

UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

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DONALD J. BROWN, SR. CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT MICH

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UNITED STATES OF AMERICA,

Plaintiff,

No. 1:01-CR-218

vs.

Hon. Robert Holmes Bell

Chief Judge

ROBERT NORMAN OSTRANDER,

Defendant.

FEB 22 2003
WESTERN DISTRICT OF MICHIGAN

DEATH PENALTY NOTICE

Margaret M. Chiara, United States Attorney for the Western District of Michigan, joined by Timothy VerHey and Brian K. Delaney, Assistant United States Attorneys, notifies the Court and the defendant, pursuant to 18 U.S.C. § 3593(a), that the United States intends to seek a sentence of death in this case in the event the defendant is found guilty of Counts 2 or 3 of the Second Superseding Indictment. The government believes the circumstances of the offenses charged in the Second Superseding Indictment are such that, in the event of a conviction, a sentence of death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 of the United States Code.

The government proposes to prove each of the following factors as justifying a sentence of death in connection with both Count 2 and Count 3:

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

1. **Intentional Killing.** The defendant intentionally killed Hansle Andrews. 18 U.S.C. § 3591(a)(2)(A).

2. **Injury Resulting in Death.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Hansle Andrews. 18 U.S.C. § 3591(a)(2)(B).

3. **Participation in an Act Knowing Death Was Contemplated.** 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 offenses, and the victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

4. **Participation in an Act With Reckless Disregard for Human 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 offenses, 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. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592(c).

1. **Heinous, Cruel, or Depraved Manner of Committing Offense.** The defendant committed the offenses in an especially heinous, cruel, and depraved manner in that it involved torture or serious physical abuse to the victim. 18 U.S.C. § 3592(c)(6).

2. **Pecuniary Gain.** The defendant committed the offenses as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. 18 U.S.C. § 3592(c)(8).

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

C. Other, Non-Statutory, Aggravating Factors Identified Under 18 U.S.C. § 3593(a)(2).

1. **Victim Impact Evidence.** As demonstrated by Hansle Andrews' personal characteristics as an individual human being and the impact of his death upon his family and friends, the defendant caused injury, harm and loss to Hansle Andrews, his family, and his friends.

2. **Lack of Remorse.** The defendant has discussed the killing of Hansle Andrews with others and has expressed no remorse in connection with his murder. See Zant v. Stephens, 462 U.S. 862, 886 n. 22 (1983) ("Any lawful evidence which tends to show the motive of the defendant, his lack of remorse, his general moral character, and his predisposition to commit other crimes is admissible in aggravation..."); United States v. Nguyen, 928 F. Supp. 1525, 1541 (D. Kan. 1996); United States v. Davis, 912 F. Supp. 938, 946 (E.D. La. 1996) (on facts presented in that case, lack of remorse could not be argued as an independent aggravating factor, but could be argued as a component of future dangerousness.)

3. **Future Dangerousness.** The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. See Simmons v. South Carolina, 512 U.S. 154, 162 (1994).


The United States further gives notice that in support of imposition of the death penalty it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the

offenses of conviction as described in the Second Superseding Indictment as they relate to the background and character of the defendant, his moral culpability, and the nature and circumstances of the offenses charged in the Second Superseding Indictment.


Respectfully submitted,

MARGARET M. CHIARA
United States Attorney

Dated: 2/21/03


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Dated: 2/21/03


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 21, 2003, she mailed a copy of:

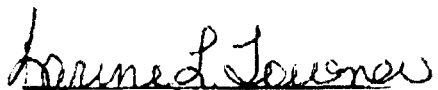
DEATH PENALTY NOTICE to:

Mr. Christopher Yates
Federal Public Defender
The Trade Center
50 Louis NW Suite 500
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Mr. Paul Mitchell
507 Waters Building
161 Ottawa NW
Grand Rapids, MI 49503

by placing same in a properly addressed envelope and depositing in the United States Mails,

Grand Rapids, Michigan.



~~KARINE L. FOWNER~~
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