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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

01 JUL 30 AM 11:35

CLERK, U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 3:00-cr-436-J-25TJC

KARL T. WALDON  
ARIC P. SINCLAIR  
a/k/a Abo  
a/k/a Quarter Head

**UNITED STATES' NOTICE REGARDING DEATH PENALTY**

The United States of America, by Mac Cauley, United States Attorney for the Middle District of Florida, hereby notifies the Court that the Department of Justice has not made a decision regarding the death penalty in this cause, thereby cancelling the discovery hearing set on July 27, 2001.

Respectfully submitted,

MAC CAULEY  
United States Attorney

By: James R. Klindt  
JAMES R. KLINDT, Deputy Managing  
Assistant United States Attorney  
P.O. Box 600  
Jacksonville, Florida 32201  
Telephone: (904) 232-2682  
Facsimile: (904) 232-2620

**SCANNED**

U.S. v. Waldon, et al.

Case No. 3:00-cr-436-J-25TJC

**CERTIFICATE OF SERVICE**

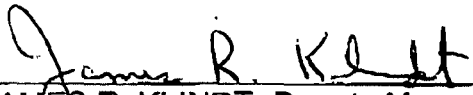
I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by United States Mail this 27<sup>th</sup> day of July, 2001, to the following:

A. Russell Smith, Esq.  
519 Newnan Street  
Jacksonville, Florida 32201

Steven M. Potolsky, Esq.  
100 S.E. 2<sup>nd</sup> St., Suite 3550  
Miami, Florida 33131

Mark J. Rosenblum, Esq.  
204 Washington St.  
Jacksonville, Florida 32202

Stephen J. Weinbaum, Esq.  
204 Washington St.  
Jacksonville, Florida 32202

  
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JAMES R. KLINDT, Deputy Managing  
Assistant United States Attorney

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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

01 AUG 27 PM 2:00

CLERK, U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 3:00-CR-436(S1)-J-25TJC

KARL T. WALDON  
ARIC P. SINCLAIR  
a/k/a Abo  
a/k/a Quarter Head

**UNITED STATES' NOTICE REGARDING DEATH PENALTY**

The United States of America, by Mac Cauley, United States Attorney for the Middle District of Florida, pursuant to the Court's direction, files this notice related to the death penalty:

- 1. Karl T. Waldon

The United States intends to seek the sentence of death as to defendant Karl T. Waldon, in the event defendant Karl T. Waldon is convicted of Count One (conspiracy to violate civil rights with death resulting, in violation of 18 U.S.C. § 241); Count Fourteen (deprivation of Sami Safar's civil rights with death resulting, in violation of 18 U.S.C. § 242); and/or Count Eighteen (obstruction of justice by killing Sami Safar, in violation of 18 U.S.C. § 1512(a)(1)(C)).<sup>1</sup>

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<sup>1</sup>This Notice is not intended to serve as the notice required by 18 U.S.C. § 3593(a). The United States intends to file a Notice of Intent to Seek the Death Penalty in compliance with that statute on or before September 4, 2001.

**CERTIFICATE OF SERVICE**


I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by facsimile this 27<sup>th</sup> day of August, 2001, to the following:

A. Russell Smith, Esq.  
519 Newnan Street  
Jacksonville, Florida 32201

Steven M. Potolsky, Esq.  
100 S.E. 2<sup>nd</sup> St., Suite 3550  
Miami, Florida 33131

Mark J. Rosenblum, Esq.  
204 Washington St.  
Jacksonville, Florida 32202

Stephen J. Weinbaum, Esq.  
204 Washington St.  
Jacksonville, Florida 32202

  
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JAMES R. KLINDT, Deputy Managing  
Assistant United States Attorney

FILED  
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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

01 AUG 30 PM 3:42

CLERK, U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE, FLORIDA

UNITED STATES OF AMERICA :  
 :  
v. :  
 :  
KARL T. WALDON :

