

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

MARSHALL DIVISION

UNITED STATES OF AMERICA §
 §
VS. § NO. 2:99CR5
 § (Judge Heartfield)
DAYMON SMITH (03) §

**UNITED STATES NOTICE OF INTENT TO SEEK THE DEATH PENALTY
AGAINST DAYMON SMITH**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now the United States of America, by and through Mike Bradford, United States Attorney, and Jim Middleton and Richard L. Moore, Assistant United States Attorneys, all for the Eastern District of Texas, pursuant to Title 18, United States Code, Sections 3593(a), and notifies the Court and the Defendant, Daymon Smith, that the Government believes the circumstances of the offense charged in Count Three of the Indictment are such that, in the event of the Defendant's conviction of this offense, 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 this offense: Count Three, bank robbery resulting in the death of Betty Paddie, in violation of 18 U.S.C. §2113(e), which carries a possible sentence of death.

The Government proposes to prove the following factors as justifying a sentence of death.

A. Statutory Proportionality Factors Enumerated Pursuant to Title 18, United States Code, Sections 3591(a)(2)(A) through (D)

1. **Intentional Killing.** The defendant, Daymon Smith, intentionally killed the victim, Betty Paddie. 18 U.S.C. § 3591(a)(2)(A).

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2. **Intentional Infliction of Serious Bodily Injury.** The defendant, Daymon Smith, intentionally inflicted serious bodily injury that resulted in the death of the victim, Betty Paddie. 18 U.S.C. § 3591(a)(2)(B).

3. **Intentional Acts to Take a Life or Use Lethal Force.** The defendant, Daymon Smith, 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, Betty Paddie, died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

4. **Reckless Disregard of Life.** The defendant, Daymon Smith, 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, Betty Paddie, died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

B. Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3592(c)(1) through (16)

1. **Grave Risk of Death to Additional Persons.** The defendant, Daymon Smith, in the commission of the offense, and in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim Betty Paddie. 18 U.S.C. § 3592(c)(5).

2. **Pecuniary Gain.** The defendant, Daymon Smith, committed the offense as consideration for the receipt, and in the expectation of the receipt of something of pecuniary value, specifically money. 18 U.S.C. § 3592(c)(8).

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

4. **Multiple Attempted Killings.** The defendant, Daymon Smith, intentionally attempted to kill more than one person in a single criminal episode. 18 U.S.C. § 3592(c)(16).

C. Non-Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3593(a)

1. **Obstruction of Justice.** The defendant, Daymon Smith, committed the offense in an effort to insure that the victim, Betty Paddie, would not be able to assist in the investigation or prosecution of him for his criminal activities.

2. **Victim Impact Evidence.** The defendant, Daymon Smith, caused injury, loss and harm to the family of Betty Paddie because of Betty Paddie's personal characteristics as an individual human being and the impact of Betty Paddie's death upon her family.

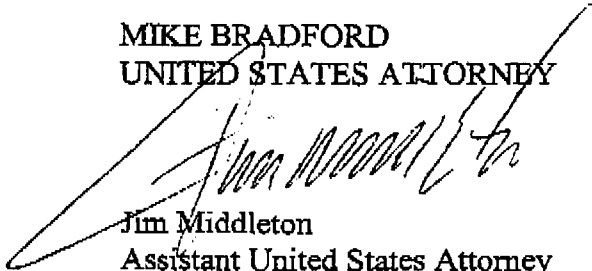
3. **Future Dangerousness of the Defendant.** The defendant, Daymon Smith, is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. In addition to the capital offenses charged in the Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, evidence of the defendant's future dangerousness includes, but is not limited to, one or more of the following:

- (a) Daymon Smith displayed a lack of remorse for his role in the killing of Betty Paddie.
- (b) Daymon Smith has demonstrated a low rehabilitative potential in that prior efforts to rehabilitate and/or deter him from criminal conduct have failed.
- (c) Daymon Smith's conduct in the instant offense is part of a pattern of continuing and escalating criminal behavior.

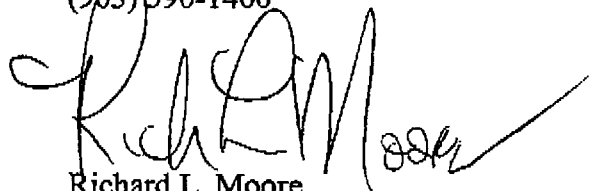
WHEREFORE, the United States of America, requests that the Court and Defendant take notice of the above and for such other and further relief as is just and proper.

Respectfully submitted,

MIKE BRADFORD
UNITED STATES ATTORNEY



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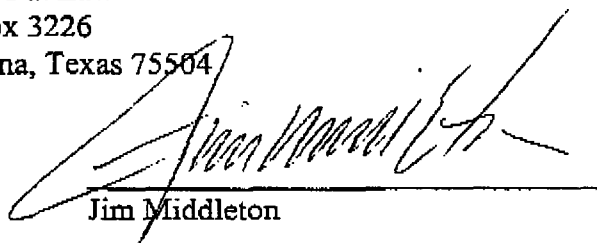


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CERTIFICATE OF SERVICE

This is to certify that on this the 22nd day of October, 1999, a copy of the foregoing instrument was hand delivered to:

Mr. Craig Henry
Mr. Ralph Burgess
Attorneys at Law
P. O. Box 3226
Texarkana, Texas 75504


Jim Middleton