

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

UNITED STATES OF AMERICA )  
 )  
 v. ) Criminal No. 2:98cr47  
 )  
 RICHARD THOMAS STITT )  
 a/k/a "Patrick V. Hardy" )  
 a/k/a "Tom Tom" )  
 a/k/a "Death" )  
 a/k/a "Mike Jones" )  
 a/k/a "Erol Joseph" )  
 )  
 Defendant. )

**SECOND AMENDED NOTICE**  
**OF INTENT TO SEEK A SENTENCE OF DEATH**

COMES NOW the United States of America, pursuant to Title 21, United States Code, Sections 848(e)(1)(A) and 848(h)(1)(A) & (B), by and through its undersigned counsel, Neil H. MacBride, United States Attorney, Fernando Groene and Darryl J. Mitchell, Assistant United States Attorneys, and files an Amended Notice of Intent to Seek a Sentence of Death. The United States notifies the Court and the defendant RICHARD THOMAS STITT and his counsel that by virtue of the defendant's convictions of Counts Three, Five or Seven of the Superseding Indictment for the intentionally killings of James M. Griffin, Sinclair Simon, Jr., and James E. Gilliam, Jr., respectively, and aiding and abetting said intentional killings, while engaging in and working in furtherance of a continuing criminal enterprise and while engaging in an offense punishable under Title 21, United States Code, Section 841(b)(1)(A), the Government will seek the sentence of death.

**I. AGGRAVATING FACTORS AS TO COUNT THREE**

The Government will seek to prove the following aggravating factors as the basis for imposition of the death penalty against RICHARD THOMAS STITT in relation to Count Three of the Superseding Indictment for the intentional killing of James M. Griffin:

**A. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (1) (A) through (D):**

1. The defendant intentionally killed James M. Griffin. Section 848(n)(1)(A).
2. The defendant intentionally inflicted serious bodily injury which resulted in the death of James M. Griffin. Section 848(n)(1)(B).
3. The defendant intentionally engaged in conduct intending that the victim, James M. Griffin, be killed and that lethal force be employed against the victim, which resulted in the death of James M. Griffin. Section 848(n)(1)(C).

**B. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (2) through (12):**

1. The defendant committed the offense described in Count Three of the Superseding Indictment after substantial planning and premeditation. Section 848(n)(8).
2. The defendant committed the offense described in Count Three of the Superseding Indictment in relation to a violation of Title 21 U.S.C. § 859, that is, distributing controlled substances to persons under 21 years of age. Section 848(n)(11).
3. In committing the offense described in Count Three of the Superseding Indictment and in escaping apprehension for the violation of the offense, the defendant knowingly created a grave risk of death to another person in addition to the victim of this offense. Section 848(n)(5).

**C. Other, Non-Statutory, Aggravating Factors Identified under 21 U.S.C. § 848 (h)(1)(B) and § 848(k):**

1. On or about July 1, 1986, in Portsmouth, Virginia, RICHARD THOMAS STITT was adjudicated delinquent for receiving stolen property and placed on 12 months suspended commitment subject to his completion of Portsmouth Boys Group Home Program.
2. On or about October 28, 1986, in Portsmouth, Virginia, RICHARD THOMAS

STITT was formally accepted in the Portsmouth Boys Group Home Program. STITT was terminated from the program on or about November 4, 1986, for a petit larceny arrest.

3. On or about December 10, 1986, in Portsmouth, Virginia, RICHARD THOMAS STITT was committed to the Virginia State Board of Corrections following juvenile delinquency adjudications for petit larceny and unauthorized use of a motor vehicle. On or about August 5, 1987, RICHARD THOMAS STITT was released from the custody of the Virginia State Board of Corrections.

4. In or about November 1987, in Portsmouth, Virginia, RICHARD THOMAS STITT, while on supervised probation, committed several robberies while armed with a deadly weapon.

5. On or about December 7, 1987, in Portsmouth, Virginia, RICHARD THOMAS STITT was committed to the Virginia State Board of Corrections following a juvenile delinquency adjudication for robbery by force and having been found in violation of juvenile probation or aftercare. On or about June 17, 1988, RICHARD THOMAS STITT was released from the custody of the Virginia State Board of Corrections.

6. On or about August 3, 1988, in Chesapeake, Virginia, RICHARD THOMAS STITT, while on supervised probation, was arrested for unauthorized use of a motor vehicle. On or about September 3, 1988, a Judge in the Juvenile and Domestic Relations Court transferred the case to the Circuit Court and ordered that STITT be tried as an adult. On or about October 31, 1988, RICHARD THOMAS STITT was found guilty of the felony offense of unauthorized use of a motor vehicle and sentenced as an adult.

7. On or about March 3, 1989, in Portsmouth, Virginia, RICHARD THOMAS STITT, while on supervised probation for a previous felony conviction, was arrested for

possession with intent to distribute cocaine. A Judge in the Juvenile and Domestic Relations Court transferred the case to the Circuit Court and ordered that STITT be tried as an adult. On or about October 20, 1989, RICHARD THOMAS STITT was found guilty of the felony offense of possession of cocaine and sentenced as an adult.

