

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION

CLERK'S OFFICE U.S. DIST. COURT  
AT CHARLOTTESVILLE, VA  
FILED  
*for Harrisonburg*  
JUL 26 2004  
JOHN F. DORRORAN, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

UNITED STATES OF AMERICA :  
 :  
v. : Criminal No. 5:04CR30014-01  
 :  
BRENT K. SIMMONS :

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

COMES NOW the United States of America, pursuant to Title 18 U.S.C. § 3593(a), by and through its undersigned counsel, John L. Brownlee, United States Attorney, and notifies the Court and the defendant, Brent K. Simmons, in the above-captioned case that the government believes the circumstances of the capital offenses charged in Counts One and Two of the Indictment are such that, in the event of the defendant's conviction on any one of those counts, a sentence of death is justified under Chapter 228 (sections 3591 through 3598) of Title 18 of the United States Code, and that the government will seek the sentence of death for these offenses: a) Count One – use of a firearm resulting in the death of Ann Olson, during and in relation to the violation of 18 U.S.C. § 2261A, in violation of 18 U.S.C. § 924(j), which carries a possible sentence of death; and b) Count Two, use of a firearm resulting in the death of Keith O'Connell, during and in relation to the violation of 18 U.S.C. §§ 2261A, in violation of 18 U.S.C. § 924(j), which carries a possible sentence of death.

The Government proposes to prove the following factors as justifying a sentence of death for both Counts One and Two:

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

1. **Intentional Killing.** The defendant intentionally killed Ann Olson and Keith O'Connell. 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 Ann Olson and Keith O'Connell. 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 Ann Olson and Keith O'Connell died as a direct result of the act. Section 3591(a)(2)(C).

4. **Intentional Acts in Reckless Disregard for 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 offense, such that participation in the act constituted a reckless disregard for human life, and Ann Olson and Keith O'Connell died as a direct result of the act. Section 3591(a)(2)(D).

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

1. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

2. **Multiple Killings.** The defendant killed or attempted to kill more than one person, that is, Ann Olson and Keith O'Connell, in the same criminal episode. Section 3592(c)(16).

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

1. **History of Domestic Abuse, Harassment, and Stalking.**

The defendant's act of killing Ann Olson and Keith O'Connell on October 12, 1996 represented the final, ultimate act in a persistent pattern of abuse and harassment of both victims. On or about sometime in 1994 and continuing until sometime in the spring or summer of 1996, defendant Simmons was involved in a romantic relationship with one of his ultimate victims, Ann Olson. On several occasions during their romantic relationship and after it ended, defendant Simmons physically assaulted Ann Olson. Defendant Simmons also harassed, intimidated and stalked Ms. Olson by laying in wait for her at her place of employment and residence, entering her residence without permission and removing items of Ms. Olson's personal property, destroying items of Ms. Olson's property, following her around Harrisonburg, Virginia and other locations, and repeatedly calling or personally contacting her. The defendant's conduct caused Ms. Olson significant fear and emotional anguish in the months preceding her death.

The defendant's pattern of harassment extended to Keith O'Connell, with whom Ms. Olson became romantically involved after her relationship with Brent Simmons ended. Defendant Simmons followed Mr. O'Connell around Harrisonburg, Virginia, observed Mr. O'Connell at his place of employment and residence, and forcibly entered Mr. O'Connell's residence. On at least one occasion, defendant Simmons directly threatened to kill Mr. O'Connell. The defendant's actions caused Mr. O'Connell significant fear and emotional anguish in the months preceding his death.

The defendant's pattern of harassment of both victims specifically included the events of July 3, 1996, for which he was arrested in Harrisonburg, Virginia. On that occasion, defendant Simmons forcibly entered the residence of Keith O'Connell, where Ms. Olson was spending the night.

