

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v.- : S1 00 Cr. 1008 (NRB)

MICHAEL WILLIAMS, :

Defendant. :

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NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States of America, pursuant to 18 U.S.C. § 3593(a) and 21 U.S.C. § 848(b), by and through JAMES B. COMEY, United States Attorney for the Southern District of New York, and notifies the Court and the defendant, MICHAEL WILLIAMS, in the above-captioned case that the Government believes the circumstances of the offenses charged in Counts Five, Six, Seven, Nine, Ten, Eleven, Twelve, Thirteen, and Fourteen of Indictment S1 00 Cr. 1008 (NRB) 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 3599) of Title 18 of the United States Code, and Section 848 of Title 21 of the United States Code and that the Government will seek the sentence of death for these offenses, namely, Count Five, Murder in Aid of Racketeering resulting in the death of Timothy Moore, in violation of Title 18, United States Code, Sections 1959(a)(1) and 2, Count Six, Murder in Aid of Racketeering resulting in the death of Joel Moore, in violation

of Title 18, United States Code, Sections 1959(a)(1) and 2, Count Seven, Murder in Aid of Racketeering resulting in the death of Robert James, an violation of Title 18, United States Code, Sections 1959(a)(1) and 2, Count Nine, Murder in Connection With a Drug Trafficking Crime, resulting in the death of Timothy Moore, in violation of Title 21, United States Code, Section 848(e)(1)(A) and Title 18, United States Code, Section 2, Count Ten, Murder in Connection With a Drug Trafficking Crime, resulting in the death of Joel Moore, in violation of Title 21, United States Code, Section 848(e)(1)(A) and Title 18, United States Code, Section 2, Count Eleven, Murder in Connection With a Drug Trafficking Crime, resulting in the death of Robert James, in violation of Title 21, United States Code, Section 848(e)(1)(A) and Title 18, United States Code, Section 2, Count Twelve, Murder in Aid of Racketeering By Means of a Firearm, resulting in the death of Timothy Moore, in violation of Title 18, United States Code, Sections 924(j) and 2, Count Thirteen, Murder in Aid of Racketeering By Means of a Firearm, resulting in the death of Joel Moore, in violation of Title 18, United States Code, Sections 924(j) and 2, and Count Fourteen, Murder in Aid of Racketeering By Means of a Firearm, resulting in the death of Robert James, in violation of Title 18, United States Code, Sections 924(j) and 2, each of which carries a possible sentence of death.

The Government proposes to prove the following factors to justify a sentence of death:

COUNTS FIVE, SIX, SEVEN, TWELVE, THIRTEEN, AND FOURTEEN
THE MURDERS OF TIMOTHY MOORE, JOEL MOORE, AND ROBERT JAMES IN AID
OF RACKETEERING BY MEANS OF A FIREARM

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

Pursuant to Title 18, United States Code, Section 3591(a)(2), the Government will rely on the following preliminary factors to establish the defendant's eligibility for the death penalty:

1. **Intentional Killing.** The defendant intentionally killed Timothy Moore, Joel Moore, and Robert James. Section 3591(a)(2)(A).

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the deaths of Timothy Moore, Joel Moore, and Robert James. 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 Timothy Moore, Joel Moore, and Robert James 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 Timothy Moore, Joel Moore, and Robert James 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).

Pursuant to Title 18, United States Code, Section 3592(c), the United States will rely on the following statutory aggravating factors as justifying a sentence of death:

1. **Grave Risk of Death to One or More Persons Other than the Victims of the Offense.** The defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victims of the offense. Section 3592(c)(5)

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

3. **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).

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

Pursuant to Title 18, United States Code, Section 3593(a), the United States will rely on the following non-statutory aggravating factors as justifying a sentence of death:

1. **Victim Impact Evidence.** As demonstrated by the victims' personal characteristics as individual human beings and the impact of their deaths upon their families and friends, the defendant caused injury, harm, and loss to the victims, their families, and their friends.

2. **Contemporaneous Convictions.** The defendant killed more than one person in a single criminal episode and was convicted of participating in a conspiracy to distribute and possess with intent to distribute cocaine and cocaine base at the time of the offense, among other crimes.

3. **Firearms Violations.** While engaging in a racketeering enterprise, the defendant used a firearm to commit the murder and possessed additional firearms.

