

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

UNITED STATES OF AMERICA

CASE NUMBER

v.

3:98cr73/RV

**JEREMIAH MARTEL RODGERS**

---

**AMENDED NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

The United States of America, by and through the undersigned Assistant United States Attorney, and pursuant to 18 U.S.C. § 3593(a), hereby amends its previously-filed Notice to the Court and the defendant in the above-captioned case of Intent to Seek the Death Penalty. The United States believes the circumstances of the offense charged in the Indictment in this case 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, and the United States will seek the sentence of death for the offense of murder, in violation of 18 U.S.C. § 1111, which carries a possible sentence of death.

The United States proposes to prove the following factors as justifying a sentence of death:

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

1. **Intentional killing.** The defendant intentionally killed Justin Livingston.

Section 3591 (a)(2)(A).

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA, FLORIDA  
FEB 23 7:14:13

FILED

917

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Justin Livingston. Section 3591 (a)(2)(B).

3. **Intentional Acts to Take Life or Use Lethal Force.** 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 Justin Livingston died as a direct result of the act. Section 3591 (a)(2)(C).

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 offense in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to Justin Livingston. Section 3592(c)(6).

2. **Substantial Planning and Premeditation.** The defendant committed the Offense after substantial planning and premeditation to cause the death of Justin Livingston. Section 3592(c)(9).

3. **Vulnerability of Victim.** The victim, Justin Livingston, was particularly vulnerable due to mental infirmity. Section 3592(c)(11).

C. **Other, Non-Statutory Factors Identified under 18 U.S.C. § 3592(a)(2)**

1. **Future Dangerousness of the Defendant:** 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. *Simmons v. South Carolina*, 114 S.Ct. 2187, 2193 (1994). In addition to the capital offenses charged in the Indictment and the statutory and non-statutory

aggravating factors alleged in this Notice, the defendant has threatened others with violence, has demonstrated low rehabilitative potential, and/or has demonstrated lack of remorse.

2. **Other Acts of Violence:** The defendant has participated in other serious acts of violence, including but not limited to one or more of the following:

a. On or about September 30, 1991, in Orange County, Florida, the defendant committed the offense of robbery with a firearm.

b. On or about February 2, 1992, in Orange County, Florida, the defendant committed the offense of resisting a law enforcement officer.

c. On or about March 29, 1998, in Santa Rosa County, Florida, the defendant unlawfully from a premeditated design to effect the death of Leighton Smitherman, did attempt to kill and murder Leighton Smitherman by shooting him in the neck.

d. On or about May 7, 1998, in Santa Rosa County, Florida, the defendant unlawfully from a premeditated design to effect the death of Jennifer Robinson, did kill and murder Jennifer Robinson by shooting her in the head.

e. On or about May 8, 1998, in Okaloosa County, Florida, the defendant did unlawfully by force or violence, or by assault, and with intent to deprive, take an automobile, the property of Carla Teboe, and in the course of the robbery carried a firearm.

f. On or about January 8, 1999, in Santa Rosa County, Florida, the defendant, while he was incarcerated in the Santa Rosa County Jail, did unlawfully commit a battery on a law enforcement officer, to-wit, Josephine Lay, a Santa Rosa County Correctional Officer, by spitting on her.

Respectfully submitted,

P. MICHAEL PATTERSON  
United States Attorney



MICHELLE M. HELDMYER  
Fla. Bar No. 616214  
Asst. U. S. Attorney  
114 East Gregory Street  
Pensacola, FL 32501-4972  
904-434-3251

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing pleading has been sent via U.S. mail

to:

Thomas S. Keith  
Asst. Federal Public Defender  
Rhodes Bldg., Suite 301  
41 North Jefferson Street  
Pensacola, FL 32501  
Counsel for Defendant Lawrence

David G. White, Esq.  
Post Office Box 887  
Pensacola, FL 32594  
Counsel for Defendant Rodgers

Randall P. Murell  
Federal Public Defender  
227 N. Bronough Street, Suite 4200  
Tallahassee, FL 32301  
Co-Counsel for Defendant Lawrence

Denise LeBoeuf, Esq.  
Loyola Resource Center  
636 Baronne Street  
New Orleans, LA 70113  
Co-Counsel for Defendant Rodgers

on this the 2<sup>d</sup> day of February 1999.

