

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)
)
) 2:07-CR-243-RDP-JEO
)
v.)
)
WILLIAM MERRIWEATHER, JR.)

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States of America, by and through its counsel, Alice H. Martin, United States Attorney for the Northern District of Alabama, and William G. Simpson and William R. Chambers, Jr., Assistant United States Attorneys, and, pursuant to the requirements of 18 U.S.C. § 3593(a), the United States hereby gives notice that it believes that the circumstances of this case are such that, in the event that the defendant, WILLIAM MERRIWEATHER, JR., is convicted of a capital offense relating to the death of victims Eva Lovelady Hudson and Sheila McWaine Prevo, a sentence of death is justified and that the United States will seek the death penalty. Specifically, the United States will seek a sentence of death for Count One of the Indictment, which charges armed bank robbery resulting in death, in violation of 18 U.S.C. § 2113(a), (d), and (e), and

Counts Four and Five of the Indictment, each of which charges death through the use of a firearm in violation of 18 U.S.C. § 924(j)(1).

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

Pursuant to 18 U.S.C. § 3591(a)(2), the United States will rely on the following proportionality factors to establish the defendant's eligibility for the death penalty:

1. Intentional Killing

The defendant intentionally killed Eva Lovelady Hudson and Sheila McWaine Prevo. (18 U.S.C. § 3591(a)(2)(A)).

2. Intentional Infliction of Serious Bodily Injury

The defendant intentionally inflicted serious bodily injury that resulted in the deaths of Eva Lovelady Hudson and Sheila McWaine Prevo. (18 U.S.C. § 3591(a)(2)(B)).

3. Intentional Acts to Take Life

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 Eva Lovelady Hudson and Sheila McWaine Prevo died as a direct result of the act. (18 U.S.C. § 3591(a)(2)(C)).

4. Intentional Acts of Violence Creating 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 Eva Lovelady Hudson and Sheila McWaine Prevo 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)

Pursuant to 18 U.S.C. § 3592(c), the United States will rely on the following statutory aggravating factors as justifying a sentence of death:

1. Grave Risk of Death to Additional Persons

The defendant, in the commission of the offenses, and in

escaping apprehension for the violation of the offenses, knowingly created a grave risk of death to one or more persons in addition to the victims of the offenses, including, but not limited to, Myron Gooding. (18 U.S.C. § 3592(c)(5)).

2. Pecuniary Gain

The defendant committed the offenses as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. (18 U.S.C. § 3592(c)(8)).

3. Substantial Planning and Premeditation

The defendant committed the offenses after substantial planning and premeditation to cause the death of a person. (18 U.S.C. § 3592(c)(9)).

4. Multiple Killings or Attempted Killings

The defendant intentionally killed more than one person in a single criminal episode. (18 U.S.C. § 3592(c)(16)).

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

1. Contemporaneous Convictions

The defendant faces contemporaneous convictions for multiple attempted murders and other serious acts of violence.

2. Future Dangerousness of the Defendant

The defendant represents a continuing danger to the lives and safety of other persons. The defendant is likely to commit criminal acts of violence in the future that would constitute a continuing and serious threat to the lives and safety of others, as evidenced by, at least, one or more of the following:

(a) Continuing Pattern of Violence

The defendant has engaged in a continuing pattern of violence, attempted violence, and threatened violence, including, but not limited to, the crimes alleged against the defendant in the Indictment. The defendant has also engaged in a continuing pattern of violence since being incarcerated for the crimes charged in the Indictment, including, but not limited to, physical assaults and attacks on another inmate and prison guard.

(b) Escape Risk

The defendant constitutes and escape risk and has demonstrated both the ability and intent to escape. This is evidenced by the fact that on at least one occasion the defendant attempted to escape from custody.

3. Victim Impact Evidence

As reflected by the victims' personal characteristics as human beings and the impact of the offenses on the victims and the victims' families, the defendant caused loss, injury, and harm to the victims and the victims' families, See Payne v. Tennessee, 501 U.S. 808, 825-827 (1991), including, but not limited to, the following:

(a) Characteristics of Victims

- (i) The defendant caused the death of Eva Lovelady Hudson, a 40 -year-old mother of one, who enjoyed a strong and close relationship with her family.
- (ii) The defendant caused the death of Sheila McWaine Prevo, a 42 -year-old mother, who enjoyed a strong and close relationship with her family.

(b) Impact of the Offenses on the Families of the Victims

The victims' families have suffered severe and irreparable harm.

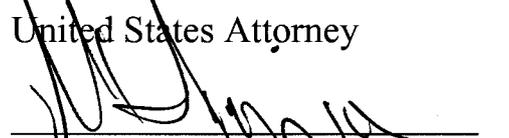
(c) Impact of the Offenses on the Colleagues of the Victims

The victims' employer, Wachovia Bank, and the victims' colleagues within Wachovia Bank have suffered substantial and irreparable harm.

The Government further gives notice that in support of imposition of the death penalty on Counts One, Four and Five, 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, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Respectfully submitted, this the 3rd day of June, 2008.


ALICE H. MARTIN
United States Attorney


WILLIAM G. SIMPSON
Assistant United States Attorney


WILLIAM R. CHAMBERS, JR.
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of June, 2008, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Mr. Emory Anthony, Jr
2015 First Avenue, North
Birmingham, Alabama 35203

Mr. Derrick K Collins
2015 1st Avenue, North
Birmingham, Alabama 35203

I further certify that on the above date, a copy of the foregoing was served on the defendant by mailing a copy of the same to his attorneys of record, Mr. Emory Anthony, Jr. and Mr. Derrick Collins, via First Class United States mail, postage prepaid.

Respectfully submitted,



WILLIAM R. CHAMBERS, JR.
Assistant United States Attorney

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