

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA)
)
 V.) CAUSE NO. 2:01 CR 73
)
KEON THOMAS)

NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH

The United States of America hereby notifies the Court and the defendant, KEON THOMAS, and his counsel, that in the event of the defendant's conviction on Count Three of the Superseding Indictment, wherein the defendant Keon Thomas is charged with a violation of Title 18, United States Code 924(j), 924(c)(1), 1951 and 2, in which it is alleged that Keon Thomas did use and discharge a firearm in furtherance of a crime of violence, thereby murdering Frank Freund by using and discharging a firearm, to wit: a semi-automatic handgun, during and in relation to a crime of violence to wit: Interference with Commerce by Means of Robbery, the Government will seek the sentence of death, in that the circumstances of the offenses are such that a sentence of death is justified.

I. Statutory Threshold Findings Enumerated in 18 U.S.C. § 3591(a)(2)(C) & (D):

The Government will seek to prove the following threshold findings as the basis for imposition of the death penalty in relation to Count Three of the Superseding Indictment:

1. The defendant, KEON THOMAS, 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 FRANK FREUND, the victim, died as a direct result of the act. Section 3591(a)(2)(C).
2. The defendant, KEON THOMAS, 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 FRANK FREUND, the victim, died as a direct result of the act. Section 3591(a)(2)(D).

II. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592(c)(1) through (16):

The Government will seek to prove the following statutory aggravating factors as the basis for imposition of the death penalty in relation to Count Three of the Superseding Indictment:

1. The defendant, KEON THOMAS, has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm (as defined in 18 U.S.C. § 921) against another person. Section 3592(c)(2).

2. The defendant, KEON THOMAS, committed the offense described in Count Three of the Superseding Indictment in an especially heinous, cruel, and depraved manner in that the murder involved serious physical abuse by firing of multiple gun shots into the neck and face area of the victim, Frank Freund. Section 3592(c)(6).
3. The defendant, KEON THOMAS, committed the offense described in Count Three of the Superseding Indictment for pecuniary gain. Section 3592(c)(8).
4. The defendant, KEON THOMAS, committed the offense described in Count Three of the Superseding Indictment after substantial planning and premeditation to cause the death of a Frank Freund, the victim. Section 3592(c)(9).
5. The defendant, KEON THOMAS, committed the offense described in Count Three of the Superseding Indictment against Frank Freund, the victim, who was particularly vulnerable due to his old age and infirmities, substantial hearing loss and a pacemaker. Section 3592(c)(11).

3. Other Non-Statutory Aggravating Factors Identified under 18 U.S.C. § 3593(a) and (c):

The Government will seek to prove the following non-statutory aggravating factors as the basis for imposition of the death penalty in relation to Count Three of the Superseding Indictment:

1. Keon Thomas has a history of past criminal conduct including but not limited to acts of domestic battery and robbery;
2. Keon Thomas has a history of conduct violations while incarcerated in a penal facility;
3. Keon Thomas was on parole at the time of the commission of the offense alleged in this superseding indictment;

4. Keon Thomas has engaged in conduct constituting a violation of the conditions of his state parole;
5. Future Dangerousness

The defendant, Keon Thomas, 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 other persons, including, but not limited to, inmates and correctional officers in an institutional correctional setting, as evidenced by the offenses charged in the Superseding Indictment and the 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 Superseding Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the circumstances that demonstrate the defendant's future dangerousness include:

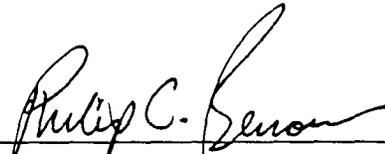
- a. Keon Thomas has engaged in a continuing pattern of violence toward others and is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to other persons;
 - b. Keon Thomas' previous parole violations and incarcerations reveal a low rehabilitative potential;
 - c. Keon Thomas' continued efforts throughout the investigation of this matter to suborn perjury and obstruct justice by conspiring with Adam Williams to lie in the Grand Jury regarding the investigation of this matter.
6. Victim Impact Evidence. (18 U.S.C. § 3593(a))

The defendant caused injury, harm, and loss to the entire Freund Family as demonstrated by the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. See Payne v. Tennessee, 501 U.S. 808, 825-27 (1991). The United

States will present information concerning the effect of the offense on all of the sons, daughters, and grandchildren of Mr. Frank Freund, and their families, which may include oral testimony, a victim impact statement that identifies themselves as victims of the offense and the extent and scope of the injury and loss suffered by these individuals, their family, and any other relevant information. Such relevant information to include but not limited to, the previous loss of Mrs. Freund in a similar robbery attempt occurring approximately seven years previously.

Respectfully submitted,

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