

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) Case No. DKC-01-0367
)
CORNELL WINFREI MCCLURE,)
)
 Defendant.)

NOTICE OF INTENTION TO SEEK THE DEATH PENALTY
AS TO DEFENDANT CORNELL WINFREI MCCLURE

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 Government believes the circumstances of the offenses charged in Counts One and Two of the Superseding Indictment are such that, in the event of the defendant's conviction of one or both of these offenses, 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 these offenses: Count One, the first degree murder of Tessa Mae Osborne in violation of 18 U.S.C. § 1111; and Count Two, the kidnaping of Tessa Mae Osborne which resulted in her death in violation of 18 U.S.C. § 1201(a)(2).

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

COUNT ONE

THE FIRST DEGREE MURDER OF TESSA MAE OSBORNE

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

1. **Intentional Killing.** The defendant intentionally killed the victim. 18 U.S.C. § 3591(a)(2)(A).

2. **Intentional Infliction of Injury Resulting in Death.** The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim. 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 and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Tessa Mae Osborne died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

4. **Intentional Acts 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 Tessa Mae Osborne 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).

1. **Death during Commission of Another Crime.** The death and injuries resulting in death 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(a)(2) (kidnaping). 18 U.S.C. § 3592(c)(1).

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

1. **Victim Impact Evidence.** As evidenced by the victim's personal characteristics as an individual human being and the impact of the death upon the victim and the victim's family and friends, the defendant caused injury, harm, and loss to the victim and the victim's family and friends.

2. **Callous Disregard for the Severity of the Offense.** The defendant has demonstrated a callous disregard for the severity of the offense, as evidenced by interviews with law enforcement authorities in which he callously disregarded the severity of his actions in the kidnaping and murder of Tessa Mae Osborne.

3. **Defenseless Victim.** The victim was patently unable to defend herself against two defendants armed with firearms, and she posed no threat of violence to either defendant.

COUNT TWO

THE KIDNAPING OF TESSA MAE OSBORNE
WHICH RESULTED IN DEATH

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

1. **Intentional Killing.** The defendant intentionally killed the victim. 18 U.S.C. § 3591(a) (2) (A).

2. **Intentional Infliction of Injury Resulting in Death.** The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim. 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 and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Tessa Mae Osborne died as a direct result of the act. 18 U.S.C. § 3591(a) (2) (C).

4. **Intentional Acts 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 Tessa Mae Osborne 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).

1. **Death during Commission of Another Crime.** The death and injuries resulting in death 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(a)(2) (kidnaping). 18 U.S.C. § 3592(c)(1).

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

1. **Victim Impact Evidence.** As evidenced by the victim's personal characteristics as an individual human being and the impact of the death upon the victim and the victim's family and friends, the defendant caused injury, harm, and loss to the victim and the victim's family and friends.

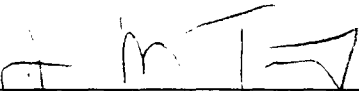
2. **Callous Disregard for the Severity of the Offense.** The defendant has demonstrated a callous disregard for the severity of the offense, as evidenced by interviews with law enforcement authorities in which he callously disregarded the severity of his actions in the kidnaping and murder of Tessa Mae Osborne.

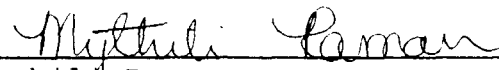
3. **Defenseless Victim.** The victim was patently unable to defend herself against two defendants armed with firearms, and

she posed no threat of violence to either defendant.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of March, 2002, a true and correct copy of the above and foregoing Notice of Intention to Seek the Death Penalty As To Defendant Cornell Winfrei McClure to be mailed first class, postage prepaid to counsel for McClure as follows:

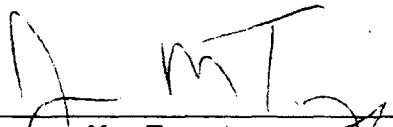
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