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7  
8 IN THE UNITED STATES DISTRICT COURT FOR THE  
9 EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,	)	CR. NO. 99-5217 AWI
	)	
Plaintiff,	)	NOTICE OF INTENT TO SEEK THE
	)	DEATH PENALTY
v.	)	
	)	
CARY ANTHONY STAYNER,	)	
	)	
	)	
Defendant.	)	
	)	
	)	

18  
19 The United States of America, pursuant to 18 U.S.C. §  
20 3593(a), by and through its attorneys, PAUL L. SEAVE, United  
21 States Attorney for the Eastern District of California, MATTHEW G.  
22 JACOBS, First Assistant U.S. Attorney, and DAWRENCE W. RICE, JR.  
23 and JOHN J. SCIORTINO, Assistant U.S. Attorneys, notifies the  
24 Court and the defendant in the above-captioned case that the  
25 government believes the circumstances of the offenses charged in  
26 the Superseding Indictment are such that, in the event of a  
27 conviction, a sentence of death is justified under Chapter 228  
28 (Sections 3591 through 3598) of Title 18 of the United States

1 Code. Accordingly, the government intends to seek a sentence of  
2 death upon the conviction of the defendant for any of the offenses  
3 charged in the Superseding Indictment, to wit: first degree  
4 premeditated murder, first degree felony murder in attempt to  
5 perpetrate kidnaping, kidnaping resulting in death, and attempted  
6 aggravated sexual abuse resulting in death.

7 The government proposes to prove the following factors as  
8 justifying a sentence of death.

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

11 1. **Intentional Killing.** The defendant intentionally  
12 killed Joie Ruth Armstrong. Section 3591(a)(2)(A).

13 B. Statutory Aggravating Factors Enumerated under 18 U.S.C.  
14 § 3592(c).

15 1. **Heinous, Cruel, or Depraved Manner of Committing**  
16 **Offense.** The defendant committed the offenses in an especially  
17 heinous, cruel, and depraved manner in that it involved serious  
18 physical abuse to Joie Ruth Armstrong. Section 3592(c)(6).

19 2. **Substantial Planning and Premeditation.** The  
20 defendant committed the offenses after substantial planning and  
21 premeditation to cause the death of a person. Section 3592  
22 (c)(9).

23 3. **Death During Commission Of Another Crime.** As to  
24 only Count One, First Degree Premeditated Murder, the death of  
25 Joie Ruth Armstrong occurred during the commission and attempted  
26 commission of kidnaping, an offense under 18 U.S.C. § 1201, by the  
27 defendant. Section 3592(c)(1).

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

3 1. **Other Kidnapings, Sexual Assaults and Killings.** The  
4 defendant has kidnaped, sexually assaulted and killed other  
5 persons in addition to the victim of the offenses charged in the  
6 Superseding Indictment. United States v. Pitera, 795 F.Supp. 546,  
7 564 (E.D.N.Y. 1992); United States v. Beckford, 964 F.Supp. 993,  
8 1001 (E.D.Va. 1997); 18 U.S.C. § 3592(c)(5), (16). On or about  
9 February 15-16, 1999, the defendant killed Carole Sund; kidnaped,  
10 sexually assaulted and killed Julie Sund; and, sexually assaulted  
11 and killed Silvina Pelosso, all in a single criminal episode.

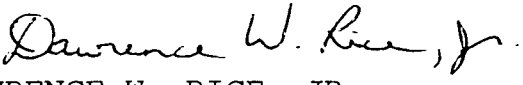
12 2. **Victim Impact Evidence.** The defendant caused  
13 injury, harm, and loss to the victim Joie Ruth Armstrong and the  
14 victim's family because of the effect of the offense on the  
15 victim, the victim's personal characteristics as an individual  
16 human being, and the impact of the death upon the victim and the  
17 victim's family. Payne v. Tennessee, 501 U.S. 808, 825-827  
18 (1991); 18 U.S.C. § 3593(a).

19 DATED: February 10, 2000


Respectfully Submitted,

20 PAUL L. SEAVE  
21 United States Attorney

22   
23 By MATTHEW G. JACOBS  
24 First Assistant U.S. Attorney

25   
26 By LAWRENCE W. RICE, JR.  
27 Assistant U.S. Attorney  
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By   
JOHN J. SCIORTINO  
Assistant U.S. Attorney

1 CERTIFICATE OF SERVICE

2  
3 I certify that I am an employee in the Office of the United  
4 States Attorney for the Eastern District of California, that I am  
5 a person of such age and discretion as to be competent to serve  
6 papers, and that on February 10, 2000, I served a copy of the  
7 attached:

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

9 on the defendant by sending it to his counsel:

10 (via interoffice delivery)  
11 Robert W. Rainwater  
12 Assistant Federal Defender  
13 Eastern District of California  
14 2300 Tulare Street, Suite 330  
15 Fresno, CA 93721-2261

16 (via U.S. Mail)  
17 Marcia A. Morrissey  
18 2115 Main Street  
19 Santa Monica, CA 90405

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STACIE A. AYABARRENO