

1 PAUL K. CHARLTON
United States Attorney
2 District of Arizona
3 VINCENT Q. KIRBY
Assistant U.S. Attorney
4 Arizona State Bar No. 06377
Two Renaissance Square
5 40 North First Avenue, Suite 1200
Phoenix, Arizona 85004-4408
6 Telephone (602) 514-7500

SEP 19 2002
B.W.

7 UNITED STATES DISTRICT COURT
8 DISTRICT OF ARIZONA

9
10 United States of America,
11 Plaintiff,
12 v.
13 Lezmond Mitchell,
14 Defendant.

CR-01-1062-PCT-MHM
GOVERNMENT'S REDACTED
NOTICE OF INTENT TO SEEK THE
DEATH PENALTY

15 COMES NOW the United States of America, pursuant to 18 U.S.C. § 3593(a), by and
16 through its undersigned counsel, and notifies the Court and the defendant, Lezmond Mitchell,
17 in the above-captioned case that the Government believes the circumstances of the offense
18 charged in Count Two of the Superceding Indictment are such that, in the event of a conviction,
19 a sentence of death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 of
20 the United States Code, and that the Government will seek the sentence of death for this offense:
21 Car Jacking Resulting in the deaths of Alyce R. Slim and Jane Doe, a minor child, in violation
22 of 18 U.S.C. 2119(a), which carries a possible sentence of death.

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

24
25 **A. Statutory Proportionality Factors Enumerated under 18 U.S.C. § 3591(a)(2)(A)-(D).**

26 1. **Intentional Killing.** Lezmond Mitchell intentionally killed Alyce R. Slim and Jane
27 Doe. Section 3591(a)(2)(A).

28 2. **Intentional Infliction of Serious Bodily Injury.** Lezmond Mitchell intentionally

1 inflicted serious bodily injury that resulted in the death of Alyce R. Slim and Jane Doe. Section
2 3591(a)(2)(B).

3 **3. Intentional Acts to Take Life or Use Lethal Force** -- Lezmond Mitchell
4 intentionally participated in an act, contemplating that the life of a person would be taken or
5 intending that lethal force would be used in connection with a person, other than one of the
6 participants in the offense, and Alyce R. Slim and Jane Doe died as a direct result of the act.

7 **4. Intentional Acts in Reckless Disregard for Life** --Lezmond Mitchell intentionally
8 and specifically engaged in an act of violence, knowing that the act created a grave risk of death
9 to a person, other than one of the participants in the offense, such that participation in the act
10 constituted a reckless disregard for human life and Alyce R. Slim and Jane Doe died as a direct
11 result of the act.

12
13 **B. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592**

14 **1. Death during the Commission of Another Crime.** The death and injury resulting
15 in the death of Jane Doe during the commission and attempted commission of Kidnaping (Title
16 18 U.S.C. Section 1201) of Jane Doe. Section 3592(c)(1)

17 **2. Heinous, Cruel or Depraved Manner of Committing Offense.** Lezmond Mitchell
18 committed the killings in an especially heinous, cruel or depraved manner in that the killing
19 involved torture and serious physical abuse to Alyce R. Slim and Jane Doe. Section 3592(c)(6).

20 **3. Pecuniary Gain.** Lezmond Mitchell committed the offense as consideration for the
21 receipt, or in the expectation of the receipt, of anything of pecuniary value in that the defendant
22 obtained the vehicle which had inherent value and also took it as part of an armed robbery plan
23 involving the Red Valley Trading Post on October 31, 2001 for which Lezmond Mitchell
24 received stolen money. Section 3592(c)(8)

25 **4. Substantial Planning and Premeditation.** Lezmond Mitchell committed the offense
26 after substantial planning and premeditation to cause the death of Alyce R. Slim and Jane Doe.
27 Section 3592(c)(9).

1 **5. Vulnerability of Victims.** Lezmond Mitchell committed the offense against 65 year
2 old Alyce R. Slim who was vulnerable because of her age and nine year old Jane Doe who was
3 vulnerable because of her young age. Section 3592(c)(11)

4 **6. Multiple Killings or Attempted Killings.** Lezmond Mitchell intentionally killed
5 more than one person, by killing Jane Doe in addition to killing Alyce R. Slim, in single criminal
6 episode. Section 3592(c)(16).

7
8 **C. Other, Non-Statutory, Aggravating Factors Identified under 18 U.S.C. § 3593(a)(2).**

9 **1. Victim Impact Evidence.** Lezmond Mitchell caused injury, harm, and loss to Alyce
10 R. Slim and Jane Doe's family because of their personal characteristics as individual human
11 beings and the impact of their deaths upon their family. 18 U.S.C. 3593(a); Payne v. Tennessee,
12 111 S.Ct. 2597, 2608-09 (1991).

13 **2. Obstruction of Justice.** Lezmond Mitchell deliberately caused the death of Jane Doe
14 to prevent her from communicating to a law enforcement officer information relating to the
15 commission or possible commission of a Federal offense, i.e. Murder, First Degree (Title 18
16 U.S.C. Section 1111) and Carjack (Title 18 U.S.C. Section 2119) and Kidnaping (Title 18 U.S.C.
17 Section 1201). Title 18 U.S.C. Section 1512.

18 **3. Commission of a Subsequent Armed Robbery.**

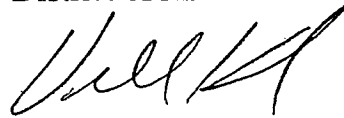
19 Lezmond Mitchell committed the subsequent offense of armed robbery on October 31,
20 2001 only days after the killing of Alyce R. Slim and Jane Doe. Title 18 U.S.C. §§ 2111, 924(c).

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

1 background and character of the defendant, Lezmond Mitchell, his moral culpability, and the
2 nature and circumstances of the offenses charged in the Superceding Indictment.

3 Respectfully submitted this 12 day of September, 2002.

4 PAUL K. CHARLTON
5 United States Attorney
6 District of Arizona

7 

8 VINCENT Q. KIRBY
9 Assistant U.S. Attorney

10 Copy of the foregoing mailed this
11 12 day of September, 2002, to:

12 Greg Bartolomei/Jeff Williams
13 Asst. Federal Public Defender
14 222 North Central Avenue, Suite 810
15 Phoenix, AZ 85004
16 Attorneys for Lezmond Mitchell

17 Daniel Maynard
18 3200 N. Central Avenue, Suite 2300
19 Phoenix, AZ 85012-2443
20 Attorney for Jason Kinlicheenie

21 John Hannah
22 111 West Monroe, Suite 1210
23 Phoenix, AZ 85003
24 Attorney for Gregory Nakai

25 Michael Bernays
26 111 West Monroe, Suite 1650
27 Phoenix, AZ 85003
28 Attorney for Johnny Orsinger