

Count Two

Murder in Aid of Racketeering of Oliver McCaffity

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

1. **Intentional Killing.** The defendant intentionally killed Oliver McCaffity. 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 Oliver McCaffity. 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 Oliver McCaffity died as a direct 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 one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Oliver McCaffity died as a direct result of the act. Section 3591(a)(2)(D).

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

Substantial Planning and Premeditation. The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. Section 3592(c)(9). This is shown by the fact that the defendant set up the murder by repeated telephone calls to lure the victim to a secluded spot where he could be executed, and by the fact that the defendant killed and aided and abetted the killing of the victim as part of a plan worked out in advance with the co-defendant.

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 the victim's family as evidenced by the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. *Payne v. Tennessee*, 111 S. Ct. 2597, 2608-09 (1991).

2. **Additional charged and uncharged acts of violence.**

The defendant participated in additional acts of violence including but not limited to those charged in Counts 1, 3, 4, 5, 6, 7, 11, 12, 13, 14, 15 and 16 of the Second Superseding Indictment.

Respectfully submitted,

Thomas M. DiBiagio
United States Attorney

By: Robert A. Harding
Robert Harding
Assistant United States Attorney

Christine Manuelian
Christine Manuelian
Assistant United States Attorney

6625 United States Courthouse
101 West Lombard Street
Baltimore, Maryland 21201-2692
410-209-4800

Dated: Dec. 6, 2004


CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of December, 2004, 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:

Timothy J. Sullivan, Esquire
7305 Baltimore Avenue, Suite 301
College Park, MD 20740
(301) 927-3035



Robert R. Harding
Assistant United States Attorney



Christine Manuelian
Assistant United States Attorney

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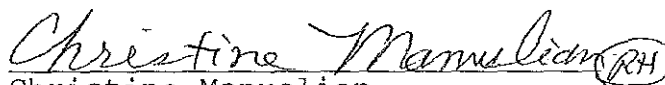
Dated: Dec. 15, 2004

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of December, 2004, 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:

Timothy J. Sullivan, Esquire
7305 Baltimore Avenue, Suite 301
College Park, MD 20740
(301) 927-3035


Robert R. Harding
Assistant United States Attorney


Christine Manuelian
Assistant United States Attorney