Defendant Simmons located Olson and O'Connell inside the apartment and angrily confronted them. Ms. Olson fled the apartment, followed by defendant Simmons. Outside of the apartment, defendant Simmons threw Ms. Olson to the ground two separate times. He also damaged the windows on Ms. Olson's car. When Mr. O'Connell intervened and attempted to get defendant Simmons to leave the premises, defendant Simmons directly threatened to kill him.

**2. Drug Distribution.**

From on or about sometime in the late 1980s and continuing through his arrest and incarceration in 1997, the defendant, Brent K. Simmons, in concert with other persons, willfully and knowingly combined, conspired, confederated, and agreed together, with each other, and with diverse other persons, to distribute and to possess with intent to distribute quantities of marijuana and cocaine. Defendant Simmons obtained quantities of cocaine and marijuana from various sources in and around Carlisle, Pennsylvania, and Harrisonburg, Virginia, and redistributed that cocaine and marijuana to retail and wholesale purchasers in and around those areas.

**3. Larceny**

On numerous occasions, in both Carlisle, Pennsylvania, and Harrisonburg, Virginia, defendant Brent K. Simmons deprived retail stores of property and money. Defendant Simmons, often aided and abetted by other individuals, removed numerous items of merchandise from various retail stores, including clothing, recorded music, and electronic equipment. He subsequently returned some of the stolen merchandise to retail stores and obtained the value of such merchandise in cash. Defendant Simmons deprived multiple retail establishments of both property and money through this scheme to defraud.

4. **Obstruction of Justice.**

The defendant, Brent K. Simmons, has attempted to locate individuals who possess information relevant to the investigation of the murders of Ann Olson and Keith O'Connell. He specifically discouraged several of those individuals from cooperating with law enforcement. He has also threatened to harm witnesses who provided information to law enforcement.

5. **Future Dangerousness.**

The defendant, Brent K. Simmons, 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, including, but not limited to, inmates and correctional officers resident in an institutional correctional setting as evidenced by the offenses charged in the Indictment, and the aforementioned statutory and non-statutory aggravating factors alleged in this Notice. See Simmons v. South Carolina, 512 U.S. 154, 162 (1994). In addition to the offenses charged in the Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the circumstances that demonstrate his future dangerousness include: the defendant's pattern of criminal conduct; incidents of assaultive conduct within the correctional setting; his demonstrated low rehabilitative potential; and his lack of remorse for his criminal activities that have caused significant damage to the community and numerous victims and their families.

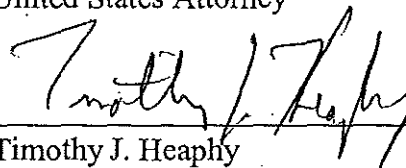
6. **Victim Impact.**

The defendant caused injury, harm, and loss to the friends and family of Ann Olson and Keith O'Connell because of Ann Olson's and Keith O'Connell's personal characteristics as individual human beings and the impact of their death upon their families and friends. See Payne v. Tennessee, 501 U.S. 808, 825-27 (1991). The government will present information concerning the effect of the

offenses on Ann Olson, Keith O'Connell and their families, the scope of the injury and loss suffered by Ann Olson, Keith O'Connell, and their families, and any other relevant information.

Respectfully submitted,

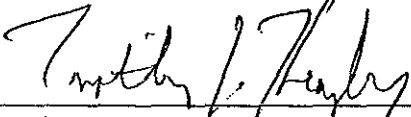
JOHN L. BROWNLEE  
United States Attorney

A handwritten signature in cursive script, appearing to read "Timothy J. Heaphy", is written over a horizontal line.

Timothy J. Heaphy  
Assistant United States Attorney

CERTIFICATE

I hereby certify that a true and correct copy of the foregoing has been sent via electronic and first class mail to counsel for defendant Brent K. Simmons: Christopher K. Kowalczyk, Esq. at P.O. Box 11971, Roanoke, Virginia 24022-1971, on this 26<sup>th</sup> day of July, 2004.

  
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Assistant United States Attorney