

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)

v.)

DONNELL YOUNG)
a/k/a "LIL' PESO")

NO. 3:98-00038
JUDGE NIXON

**UNITED STATES' NOTICE OF INTENT
TO SEEK A SENTENCE OF DEATH AGAINST DEFENDANT DONNELL YOUNG**

Pursuant to 18 U.S.C. 3593 and 21 U.S.C. 848(h), the United States of America hereby notifies the court, defendant **DONNELL YOUNG**, and the defendant's counsel that the government believes that the circumstances of the offenses addressed herein are such that a sentence of death is justified and that the government will seek the sentence of death for defendant **DONNELL YOUNG** in the event of his conviction on any of the following counts in the Fifth Superseding Indictment relating to the **killling of Woody Pilcher**:

Count Thirty-seven, charging the killing of Woody Pilcher in furtherance of a continuing criminal enterprise and a conspiracy to distribute controlled substances, in violation of Title 21, United States Code, Section 848(e)(1)(A) and Title 18, United States Code, Section 2;

Count Thirty-eight, charging the killing of Woody Pilcher to obstruct justice, in violation of Title 18, United States Code, Sections 2 and 1512(a)(1); and

Count Thirty-nine, charging causing death of Woody Pilcher by the use and carrying of a firearm during and in relation to a crime of violence or drug trafficking crime in violation of Title 18, United States Code, Sections 2, 924(c)(1) and 924(j) [formerly enumerated as 924(i)]

I. CAPITAL OFFENSES UNDER TITLE 18 OF THE UNITED STATES CODE

A. Statutory Proportionality Factors Enumerated in 18 U.S.C. 3591(a)(2)

The United States will seek to prove the following threshold factors as the basis for imposition of the death penalty as to defendant DONNELL YOUNG:

1. With respect to **Counts Thirty-eight and Thirty-nine**, defendant DONNELL YOUNG intentionally killed the victim. 18 U.S.C. §3591(a)(2)(A).

2. With respect to **Counts Thirty-eight and Thirty-nine**, defendant DONNELL YOUNG intentionally inflicted serious bodily injury that resulted in the death of the victim. 18 U.S.C. §3591(a)(2)(B).

3. With respect to **Counts Thirty-eight and Thirty-nine**, defendant DONNELL YOUNG 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 died as a direct result of the act. 18 U.S.C. §3591(a)(2)(C).

4. With respect to **Counts Thirty-eight and Thirty-nine**, defendant DONNELL YOUNG 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 died as a direct result of the act. 18 U.S.C. §3591(a)(2)(D).

B. Aggravating Factors for Title 18 Offenses

Count 38: Killing of Woody Pilcher to Obstruct Justice

The United States will seek to prove the following aggravating factors as the basis for imposition of the death penalty in relation to **Count 38 (Killing of Woody Pilcher to Obstruct Justice)**:

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

a. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. 18 U.S.C. 3592(c)(6).

b. The defendant committed the offense in the expectation of the receipt of anything of pecuniary value. 18 U.S.C. 3592(c)(8).

c. The defendant committed the offense after substantial planning and premeditation to cause the death of a person. 18 U.S.C. 3592(c)(9).

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

a. The defendant has participated in, directed, approved, or solicited other acts of violence including acts described in the Fifth Superseding Indictment.

b. Additional punishment for killing. The defendant's other offenses are such that he should be imprisoned for the rest of his life without the possibility of parole even if he had not committed this offense, so the death penalty provides an increased penalty for the defendant's participation in this offense.

c. The defendant caused the victim's family and friends to suffer as a result of the impact of the killing on them.

d. Continuing Danger. The defendant represents a continuing danger to the lives and safety of other persons. The defendant has committed the acts alleged in the capital offenses charged in the Fifth Superseding Indictment and in the statutory and non-statutory aggravating factors contained in this Notice, and in addition, has committed and exhibited acts and characteristics including but not limited to the following:

(1) The defendant committed and threatened other assaults while in pretrial detention.

(2) The defendant possessed a handmade stabbing instrument while in pretrial detention.

(3) The defendant has expressed his desire to kill or injure law enforcement officers and witnesses, to obstruct the investigation and prosecution of the charges against him and his co-defendants, and to retaliate against cooperating witnesses.