4. **Future Dangerousness.** The defendant has demonstrated a continuing pattern of violence, low rehabilitative potential, and the defendant tried to escape from a prison in Pennsylvania on two separate occasions, all of which demonstrates a high risk of future dangerousness.

5. **Prior convictions.** The defendant was convicted of (i) attempted escape in Pennsylvania in 1998, for which he received a sentence of 21 to 43 months' incarceration and (ii) possession with intent to distribute crack cocaine in Pennsylvania in 1992, for which he received a sentence of 22 months to five years' imprisonment.

COUNTS NINE, TEN, AND ELEVEN

THE MURDERS OF TIMOTHY MOORE, JOEL MOORE, AND ROBERT JAMES IN CONNECTION TO A DRUG TRAFFICKING CRIME.

A. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n)(1)-(12).

Pursuant to Title 21, United States Code, Section 848(n), the United States will rely on the following statutory aggravating factors as justifying a sentence of death:

1. **Intentional Killing.** The defendant intentionally killed Timothy Moore, Joel Moore, and Robert James. Section 848(n)(1)(A).

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the deaths of Timothy Moore, Joel Moore, and Robert James. Section 848(n)(1)(B).

3. **Intentional Acts to Take Life or Use Lethal Force.** The defendant intentionally engaged in conduct intending that Timothy Moore, Joel Moore, and Robert James be killed or that

lethal force would be employed against Timothy Moore, Joel Moore, and Robert James, which resulted in the deaths of Timothy Moore, Joel Moore, and Robert James. Section 848(n) (1) (C).

4. Intentional Acts in Reckless Disregard for Life.

The defendant intentionally engaged in conduct which the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense, which resulted in the deaths of Timothy Moore, Joel Moore, and Robert James. Section 848(n) (1) (D).

5. Consideration of Anything of Value.

The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. Section 848(n) (7).

6. Substantial Planning and Premeditation.

The defendant committed the offense after substantial planning and premeditation. Section 848(n) (8).

7. Grave Risk of Death to One or More Persons Other

than the Victims of the Offense. The defendant, in the commission of the offense, or 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 victims of the offense. Section 848(n) (5).

B. Other, Non-Statutory, Aggravating Factors Identified.

In addition to the statutory aggravating factors set

forth above, the Government will rely on the following non-statutory aggravating factors to justify a sentence of death:

1. **Victim Impact Evidence.** As demonstrated by the victims' personal characteristics as individual human beings and the impact of their deaths upon their families and friends, the defendant caused injury, harm, and loss to the victims, their families, and their friends.

2. **Contemporaneous Convictions.** The defendant killed more than one person in a single criminal episode and was convicted of participating in a conspiracy to distribute and possess with intent to distribute cocaine and cocaine base at the time of the offense, among other crimes.

3. **Firearms Violations.** While engaging in a racketeering enterprise, the defendant used a firearm to commit the murder and possessed additional firearms.

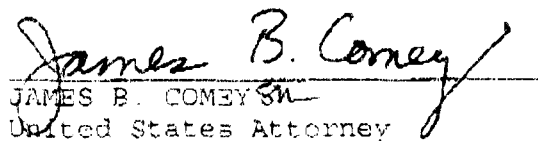
4. **Future Dangerousness.** The defendant has demonstrated a continuing pattern of violence, low rehabilitative potential, and the defendant tried to escape from a prison in Pennsylvania on two separate occasions, all of which demonstrates a high risk of future dangerousness.

5. **Prior convictions.** The defendant was convicted of (i) attempted escape in Pennsylvania in 1996, and he received a sentence of 21 to 43 months' incarceration and (ii) possession with intent to distribute crack cocaine in Pennsylvania in 1992,

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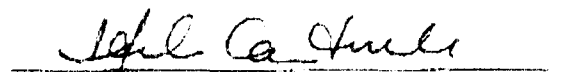
The Government further gives notice that in support of
imposition of the death penalty it intends to rely upon all the
evidence admitted by the Court at the guilt phase of the trial
and the offenses of conviction as described in the Indictment as
they relate to the background and character of the defendant,
MICHAEL WILLIAMS, his moral culpability, and the nature and
circumstances of the offenses charged in the Indictment.

Respectfully submitted,



JAMES B. COMEY
United States Attorney

By:



HELEN CANTWELL
Assistant United States Attorney

Dated: March 6, 2003