

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

UNITED STATES OF AMERICA)
)
) No. 3:17-cr-00124-3
) Chief Judge Crenshaw
)
)
[3] BRANDON DURELL HARDISON)

NOTICE OF INTENTION TO SEEK THE DEATH PENALTY

The United States of America, pursuant to 18 U.S.C. § 3593(a), notifies the Court and defendant BRANDON DURELL HARDISON (“defendant”), that the government believes the circumstances of the offenses charged in Counts Five, Six, Seven, Eight, and Nine of the Indictment are such that, in the event of defendant’s conviction, 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 the following offenses: Murder in Aid of Racketeering—Murder of D.S., in violation of Title 18, United States Code, Section 1959(a)(1) (Count Five); Causing Death Through the Use of a Firearm—Murder of D.S., in violation of Title 18, United States Code, Section 924(j) (Count Six); Murder in Aid of Racketeering—Murder of A.W., in violation of Title 18, United States Code, Section 1959(a)(1) (Count Seven); Causing Death Through the Use of a Firearm—Murder of A.W., in violation of Title 18, United States Code, Section 924(j) (Count Eight); and Tampering with a Witness, Victim, or Informant by Killing or Attempting to Kill—Murder of A.W., in violation of Title 18, United States Code, Section 1512(a)(1)(C) (Count Nine), all of which carry a possible sentence of death.

Counts Five and Six

The government believes that the evidence will support submission of the following factors to the jury justifying a sentence of death as these factors relate to Murder in Aid of Racketeering—Murder of D.S., in violation of Title 18, United States Code, Section 1959(a)(1) (Count Five), and Causing Death Through the Use of a Firearm—Murder of D.S., in violation of Title 18, United States Code, Section 924(j) (Count Six). The defendant was eighteen (18) years of age or older when the crimes alleged against defendant in the Indictment were committed.

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

The following statutory proportionality factors apply to Counts Five and Six.

1. Intentional Killing.

The defendant intentionally killed D.S. 18 U.S.C. § 3591(a)(2)(A).

2. Intentionally Inflicted Serious Bodily Injury that Resulted in the Death of a Victim.

The defendant intentionally inflicted serious bodily injury that resulted in the death of D.S. 18 U.S.C. § 3591(a)(2)(B).

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

The following statutory aggravating factors apply to Counts Five and Six.

1. Previous Conviction for a Violent Felony Involving a Firearm.

The defendant has previously been convicted of a Federal or State offense punishable by a term of imprisonment exceeding one year, involving the use or attempted or threatened use of a firearm against another person, that is: on or about February 10, 2005, the defendant was convicted in the Criminal Circuit Court of Davidson County, Tennessee, of aggravated robbery, in violation of Tennessee Code Annotated Section 39-13-402. 18 U.S.C. §§ 3592(c)(2) and 921.

2. Multiple Killings or Attempted Killings.

The defendant intentionally killed or attempted to kill more than one person in a single criminal episode. 18 U.S.C. § 3592(c)(16).

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

The following non-statutory aggravating factors apply to Counts Five and Six.

1. Future Dangerousness of the Defendant.

The defendant is likely to commit criminal acts of violence in the future that would constitute a continuing and serious threat to the lives and safety of others. The defendant has committed the acts alleged in the capital offenses charged in the Indictment and in the statutory aggravating factors contained in this Notice and, in addition, has committed and exhibited acts and characteristics indicative of future dangerousness, including but not limited to, one or more of the following:

a. Continuing Pattern of Violence.

The defendant has engaged in a continuing pattern of violence, attempted violence, and threatened violence.

b. Threats of Violence Against Others, In Part, to Obstruct Justice.

The defendant has threatened to kill or otherwise harm others on or about January 6, 2012, and thereafter, in order to obstruct justice relating to, at least, the crimes alleged against defendant in the Indictment.

c. Lack of Remorse

The defendant has demonstrated a lack of remorse for the capital offenses committed in this case, as indicated by the defendant's statements and actions during the course of and following the offenses alleged against defendant in the Indictment.