CASE NO. 3:00-cr-436(S1)-J-25TJC

**UNITED STATES' NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

The United States of America, pursuant to 18 U.S.C. § 3593(a), by and through its undersigned counsel, and notifies the Court and the defendant in the above-captioned case that the Government believes the circumstances of the offenses charged in Counts One, Fourteen, and Eighteen of the Indictment are such that, in the event of the defendant's conviction of one or more of these offenses, 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: Count One, conspiracy to violate civil rights with death resulting, in violation of 18 U.S.C. § 241, Count Fourteen, deprivation of Sami Safar's civil rights with death resulting, in violation of 18 U.S.C. § 242, and Count Eighteen, obstruction of justice by killing Sami Safar, in violation of 18 U.S.C. § 1512(a)(1)(C), which carry a possible sentence of death.

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

**SCANNED**

*202*

**COUNT ONE****CONSPIRACY TO VIOLATE CIVIL RIGHTS WITH DEATH RESULTING****A. Statutory Proportionality Factors Enumerated under 18 U.S.C. § 3591(a)(2)(A)-(D).**

1. **Intentional Killing.** The defendant intentionally killed Sami Safar. Section 3591(a)(2)(A).

2. **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 Sami Safar died as a direct result of the act. Section 3591(a)(2)(C).

3. **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 Sami Safar 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. **Pecuniary Gain.** The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. Section 3592(c)(8).

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

1. **Obstruction of Justice.** The defendant committed the offense with the intent to prevent the communication by Sami Safar to a law enforcement officer of the

United States of information relating to the commission or possible commission of a federal offense, to wit: the deprivation of Sami Safar's civil rights (18 U.S.C. §§ 241 and 242) and the robbery by actual or threatened force of approximately \$51,000 from Sami Safar (18 U.S.C. § 1951). See United States v. Cooper, 91 F. Supp.2d 90, 95, 106-08, & 117 (D.D.C. 2000); United States v. Frank, 8 F. Supp.2d 253, 260 n.11 & 279 (S.D.N.Y. 1998); see also Bolender v. Singletary, 16 F.3d 1547, 1569-70 (11<sup>th</sup> Cir.), cert. denied, 513 U.S. 1022 (1994).

2. **Betrayal of Public Trust and Abuse of Police Powers.** In committing the offense, the defendant abused his position of trust and his police powers.

3. **Psychological Circumstances of the Victim's Final Moments.** The defendant committed the offense in a manner that caused Sami Safar to experience severe emotional distress.

#### **COUNT FOURTEEN**

##### **DEPRIVATION OF SAMI SAFAR'S CIVIL RIGHTS WITH DEATH RESULTING**

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

1. **Intentional Killing.** The defendant intentionally killed Sami Safar. Section 3591(a)(2)(A).

2. **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 Sami Safar died as a direct result of the act. Section 3591(a)(2)(C).

3. **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 Sami Safar 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. **Pecuniary Gain.** The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. Section 3592(c)(8).

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

1. **Obstruction of Justice.** The defendant committed the offense with the intent to prevent the communication by Sami Safar to a law enforcement officer of the United States of information relating to the commission or possible commission of a federal offense, to wit: the deprivation of Sami Safar's civil rights (18 U.S.C. §§ 241 and 242) and the robbery by actual or threatened force of approximately \$51,000 from Sami Safar (18 U.S.C. § 1951). See United States v. Cooper, 91 F. Supp.2d 90, 95, 106-08, & 117 (D.D.C. 2000); United States v. Frank, 8 F. Supp.2d 253, 260 n.11 & 279 (S.D.N.Y. 1998); see also Bolender v. Singletary, 16 F.3d 1547, 1569-70 (11<sup>th</sup> Cir.), cert. denied, 513 U.S. 1022 (1994).

2. **Betrayal of Public Trust and Abuse of Police Powers.** In committing the offense, the defendant abused his position of trust and his police powers.



3. **Psychological Circumstances of the Victim's Final Moments.** The defendant committed the offense in a manner that caused Sami Safar to experience severe emotional distress.

