

1. **Intentional Acts to Take Life or Use Lethal Force.** The defendant intentionally killed the victim. 18 U.S.C. § 3591(a)(2)(A).

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. **Previous convictions for violent felonies involving firearms.**

The defendant has previously been convicted of Federal or State offenses punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm (as defined in 18 U.S.C. § 921) against another person. 18 U.S.C. § 3592(c)(2).

2. **Previous conviction of offense for which a sentence of death or life imprisonment was authorized.** The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute. 18 U.S.C. § 3592(c)(3).

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

In addition to the statutory aggravating factors set forth above, the United States will rely on the following non-statutory aggravating factors to justify a sentence of death pursuant to 18 U.S.C. § 3593(a)(2).

1. Participation in additional charged and uncharged murders, attempted murders, or other serious acts of violence. At the time of his conviction for kidnaping in Colorado in 1984, the defendant had more than 60 cases pending against him in various courts across the country. The charges against him ranged from assault with a dangerous weapon, to assault on a Federal Officer, to murder. Those serious acts of violence include, but are not limited to, the following:

- a) In June 1982, the defendant broke into the home of a 78-year-old man, began to strangle him, severely beat him, bound him with tape, pistol whipped him and attempted to suffocate him;
- b) Following the armed bank robbery for which the defendant was convicted in Massachusetts in 1983, he accosted a 67-year old woman, punched her in the face and drove her to a motel in New York where he bound her and left her, telling her that she would be killed if she went to police;

c) Following the armed bank robbery for which the defendant was convicted in Colorado in 1984, he went into a pawn shop, brutally beat the owner and left him for dead.

2. Future Dangerousness of the Defendant. The defendant represents a continuing danger to the lives and safety of other persons. The defendant has committed the acts alleged in the capital offense charged in the Indictment and in the statutory and non-statutory aggravating factors contained in this Notice, and, in addition, has committed and exhibited acts and characteristics including but not limited to the following:

a) Specific threats of violence – Among other threats, the defendant has threatened a violent escape attempt in connection with his prosecution for the capital offense with which he is now charged.

b) Continuing pattern of violence – Among other acts of violence:

i) In 1979, the defendant approached an acquaintance outside a department store, lured

him to the acquaintance's car, demanded money and, when the acquaintance refused, punched him in the face, stabbed him, held the knife to his throat and stole his money;

ii) Following a bank robbery in Massachusetts in July 1983, the defendant kidnaped two young women, forced them at gunpoint into the trunk of an abandoned car, locked them in the trunk and stole their car;

iii) The defendant violently attempted to escape from the custody of the United States Marshals while being transported to stand trial in Colorado.

c) Low rehabilitative potential – The defendant has demonstrated a low potential for rehabilitation as evidenced by, among other things, his involvement in escape attempts while in prison and a recent incident involving his refusal to return to his cell from the recreation area of the prison without the use of force by correctional officers.

d) Lack of remorse – After the commission of the offense charged in the Indictment, the defendant, through his actions and statements, demonstrated utter lack of remorse over having committed the offense.

3. **Victim Impact Evidence.** As reflected by the victim's personal characteristics as an individual human being and the impact of the offense on the victim and the victim's family, the defendant caused loss, injury, and harm to the victim and the victim's family, see Payne v. Tennessee, 501 U.S. 808, 825-827 (1991), including, but not limited to, the following:

a) Characteristics of victim – The defendant caused the death of Robert M. Frankhouser, another federal inmate who had served almost all of his term of incarceration. Frankhouser was considered a highly trustworthy inmate by prison staff and held the position of hospital orderly;

b) Impact of the offense on the family of the victim – The victim's family has suffered severe and irreparable harm. The victim's family was looking forward to the victim's release from

prison so he could start a new life. They forever will be denied the ability to share that life with their family member.

Respectfully submitted,

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