engaged in acts of violence knowing that the acts 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 the victim died as a direct result of the act. Section 3591 (a)(2)(D).

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

Murder of Jack Norris

1. Heinous, Cruel, or Depraved Manner of Committing Offense. The defendant committed the offense in an especially

heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to Jack Norris. Section 3592(c)(6).

2. Pecuniary Gain. The defendant committed the offense in expectation of the receipt of something of pecuniary value. Section 3592(c)(8).

3. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation to cause the death of Jack Norris. Section 3592(c)(9).

4. Vulnerability of the Victim. The victim was particularly vulnerable due to old age.

Murder of James Nichols

1. Heinous, Cruel, or Depraved Manner of Committing Offense. The defendant committed the offense in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to James Nichols. Section 3592(c)(6).

2. Pecuniary Gain. The defendant committed the offense in expectation of the receipt of something of pecuniary value. Section 3592(c)(8).

3. Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation to cause the death of James Nichols. Section 3592(c)(9).

4. Multiple Killings or Attempted Killings. The defendant intentionally killed and attempted to kill more than one person in a single criminal episode.

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

1. Participation in Additional Uncharged Murders and Attempted Murders or other Serious Acts of Violence. On or about March 10, 1999, the defendant attempted to murder Richard Dorman. On or about March 20, 1999, the defendant shot and killed Jason Brown. On or about December 31, 1997, the defendant and his father Larry Eugene Lyon murdered Danny Gibson.

2. Contemporaneous Convictions for More than One Killing. Applies if defendant is convicted of Counts 2 and 3.

3. Future Dangerousness to the Lives and Safety of Other Persons. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 U.S. 2187, 2193 (1994).

4. Victim Impact Evidence. The victims' personal characteristics as human beings and the impact of the death upon victims' families. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991).

Respectfully submitted,



MICHAEL TROOP
UNITED STATES ATTORNEY

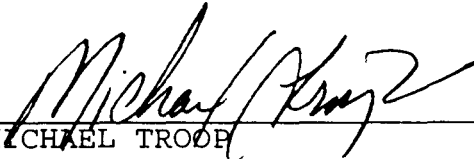
Dated: Aug. 23, 1999

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of August, 1999, a true and correct copy of the foregoing notice of intent to seek the death penalty was mailed via first class mail, postage prepaid thereon, to the following attorneys of record:

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