**COUNT EIGHTEEN**

**OBSTRUCTION OF JUSTICE BY KILLING SAMI SAFAR**

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

1. **Intentional Killing.** The defendant intentionally killed Sami Safar. Section 3591(a)(2)(A).

2. **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 Sami Safar died as a direct result of the act. Section 3591(a)(2)(C).

3. **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 Sami Safar 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. **Pecuniary Gain.** The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. Section 3592(c)(8).

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

1. **Obstruction of Justice.** The defendant committed the offense with the intent to prevent the communication by Sami Safar to a law enforcement officer of the United States of information relating to the commission or possible commission of a federal offense, to wit: the deprivation of Sami Safar's civil rights (18 U.S.C. §§ 241 and 242) and the robbery by actual or threatened force of approximately \$51,000 from Sami Safar (18 U.S.C. § 1951). See United States v. Cooper, 91 F. Supp.2d 90, 95, 106-08, & 117 (D.D.C. 2000); United States v. Frank, 8 F. Supp.2d 253, 260 n.11 & 279 (S.D.N.Y. 1998); see also Bolender v. Singletary, 16 F.3d 1547, 1569-70 (11<sup>th</sup> Cir.), cert. denied, 513 U.S. 1022 (1994).

2. **Betrayal of Public Trust and Abuse of Police Powers.** In committing the offense, the defendant abused his position of trust and his police powers.

3. **Psychological Circumstances of the Victim's Final Moments.** The defendant committed the offense in a manner that caused Sami Safar to experience severe emotional distress.

Respectfully submitted,

MAC CAULEY  
United States Attorney

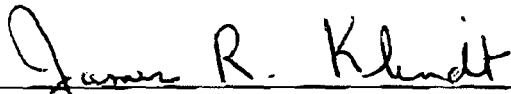
By: James R. Klindt  
JAMES R. KLINDT, Deputy Managing  
Assistant United States Attorney  
P.O. Box 600  
Jacksonville, Florida 32201  
Telephone: (904) 232-2682  
Facsimile: (904) 232-2620

CERTIFICATE OF SERVICE

I hereby certify that on the 30<sup>th</sup> day of August, 2001, a true and correct copy of the foregoing notice of intent to seek the death penalty was mailed via first class mail, postage prepaid thereon, and sent by facsimile to the following attorneys of record:

A. Russell Smith, Esq.  
519 Newnan Street  
Jacksonville, Florida 32202

Steven M. Potolsky, Esq.  
100 S.E. 2<sup>nd</sup> St., Suite 3550  
Miami, Florida 33131

  
JAMES R. KLINDT, Deputy Managing  
Assistant United States Attorney

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA :  
 :  
v. : CASE NO. 3:00-cr-436(S1)-J-25TJC  
 :  
KARL T. WALDON :

**UNITED STATES' MOTION FOR LEAVE OF  
COURT TO WITHDRAW PREVIOUSLY FILED AMENDED  
NOTICE OF INTENT TO SEEK THE DEATH PENALTY AND FOR LEAVE  
TO FILE AN AMENDED NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

The United States of America, by Mac Cauley, the United States Attorney for the Middle District of Florida, respectfully requests that this Court enter an order allowing the United States to withdraw the previously filed Amended Notice of Intent to Seek the Death Penalty and to file the attached Amended Notice of Intent to Seek the Death Penalty and in support thereof states the following:

1. On August 30, 2001, the United States filed a Notice of Intent to Seek the Death Penalty notifying the defendant of its intention to seek the death penalty for Count One, conspiracy to violate civil rights with death resulting; Count Fourteen, deprivation of Sami Safar's civil rights with death resulting; and Count Eighteen, obstruction of justice.

2. On October 22, 2001, the United States filed an Amended Notice of Intent to Seek the Death Penalty; however, the United States inadvertently failed to seek leave of court pursuant to 18 U.S.C. § 3593(a)(2), which requires the attorney for the

government to show good cause to amend the notice. Accordingly, the amended Notice is not properly filed.