2. Victim Impact Evidence

The defendant caused injury, harm, and loss to the family and friends of D.S. as evidenced by his personal characteristics as a human being and the impact of his death on his family and friends.

Counts Seven, Eight, and Nine

The government believes that the evidence will support submission of the following factors to the jury justifying a sentence of death as these factors relate to Murder in Aid of Racketeering—Murder of A.W., in violation of Title 18, United States Code, Section 1959(a)(1) (Count Seven); Causing Death Through the Use of a Firearm—Murder of A.W., in violation of Title 18, United States Code, Section 924(j) (Count Eight); and Tampering with a Witness, Victim, or Informant by Killing or Attempting to Kill—Murder of A.W., in violation of Title 18, United States Code, Section 1512(a)(1)(C) (Count Nine). The defendant was eighteen (18) years of age or older when the crimes alleged against defendant in the Indictment were committed.

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

The following statutory proportionality factors apply to Counts Seven, Eight, and Nine.

1. Intentional Killing.

The defendant intentionally killed A.W. 18 U.S.C. § 3591(a)(2)(A).

2. Intentionally Inflicted Serious Bodily Injury that Resulted in the Death of a Victim.

The defendant intentionally inflicted serious bodily injury that resulted in the death of A.W. 18 U.S.C. § 3591(a)(2)(B).

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

The following statutory aggravating factors apply to Counts Seven, Eight, and Nine.

1. Previous Conviction for a Violent Felony Involving a Firearm

The defendant has previously been convicted of a Federal or State offense punishable by a term of imprisonment exceeding one year, involving the use or attempted or threatened use of a firearm against another person, that is: on or about February 10, 2005, the defendant was convicted in the Criminal Circuit Court of Davidson County, Tennessee, of aggravated robbery, in violation of Tennessee Code Annotated Section 39-13-402. 18 U.S.C. §§ 3592(c)(2) and 921.

2. Multiple Killings or Attempted Killings

The defendant intentionally killed or attempted to kill more than one person in a single criminal episode. 18 U.S.C. § 3592(c)(16).

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

The following non-statutory aggravating factors apply to Counts Seven, Eight, and Nine.

1. Future Dangerousness of the Defendant.

The defendant is likely to commit criminal acts of violence in the future that would constitute a continuing and serious threat to the lives and safety of others. The defendant has committed the acts alleged in the capital offenses charged in the Indictment and in the statutory aggravating factors contained in this Notice and, in addition, has committed and exhibited acts and

characteristics indicative of future dangerousness, including but not limited to, one or more of the following:

a. Continuing Pattern of Violence

The defendant has engaged in a continuing pattern of violence, attempted violence, and threatened violence.

b. Threats of Violence Against Others, In Part, to Obstruct Justice

The defendant has threatened to kill or otherwise harm others on or about January 6, 2012, and thereafter, in order to obstruct justice relating to, at least, the crimes alleged against defendant in the Indictment.

c. Lack of Remorse

The defendant has demonstrated a lack of remorse for the capital offenses committed in this case, as indicated by the defendant's statements and actions during the course of and following the offenses alleged against defendant in the Indictment.

2. Victim Impact Evidence.

The defendant caused injury, harm, and loss to the family and friends of A.W. as evidenced by her personal characteristics as a human being and the impact of her death on her family and her friends.

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, BRANDON DURELL HARDISON, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Respectfully submitted,

DONALD Q. COCHRAN
United States Attorney

By: /s/ Ben Schrader
BEN SCHRADER
Assistant United States Attorney
Middle District of Tennessee

DAVID L. JAFFE
Chief, Organized Crime and Gang Section
U.S. Department of Justice

By: /s/ Ivana Nizich
IVANA NIZICH
Trial Attorney
Organized Crime and Gang Section
U.S. Department of Justice

By: /s/ Shauna Hale
SHAUNA HALE
Trial Attorney
Organized Crime and Gang Section
U.S. Department of Justice

Dated: November 9, 2018

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2018, I sent a copy of the foregoing Notice of Intention to Seek the Death Penalty via the Court's electronic filing system to counsel for the defendant.

s/ Ben Schrader
BEN SCHRADER
Assistant United States Attorney