

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA : CRIMINAL INDICTMENT
: :
v. : NO. 1:08-CR-139-CC
: :
BRIAN RICHARDSON :

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

Pursuant to the requirements of 18 U.S.C. § 3593(a), the United States hereby gives notice that it believes that the circumstances of this case are such that, in the event the Defendant, Brian Richardson, is convicted of the capital offense relating to the death of victim, Steven Obara, as alleged in the sole count of the Indictment, a sentence of death is justified and the United States will seek the death penalty.

A. Statutory Proportionality Factors Relating to Intent Enumerated Under 18 U.S.C. § 3591(a)(2)

Pursuant to 18 U.S.C. § 3591(a)(2), the United States will rely on the following preliminary factors to establish the Defendant's eligibility for the death penalty:

1. The Defendant was 18 years of age or older at the time of the offense. 18 U.S.C. § 3591(a)(2).

2. The Defendant intentionally killed the victim. 18 U.S.C. § 3591(a)(2)(A).

3. The Defendant intentionally inflicted serious bodily injury that resulted in the death of the victim. 18 U.S.C. §

3591(a)(2)(B).

4. 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 the victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

5. 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. 18 U.S.C. § 3591(a)(2)(D).

B. Statutory Aggravating Factors for Homicide Enumerated Under 18 U.S.C. § 3592(c)

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. The Defendant has previously been convicted of offenses punishable by imprisonment for a term exceeding one year which involved the use, attempted use, or threatened use of a firearm. 18 U.S.C. § 3592(c)(2).

a. First Degree Robbery, 1984, Madison County (AL) Circuit Court, Dkt. No. CC84-647.

b. First Degree Robbery, 1984, Madison County (AL) Circuit Court, Dkt. No. CC84-649.

- c. Armed Bank Robbery, Conspiracy, and Using/Carrying a Firearm During a Crime of Violence (8 counts - 3 separate indictments), 1996, United States District Court for the Northern and Central Districts of California, Dkt Nos: 95CR20152 (NDCA); 96CR20130 (CDCA); 96CR20129 (CDCA).

2. The Defendant has previously been convicted of two or more offenses punishable by imprisonment for a term exceeding one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person. 18 U.S.C. § 3592(c)(4).

- a. Second Degree Assault, 1984, Madison County (AL) Circuit Court, Dkt. No. CC84-895.
- b. Armed Robbery and Assault with Firearm, 1995, Los Angeles County (CA) Superior Court, Dkt. No. YA026356.
- c. Armed Robbery and Carjacking, 1998, Santa Clara County (CA) Municipal Court, Dkt. No. 203656.

3. The Defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. 18 U.S.C. § 3592(c)(6).

4. The Defendant committed the offense 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 Pursuant to 18 U.S.C. § 3593(a)(2)

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. 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;
- (b) Continuing pattern of violence;
- (c) Specific admissions of violence;
- (d) Low rehabilitative potential;
- (e) Lack of remorse;
- (f) Risk of further acts of violence in custody;
- (g) Risk of escape;
- (h) Risk of directing others to commit acts of violence in any setting.

2. Participation in Additional Uncharged Attempted Murders or Other Serious Acts of Violence. The Defendant has committed several uncharged serious acts of violence and attempted murder

while incarcerated.

3. The Defendant has caused the death of another individual. On or about February 1, 2008, the Defendant did convince another inmate to commit suicide by hanging himself.

This 2nd day of December, 2008.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the persons listed below a copy of the foregoing document by electronic filing notification:

Ms. Stephanie Kearns
Mr. Jake Waldrop
Mr. Brian Mendelsohn
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This 2nd day of December, 2008.

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