3. The United States seeks leave of court to file the attached Amended Notice of Intent to Seek the Death Penalty, which includes essentially three changes from the original Notice of Intent to Seek the Death Penalty. First, as noted above, the United States lists specific acts in support of the non-statutory aggravating factor "Betrayal of Public Trust and Abuse of Police Powers" (which had been included in the Amended Notice of October 22, 2001). Second, the United States notifies the defendant of its intention to seek the death penalty only as to Counts One and Fourteen. Third, the United States adds the non-statutory aggravating factor of "Victim Impact Evidence" for each count (Counts One and Fourteen).

#### **MEMORANDUM**

The government believes that the following establishes good cause to file the attached Amended Notice of Intent to Seek the Death Penalty:

The addition of specific acts in support of the non-statutory aggravating factor "Betrayal of Public Trust and Abuse of Police Powers" provides more detail to the defendant as to the nature of the type of conduct the United States intends to rely on during the sentencing phase. The defendant received actual notice of these acts on October 22, 2001, more than three months before the anticipated trial date and most likely four months before the sentencing phase of the case. Therefore, the defendant is not prejudiced by this amendment.

As to the withdrawal of Count Eighteen from the notice, upon receiving the defendant's Motion to Strike the Amended Notice of Intent to Seek the Death Penalty on *Apprendi*<sup>1</sup> Grounds, the United States analyzed Count Eighteen in light of Apprendi and the Eleventh Circuit's most recent case law interpreting Apprendi. Although the United States believes it has a colorable argument with respect to application of the death penalty to Count Eighteen (the obstruction of justice count) vis-a-vis Apprendi, in an abundance of caution, the United States believes it is in the best interest of justice not to seek the death penalty as to Count Eighteen. This portion of the Amended Notice of Intent to Seek the Death Penalty is a benefit to the defendant and causes him no prejudice.

The non-statutory aggravating factor "Victim Impact Evidence" is included in the Amended Notice of Intent to Seek the Death Penalty at this time because of new information learned by the United States in additional interviews and discussions with family members of Sami Safar and after consultation with the Capital Case Unit of the Department of Justice. The discussions with the family members, along with guidance from the Capital Case Unit of the Department of Justice, leads the United States Attorney to believe that there is a good faith basis for the inclusion of the non-statutory aggravating factor "Victim Impact Evidence" and that, in the interest of justice, it should be included in the notice and any appropriate sentencing proceeding.


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<sup>1</sup>Apprendi v. New Jersey, 530 U.S. 466 (2000).

This Amended Notice of Intent to Seek the Death Penalty is being filed approximately three months prior to the beginning of the trial and most likely four months before any sentencing phase. Therefore, the defendant is not prejudiced by the inclusion of this non-statutory aggravating factor in the Amended Notice of Intent to Seek the Death Penalty. Based on the foregoing, the United States respectfully requests that this Court enter an order (1) withdrawing the previously filed Amended Notice of Intent to Seek the Death Penalty, (2) finding that the United States has made a showing of good cause, and (3) permitting the United States to file the Amended Notice of Intent to Seek the Death Penalty attached hereto.

Respectfully submitted,

MAC CAULEY  
United States Attorney

By:   
JAMES R. KLINDT, Deputy Managing  
Assistant United States Attorney  
Post Office Box 600  
Jacksonville, Florida 32201  
Telephone: (904) 232-2682  
Facsimile: (904) 232-2620

U.S. v. Waldon

Case No. 3:00-cr-436(S1)-J-25TJC

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by facsimile and mail this 7<sup>th</sup> day of November, 2001, to the following:

A. Russell Smith, Esq.  
519 Newnan Street  
Jacksonville, Florida 32201

Steven M. Potolsky, Esq.  
100 S.E. 2<sup>nd</sup> St., Suite 3550  
Miami, Florida 33131

  
\_\_\_\_\_  
JAMES R. KLINDT, Deputy Managing  
Assistant United States Attorney