

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 99-215
)	
JOSEPH P. MINERD)	

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

AND NOW comes 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 offense charged in the Indictment are such that, in the event of the defendant's conviction, 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 this offense: Malicious Destruction of Property By Means of Fire And Explosives, resulting in deaths, in violation of 18 U.S.C. § 844(i).

The Government believes that the evidence will support submission to the jury of the following factors as justifying a sentence of death.

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

1. **Intentional Killing.** The defendant intentionally killed Deana Mitts and Kayla Mitts. Section 3591(a)(2)(A).

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the deaths of Deana Mitts and Kayla Mitts. 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 himself, and both Deana Mitts and Kayla Mitts died as a result of the act. Section 3591(a)(2)(C).

4. **Intentional Acts in Reckless Disregard for Life.** 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 himself, such that participation in the act constituted a reckless disregard for human life, and both Deana Mitts and Kayla Mitts 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).

1. **Death During Commission of Another Crime.** The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under 18 U.S.C. § 844(1).

2. **Grave Risk of Death to Additional Persons.** The defendant, in the commission of the offense, or in escaping apprehension for the offense, knowingly created a grave risk of

death to one or more persons in addition to the victims of the offense. Section 3592(c)(5).

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

4. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the deaths of one or more persons. Section 3592(c)(9).

5. **Vulnerability of Victim.** The victims were particularly vulnerable due to old age, youth, or infirmity. Section 3592(c)(11).

6. **Multiple Killings or Attempted Killings.** The defendant intentionally killed or attempted to kill more than one person in a single criminal episode. Section 3592(c)(16).

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

1. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to Deana Mitts' family because of Deana Mitts' personal characteristics as an individual human being and the impact of her death upon her family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991).

2. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to Kayla Mitts' family because of Kayla Mitts' personal characteristics as an individual human being and the

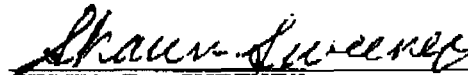
impact of her death upon her family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991).

3. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to Deana Mitts' family as a result of the death of Deana Mitts' unborn child, a girl whom Deana Mitts had named "Jessica". Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991).

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2000, a true and correct copy of the within pleading was served by United States mail upon the following:

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