(4) The defendant has demonstrated a low potential for rehabilitation as evidenced by factors such as his misconduct while in pretrial detention and his desire that people he believes to be cooperating with the prosecution be harmed or killed.

e. The defendant lacks remorse for having committed the offense.

f. The defendant killed the victim with the hope of obtaining controlled substances for further distribution.

g. The defendant was on bond with other criminal charges pending against him when he committed this offense.

**Count 39: Use/Carry Firearm in Drug/Violent Felony - Killing of Woody
Pilcher:**

The United States will seek to prove the following aggravating factors as the basis for imposition of the death penalty in relation to **Count 39 (Use/Carry Firearm in Drug/Violent Felony - Killing of Woody Pilcher)** of the Fifth Superseding Indictment:

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

a. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. 18 U.S.C. 3592(c)(6).

b. The defendant committed the offense in the expectation of the receipt of anything of pecuniary value. 18 U.S.C. 3592(c)(8).

c. The defendant committed the offense after substantial planning and premeditation to cause the death of a person. 18 U.S.C. 3592(c)(9).

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

a. The defendant participated in, directed, approved, or solicited other acts of violence including other violent acts described in the Fifth Superseding Indictment.

b. Additional punishment for killing. The defendant's other offenses are such that he should be imprisoned for the rest of his life without the possibility of parole even if he had not committed this offense, so the death penalty provides an increased penalty for the defendant's participation in this offense.

c. The defendant caused the victim's family and friends to suffer as a result of the impact of the killing on them.

d. Continuing Danger. The defendant represents a continuing danger to the lives and safety of other persons. The defendant has committed the acts alleged in the capital offenses charged in the Fifth Superseding Indictment and in the statutory and non-statutory aggravating factors contained in this Notice, and in addition, has committed and exhibited acts and characteristics including but not limited to the following:

(1) The defendant committed and threatened other assaults while in pretrial detention.

(2) The defendant possessed a handmade stabbing instrument while in pretrial detention.

(3) The defendant has expressed his desire to kill or injure law enforcement officers and witnesses, to obstruct the investigation and prosecution of the charges against him and his co-defendants, and to retaliate against cooperating witnesses.

(4) The defendant has demonstrated a low potential for rehabilitation as evidenced by factors such as his misconduct while in pretrial detention and his desire that people he believes to be cooperating with the prosecution be harmed or killed.

e. The defendant lacks remorse for having committed the offense.

f. The victim was killed in an effort by the defendant to prevent the victim from cooperating with law enforcement authorities.

g. The defendant killed the victim with the hope of obtaining controlled substances for further distribution.

h. The defendant was on bond with other criminal charges pending against him when he committed this offense.

II. CAPITAL OFFENSES UNDER TITLE 21 OF THE UNITED STATES CODE

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

The United States will seek to prove the following threshold factors as the basis for imposition of the death penalty as to defendant DONNELL YOUNG:

1. With respect to **Count Thirty-seven**, defendant DONNELL YOUNG intentionally killed the victim. 21 U.S.C. §848(n)(1)(A).

2. With respect to **Count Thirty-seven**, defendant DONNELL YOUNG intentionally inflicted serious bodily injury which resulted in the death of the victim. 21 U.S.C. §848(n)(1)(B).

3. With respect to **Count Thirty-seven**, defendant DONNELL YOUNG intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim. 21 U.S.C. §848(n)(1)(C).

4. With respect to **Count Thirty-seven**, defendant DONNELL YOUNG intentionally engaged in conduct which he knew would create a grave risk of death to a person, other than one of the participants in the offense, and which resulted in the death of the victim. 21 U.S.C. §848(n)(1)(D).