  
\_\_\_\_\_  
MICHELLE M. HELDMYER  
Assistant U.S. Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

UNITED STATES OF AMERICA

CASE NUMBER

v.

3:98cr73/RV

JEREMIAH MARTEL RODGERS

---

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

The United States of America, by and through the undersigned Assistant United States Attorney, and pursuant to 18 U.S.C. § 3593(a), hereby notifies the Court and the defendant in the above-captioned case that the United States believes the circumstances of the offense charged in the Indictment in this case 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, and that the United States will seek the sentence of death for the offense of homicide, in violation of 18 U.S.C. § 1111, which carries a possible sentence of death.

The United States proposes to prove the following factors as justifying a sentence of death:

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

1. **Intentional killing.** The defendant intentionally killed Justin Livingston. Section 3591 (a)(2)(A).

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Justin Livingston. Section 3591 (a)(2)(B).

U.S. DISTRICT CT.  
NORTHERN DIST. FLA.  
PENSACOLA, FLA.

98 DEC -7 PM 4: 27

SJS  
FILED

49

3. **Intentional Acts to Take Life or Use Lethal Force.** 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 Justin Livingston died as a direct result of the act. Section 3591 (a)(2)(C).

4. **Intentional Acts of Violence.** The defendant intentionally engaged in conduct which he knew would create a grave risk of death to a person, other than one of the participants in the offense, and that resulted in the death of the victim. Section 3591 (a)(2)(D).

B. **Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592©**

1. **Heinous, Cruel, or Depraved Manner of Committing Offense.** The defendant committed the offense in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to Justin Livingston. Section 3592(c)(6).

2. **Substantial Planning and Premeditation.** The defendant committed the Offense after substantial planning and premeditation to cause the death of Justin Livingston. Section 3592(c)(9).

3. **Vulnerability of Victim.** The victim, Justin Livingston, was particularly vulnerable due to infirmity. Section 3592(c)(11).

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

1. **Future Dangerousness of the Defendant.** 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. *Simmons v. South Carolina*, 114 S.Ct. 2187, 2193 (1994). In addition to the capital

offenses charged in the Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the defendant has threatened others with violence, has demonstrated low rehabilitative potential, and/or has demonstrated lack of remorse. In addition, the defendant has engaged in a continuing pattern of violent conduct including but not limited to the following:

a. On or about March 29, 1998, in Santa Rosa County, Florida, the defendant did unlawfully from a premeditated design to effect the death of Leighton Smitherman, did attempt to kill and murder Leighton Smitherman by shooting him in the neck.

b. On or about May 7, 1998, in Santa Rosa County, Florida, the defendant did unlawfully from a premeditated design to effect the death of Jennifer Robinson, did kill and murder Jennifer Robinson by shooting her in the head.

c. On or about May 8, 1998, in Okaloosa County, Florida, the defendant did unlawfully by force or violence, or by assault, and with intent to deprive, take an automobile, the property of Carla Teboe, and in the course of the robbery carried a firearm.

Respectfully submitted,



P. MICHAEL PATTERSON  
United States Attorney



MICHELLE M. HELDMYER  
Fla. Bar No. 616214  
Asst. U. S. Attorney  
114 East Gregory Street  
Pensacola, FL 32501-4972  
850/434-3251



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing pleading has been sent via U.S mail and telefax to David G. White, Esquire, P.O. Box 887, Pensacola, Florida, 32594-0887.



---

MICHELLE M. HELDMYER  
Assistant U.S. Attorney