

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

2004 OCT 19 PM 2:59

LORETTA G. WHYTE
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL NO: 03-274
v.	*	SECTION: "B"
TERRANCE BENJAMIN	*	
a/k/a "T-Man"	*	
	*	*

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

NOW INTO COURT the United States of America, pursuant to 18 U.S.C. § 3593(a), by and through the undersigned Assistant United States Attorney, and notifies the Court and the defendant, Terrance Benjamin, in the above-captioned case that the Government believes the circumstances of the offenses charged in **Counts 2C, 4 and 20** of the Superseding Indictment are such that, in the event of a conviction of any of these three counts, 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: 1) the murder of Jermon Rodriguez in violation of Title 18, United States Code, Section 1959 (Count 2C), 2) the murder of Charles Howard in violation of Title 18, United States Code, Section 924(j) (Count 4), and 3) the murder of Ray Miner in violation of Title 18, United States Code, Section 924(j) (Count 20) which violations carry possible respective sentences of death.

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

I. JERMON RODRIGUEZ MURDER:

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

1. **Intentional Killing.** The defendant intentionally killed Jermon Rodriguez. Section 3591(a)(2)(A).
2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Jermon Rodriguez. Section 3591(a)(2)(B).
3. **Intentional Act 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 Jermon Rodriguez died as a direct result of the act. Section 3591(a)(2)(C).
4. **Intentional Act 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 Jermon Rodriguez 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. **Grave Risk of Death to Additional Persons.** The defendant, in the commission of the offense, knowingly created a grave risk of death to other persons in addition to the victim of the offense, Jermon Rodriguez. Section 3592(c)(5).

2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of Jermon Rodriguez. Section 3592(c)(9)).

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

1. **Future Dangerousness.** The defendant 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.) Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). The circumstances that demonstrate the defendant's future dangerousness include but are not limited to the capital offenses charged in the Superseding Indictment and the statutory and non-statutory aggravating factors alleged in this Notice.

2. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to Jermon Rodriguez, Jermon Rodriguez's family, and Jermon Rodriguez's friends as demonstrated by Jermon Rodriguez's personal characteristics as an individual human being and the impact of the death upon Jermon Rodriguez's family. Payne v. Tennessee, 111 S.Ct. 2597,

2608-09 (1991). The United States will present information concerning the effect of the offense on Jermon Rodriguez and his family, which may include oral testimony, a victim impact statement that identifies Jermon Rodriguez named in Count 2C of the Superseding Indictment as the victim of the offense, and the extent and scope of the injury and loss suffered by Jermon Rodriguez, his family, and any other relevant information.

II. CHARLES HOWARD MURDER:

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

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

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Charles Howard. Section 3591(a)(2)(B).

3. **Intentional Act 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 Charles Howard died as a direct result of the act. Section 3591(a)(2)(C).

4. **Intentional Act 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 Charles Howard 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 murder of Charles Howard as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. Title 18, U.S.C., § 3592(c)(8)).

2. **Substantial Planning and Premeditation-** The defendant committed the offense after substantial planning and premeditation to cause the death of Charles Howard. Title 18, U.S.C., § 3592(c)(9)).

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

1. **Future Dangerousness.** The defendant 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.) Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). The circumstances that demonstrate the defendant's future dangerousness include but are not limited to the capital offenses charged in the Superseding Indictment and the statutory and non-statutory aggravating factors alleged in this Notice.

2. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to Charles Howard, Charles Howard's family, and Charles Howard's friends as demonstrated by

Charles Howard's personal characteristics as an individual human being and the impact of the death upon Charles Howard's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The United States will present information concerning the effect of the offense on Charles Howard and his family, which may include oral testimony, a victim impact statement that identifies Charles Howard named in Count 4 of the Superseding Indictment as the victim of the offense, and the extent and scope of the injury and loss suffered by Charles Howard, his family, and any other relevant information.

III. RAY MINER MURDER

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

1. **Intentional Act 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 Ray Miner died as a direct result of the act. Section 3591(a)(2)(C).

2. **Intentional Act 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 Ray Miner 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. **Grave Risk of Death to Additional Persons.** The defendant, in the commission of the offense, knowingly created a grave risk of death to other persons in addition to the victim of the offense, Ray Miner. Section 3592(c)(5).

2. **Substantial Planning and Premeditation-** The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. Section 3592(c)(9)).

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

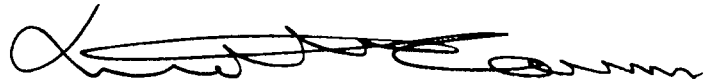
1. **Future Dangerousness.** The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of other persons, including, but not limited to, inmates and correctional officers in an institutional correctional setting, (as evidenced by the offenses charged in the Superseding Indictment and the statutory and non-statutory aggravating factors alleged in this Notice.) Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). The circumstances that demonstrate the defendant's future dangerousness include but are not limited to the capital offenses charged in the Superseding Indictment and the statutory and non-statutory aggravating factors alleged in this Notice.

2. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to Ray Miner, Ray Miner's family, and Ray Miner's friends as demonstrated by Ray Miner's personal characteristics as an individual human being and the impact of the death upon Ray Miner's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991). The United States will

present information concerning the effect of the offense on Ray Miner and his family, which may include oral testimony, a victim impact statement that identifies Ray Miner named in Count 20 of the Superseding Indictment as the victim of the offense, and the extent and scope of the injury and loss suffered by Ray Miner, his family, and any other relevant information.

Respectfully submitted,

JIM LETTEN
UNITED STATES ATTORNEY



MATTHEW M. COMAN #23613
Assistant United States Attorney
Hale Boggs federal Building
501 Magazine Street, Second Floor
New Orleans, Louisiana 70130
Telephone: (504) 680-3116
Fax: (504) 589-6727

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon counsel for all parties by mailing the same to each, properly addressed and postage prepaid, this 14th day of OCTOBER, 2004.



Assistant United States Attorney