B. Aggravating Factors for Title 21 Offenses

Count 37: CCE/Drug Conspiracy - Killing of Woody Pilcher

The United States will seek to prove the following aggravating factors as the basis for imposition of the death penalty in relation to **Count 37 (CCE/Drug Conspiracy - Killing of Woody Pilcher)** of the Fifth Superseding Indictment:

1. Statutory Aggravating Factors Enumerated Pursuant to Title 21, United States Code.

Sections 848(n)(2) through (12):

- a. The defendant committed the offense in the expectation of the receipt of anything of pecuniary value. 21 U.S.C. 848(n)(7).
- b. The defendant committed the offense after substantial planning and premeditation. 21 U.S.C. 848(n)(8).
- c. The violation of subchapter I of Title 21, United States Code, in relation to which the defendant committed the conduct described in 21 U.S.C. 848(e) was a violation of 21 U.S.C. 859.¹ 21 U.S.C. 848(n)(11).
- d. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. 21 U.S.C. 848(n)(12).

2. Other Non-Statutory Aggravating Factors Enumerated Pursuant to Title 21, United States Code, Sections 848(h)(1)(B) and 848(k):

- a. The defendant participated in, directed, approved, or solicited other acts of violence including other violent acts described in the Fifth Superseding Indictment.
- b. Additional punishment for killing. The defendant's other offenses are such that he should be imprisoned for the rest of his life without the possibility of parole even if he

¹In other words, the defendant committed the charged offense while working in furtherance of a continuing criminal enterprise or while engaging in a drug trafficking conspiracy involving 5 kilograms or more of a mixture or substance containing a detectable amount of cocaine or involving 50 grams or more of a mixture or substance containing cocaine base, and the continuing criminal enterprise or drug conspiracy involved the distribution of a controlled substance to a person under 21 years of age by a person who was at least 18 years of age.

had not committed this offense, so the death penalty provides an increased penalty for the defendant's participation in this offense.

c. The defendant caused the victim's family and friends to suffer as a result of the impact of the killing on them.

d. Continuing Danger. The defendant represents a continuing danger to the lives and safety of other persons. The defendant has committed the acts alleged in the capital offenses charged in the Fifth Superseding Indictment and in the statutory and non-statutory aggravating factors contained in this Notice, and in addition, has committed and exhibited acts and characteristics including but not limited to the following:

(1) The defendant committed and threatened other assaults while in pretrial detention.

(2) The defendant possessed a handmade stabbing instrument while in pretrial detention.

(3) The defendant has expressed his desire to kill or injure law enforcement officers and witnesses, to obstruct the investigation and prosecution of the charges against him and his co-defendants, and to retaliate against cooperating witnesses.

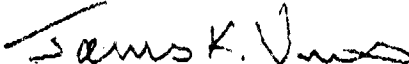
(4) The defendant has demonstrated a low potential for rehabilitation as evidenced by factors such as his misconduct while in pretrial detention and his desire that people he believes to be cooperating with the prosecution be harmed or killed.

e. The defendant lacks remorse for having committed the offense.


f. The victim was killed in an effort by the defendant to prevent the victim from cooperating with law enforcement authorities.

- g. The defendant killed the victim with the hope of obtaining controlled substances for further distribution.
- h. The defendant was on bond with other criminal charges pending against him when he committed this offense.

Respectfully submitted,



JAMES K. VINES
United States Attorney




SUNNY A.M. KOSHY
Assistant U.S. Attorney

10/28/02

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing has been forwarded by United States Mail with sufficient postage to carry same to counsel for defendant Young, Tom Bloom, St. Cloud Corner, Ste. 500, 500 Church St., Nashville, TN 37219; Richard Kammen, Gilroy, Kammen & Hill, One Indiana Square, Ste. 150, Indianapolis, IN 46204; counsel for defendant Payne, Craig P. Fickling, Jr., 9-C S. Jefferson Avenue, Cookeville, TN 38501; and Richard Mazer, 99 Divisadero St., San Francisco, CA; counsel for defendant Jamal Shakir, Michael Passino, 213 Fifth Avenue, North, Nashville, TN 37219-1900; and Natman Schaye, Schaye & Associates, 69 North Lazy Place, Tucson, AZ 85742; counsel for defendant Paola Shakir, James A. Simmons, Edwards & Simmons, 1501 16th Ave., South, Nashville, TN 37212-2905; counsel for defendant Eatmon, Joseph L. Lackey, Jr., 200 Fourth Avenue North, Noel Place, Ste. 125, Nashville, TN 37219.

This the 28 day of October, 2002.



SUNNY A.M. KOSHY