

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

UNITED STATES OF AMERICA §
 §
v. § NO. 1:16-CR-26
 § JUDGE MARCIA CRONE
RICKY FACKRELL §

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW, the United States of America, by and through the United States Attorney for the Eastern District of Texas, and pursuant to 18 U.S.C § 3593(a), and files this notice of intent to seek the death penalty, notifying the Court and the defendant, **Ricky Fackrell** that in the event the defendant is convicted of the offense of murder as alleged in Count One of the indictment of this case, the government believes a sentence of death is justified, and the government will seek a sentence of death under Count One.

If the defendant is convicted, the government intends to prove the following aggravating factors as the basis for imposition of the death penalty under Count One.

A. Statutory factors enumerated pursuant to 18 U.S.C. § 3591(a)(2)

1. **Ricky Fackrell** was 18 years of age or older at the time of the offense (18 U.S.C. § 3591(a));
2. **Ricky Fackrell** intentionally killed the victim. (18 U.S.C. § 3591(a)(2)(A));
3. **Ricky Fackrell** intentionally inflicted serious bodily injury that resulted in the death of the victim. (18 U.S.C. § 3591(a)(2)(B));
4. **Ricky Fackrell** 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));

5. **Ricky Fackrell** 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. **Statutory aggravating factors enumerated pursuant to 18 U.S.C. § 3592(c)**

1. **Ricky Fackrell** has previously been convicted of a federal or state offense, punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm against another person, including, but not limited to the following: on or about February 5, 2008, **Ricky Fackrell** was convicted, in the District of Utah, of brandishing a firearm in the commission of a violent felony. (18 U.S.C. § 3592(c)(2));

2. **Ricky Fackrell** has previously been convicted of two or more federal or state offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person, including but not necessarily limited to the following:

a) **Ricky Fackrell** was convicted on or about May 28, 2003, in Uintah County, Vernal, Utah, of aggravated assault and b) **Ricky Fackrell** was convicted on or about March 12, 2009, in the Northern District of West Virginia, of possession of a prohibited weapon (18

U.S.C. § 3592 (c)(4));

3. **Ricky Fackrell** committed the offense described in Count One of the indictment 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)); and

4. **Ricky Fackrell** committed the offense described in Count One of the indictment after substantial planning and premeditation to cause the death of a person. (18 U.S.C. § 3592(c)(9)).

C. **Non-statutory Aggravating Factors Enumerated Pursuant to 18 U.S.C. § 3593(a)**

1. **Future Dangerousness.**

Ricky Fackrell 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, as evidenced by, at least, one or more of the following:

a. **Continuing pattern of violence**

Ricky Fackrell has engaged in a continuing pattern of violence, attempted violence, and threatened violence, including, at least, the crimes alleged against defendant in the Indictment and the crimes of which the defendant was previously convicted, as described in §§ B.1 and B.2 of this Notice; and

b. **Institutional misconduct**

Ricky Fackrell committed repeated acts of institutional misconduct while in the custody of various state and local correction or detention agencies, the United States Bureau of Prisons, or United States Marshal's Service.

c. Lack of remorse

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

d. Low likelihood of rehabilitation

Ricky Fackrell has demonstrated a low potential for rehabilitation as evidenced by his record of institutional misconduct and his longstanding involvement in criminal activities, including, at least, those crimes described in §§ B.1 and B.2 of this notice leading up to the capital offenses charged in the Indictment.

e. Membership in racist prison gangs

Ricky Fackrell has demonstrated an allegiance to and active membership in gangs in prisons, such organizations falling within the definition of criminal street gangs set forth in 18 U.S.C. § 521(a).

2. Victim impact.

As reflected by the victim's personal characteristics as a human being and the impact of the offenses on the victim and the victim's family, **Ricky Fackrell** caused loss, injury, and harm to the victim and the victim's family (*see Payne v. Tennessee*, 501 U.S. 808, 825-827 (1991)) including, but not limited to, the fact that the victim's family suffered severe and irreparable harm.

3. Vulnerable victim

The victim was particularly vulnerable due to the fact that he was locked in a cell

block and devoid of any means with which to defend himself from the armed defendant.

Respectfully submitted,

JOHN M. BALES
UNITED STATES ATTORNEY

/s/ John A Craft

JOHN A. CRAFT
ASSISTANT U. S. ATTORNEY
FLA. BAR NO. 056332
350 MAGNOLIA, SUITE 150
BEAUMONT, TEXAS 77701

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been furnished to Robert Morrow attorney for defendant Ricky Fackrell via postal mail on this the 4th day of March, 2016.

/s/ John A. Craft

John A. Craft
Assistant United States Attorney