

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 05-80025

v.

HON. VICTORIA A. ROBERTS

D-1 TIMOTHY DENNIS O'REILLY

D-2 NORMAN DUNCAN

D-3 KEVIN WATSON

D-4 ARCHIE BROOM

D-5 EARL JOHNSON and

D-6 KHAYYAM WILSON,

Defendants.

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**NOTICE OF INTENT TO SEEK THE DEATH PENALTY AS TO
DEFENDANT, TIMOTHY DENNIS O'REILLY**

NOW COMES the United States of America, pursuant to 18 U.S.C. § 3593, by and through its undersigned counsel, and notifies the Court and the defendants in the above captioned case that in the event of conviction for the murder of Norman Anthony Stephens by use of a firearm during and in relation to the crime of bank robbery, 18 U.S.C. § 924(j), as charged in Count Three of the Second Superseding Indictment, and for the crime of bank robbery resulting in the death of Norman Anthony Stephens, 18 U.S.C. § 2113(e), as charged

in Count Two of the Second Superseding Indictment, the government will seek the penalty of death for **D-1, Timothy Dennis O'Reilly (“defendant”)**.

The government will seek to prove the following aggravating factors, beyond a reasonable doubt, as the basis for the death penalty.

A . Factors Enumerated Under 18 U.S.C. § 3591(a)(2):

1. Defendant intentionally killed the victim. 18 U.S.C. § 3591(a)(2)(A).
2. Defendant intentionally inflicted serious bodily injury that resulted in the death of the victim. 18 U.S.C. § 3591(a)(2)(B).
3. 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 the victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).
4. 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 of 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. 18 U.S.C. § 3591(a)(2)(D).

B. Aggravating Factors Enumerated Under 18 U.S.C. § 3592(c):

1. Defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense. 18 U.S.C. § 3592(c)(5).

2. Defendant committed the offense as consideration for the receipt, or in expectation of the receipt, of a thing of pecuniary value. 18 U.S.C. § 3592(c)(8).

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

1. Defendant shot Norman Stephens from behind, and while Stevens was already wounded and on the ground.

2. Additional violent behavior: Defendant committed the June 19, 2003 Comerica bank robbery wherein he opened fire without warning on Guard Jonathan Smith with an SKS rifle. Defendant also committed other armored car robberies and several home invasion robberies of drug dealers with co-defendant Norman Duncan.

3. Future Dangerousness: Defendant stated that he planned to commit additional robberies when he is released from prison. Defendant stated that he intends to kill the witnesses who testified against co-defendant Norman Duncan when released from prison. Defendant also stated that he would have killed co-defendant

Earl Johnson after the Dearborn Credit Union robbery if he would have known how Johnson would handle his share of the proceeds.

4. Lack of remorse: Defendant's taped conversation evidences his complete lack of remorse for his killing of Stephens and includes defendant's statement that he will kill again.

5. The substantial and significant effect of the offense on the victim's family will be established through oral testimony and victim impact statements.

Respectfully submitted,

STEPHEN J. MURPHY
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DATED: November 1, 2006

CERTIFICATE OF SERVICE

We hereby certify that on November 1, 2006, we electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

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RICHARD KAMMEN, ESQ.
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