

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

FILED
U.S. DISTRICT COURT
DISTRICT OF KANSAS
JUN 1 2 02 PM '95

RALEIGH B. LOACH
CLERK
BY _____, DEPUTY
AT WICHITA, KS.

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 PHOUC H. NGUYEN,)
)
)
 Defendant.)

Case No. 94-10129-01

NOTICE OF INTENT TO SEEK DEATH PENALTY

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, the defendant PHOUC H. NGUYEN, and the defendant's counsel, that in the event this defendant is convicted of the murder of Barbara Sun, in violation of 18 U.S.C. § 924(i)(1) and 18 U.S.C. § 924(c)(1), the United States will seek the sentence of death for PHOUC H. NGUYEN.

I.

The United States of America believes that the circumstances of the instant offense of causing a death with a firearm during the commission of a robbery are such that, if the defendant, PHOUC H. NGUYEN, is convicted, a sentence of death is justified under Title 18, United States Code, Sections 3591(a), 3592(a) and 3592(c).

II.

The United States will prove, at a hearing held pursuant to Title 18, United States Code § 3593, that:

a. The defendant, PHOUC H. NGUYEN, did intentionally participate 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 Barbara Sun died as a direct result of the act;

b. The defendant, PHOUC H. NGUYEN, did intentionally and specifically participate 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 Barbara Sun died as a direct result of the act.

III.

Aggravating Factors Enumerated Under Title 18, United States Code § 3592(c):

As the basis for the imposition of the death penalty against PHOUC H. NGUYEN, the United States will seek to prove the aggravating factors listed below.

1. The defendant committed the offense in an especially heinous, cruel or depraved manner in that it included torture or serious physical abuse to Barbara Sun (18 U.S.C. § 3592(c)(6));

2. The defendant committed the offense in expectation of the receipt of something of pecuniary value (18 U.S.C. § 3592(c)(8));

IV.

Other Aggravating Factors:

The United States will prove the following additional aggravating factors to justify a sentence of death:

1. 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 the victim died as a direct result of the act;

2. The defendant has a lack of remorse for his participation in these offenses;

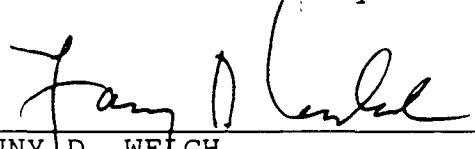
3. The defendant represents a continuing danger to the lives and safety of others in the future;

4. The defendant caused permanent harm to the family of Barbara Sun by her murder which was committed in close proximity to her husband and two daughters;

5. The defendant has a low potential for rehabilitation.

Respectfully submitted,

RANDALL K. RATHBUN
United States Attorney

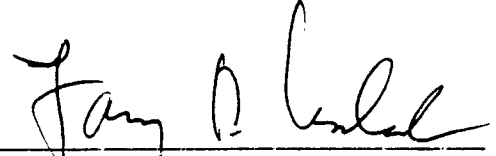


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Government's Notice of Intent to Seek the Death Penalty was mailed, postage prepaid, on this 1st day of June, 1995 to:

Jay Greeno
Attorney for Defendant Nguyen
250 N. Water, Suite 215
Wichita, Kansas 67202



LANNY D. WELCH
Asst. U.S. Attorney