8. In or about April 1993, in Raleigh, North Carolina, RICHARD THOMAS STITT was found guilty of carrying a concealed weapon, that is, a firearm.

9. In or about late 1993, in Virginia Beach, Virginia, RICHARD THOMAS STITT was found guilty of the felony offense of possessing a fraudulent driver's license, resisting arrest, obstruction of justice and another misdemeanor.

10. In or about late 1993, in Virginia Beach, Virginia, RICHARD THOMAS STITT was found guilty of carrying a concealed weapon, that is, a firearm.

11. In or about October 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT was found guilty of assaulting a uniformed Portsmouth Police Officer.

12. In or about August 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT was found guilty of trespassing in an incident where he threatened to "smoke" (kill) several Portsmouth Deputy Sheriffs.

13. The defendant RICHARD THOMAS STITT used firearms, encouraged his coconspirators to use and carry firearms and often provided them with firearms.

14. The defendant RICHARD THOMAS STITT knowingly employed persons under the age of 21 to distribute crack cocaine for him for a profit.

15. The defendant RICHARD THOMAS STITT encouraged and required other members of his drug trafficking organization to engage in acts of violence and intimidation to further his pecuniary gain; that is, to enforce and collect drug debts from coconspirators and others.

16. The defendant RICHARD THOMAS STITT encouraged and required other members of his drug trafficking organization to engage in acts of violence and intimidation to obstruct justice; that is, to prevent people from cooperating with law enforcement agents investigating STITT's activities.

17. The defendant RICHARD THOMAS STITT recruited and hired several enforcers and paid them a weekly salary to guard him, collect drug debts and carry out acts of violence and intimidation on his behalf.

18. The defendant RICHARD THOMAS STITT and his coconspirators Kermit Brown, a/k/a "Bear," Jason Ortega, Marcus Reid, and others, planned and participated in several home invasions, wherein they, armed with firearms, forcibly entered the homes of other individuals and stole money, drugs and other valuables.

19. In or about 1991, in Portsmouth, Virginia, RICHARD THOMAS STITT shot at an individual with a firearm.

20. In or about Summer 1992, in Portsmouth, Virginia, RICHARD THOMAS STITT shot at an individual known as "Roger Rabbit" who owed a drug debt.

21. In or about 1991, in Portsmouth, Virginia, RICHARD THOMAS STITT planned to collect a drug debt from an individual known as "Shoe Fly," and directed codefendant Kermit Brown and another individual, both armed with handguns, to hide outside of "Shoe Fly's" residence and wait for him to arrive.

22. On or about January 23, 1991, in Portsmouth, Virginia, RICHARD THOMAS STITT participated in the shooting of a rival drug dealer nicknamed "G."

23. On or about May 25, 1991, in Newport News, Virginia, RICHARD THOMAS STITT participated in and forced a coconspirator to participate in the murder of an individual in a dispute over drug money.

24. On or about August 22, 1992, RICHARD THOMAS STITT and other coconspirators participated in a shootout with rival drug dealers in the Lincoln Park area of Portsmouth endangering the lives of children who were caught in the crossfire.

25. In or about late August 1992, in the area of Victory Blvd. in Portsmouth, RICHARD THOMAS STITT and other coconspirators shot at James M. Griffin, a rival drug dealer.

26. On or about August 29, 1992, in Norfolk, in the area of Military Circle Mall, RICHARD THOMAS STITT participated in the shooting of Leonard Johnson, a/k/a "Twat," a rival drug dealer.

27. In or about late 1993, RICHARD THOMAS STITT displayed a lack of remorse for the killing of James M. Griffin by joking that he "did" that murder.

28. In or about early 1994, in Winston-Salem, North Carolina, RICHARD THOMAS STITT, suspecting that a coconspirator had stolen drug proceeds belonging to him, sent a codefendant to kill the coconspirator in retribution.

29. In or about Spring 1994, in Portsmouth, Virginia, RICHARD THOMAS STITT invaded the apartment of a female friend located at 72 Dale Drive, and in the presence of the woman's young daughter, accused the woman of seeing another man and threatened to physically harm her.

30. On or about June 3, 1994, in Portsmouth, Virginia, RICHARD THOMAS STITT participated in the intentional killing of Andre Holley, a/k/a "Tank," to avenge a drug-related

dispute.

31. In or about September 1994, in Portsmouth, Virginia, RICHARD THOMAS STITT dispatched Marcus Reid and "Red Boy" to the London Oaks housing area to physically assault Calton Faulcon because of a dispute.

32. In or about October 1994, RICHARD THOMAS STITT traveled to Raleigh, North Carolina, where he brandished a firearm at codefendant Marcus Reid and threatened to kill him because of a drug related dispute.

33. On or about October 24, 1994, in Suffolk, Virginia, RICHARD THOMAS STITT intentionally killed and aided and abetted the intentional killing of Sinclair Simon, Jr.

34. In or about late October 1994, in Portsmouth, Virginia, RICHARD THOMAS STITT obstructed justice by threatening to have a coconspirator killed if he provided information to the Suffolk Police Department regarding the investigation of Sinclair Simon, Jr.'s homicide.

35. In or about November 1994, in Portsmouth, Virginia, RICHARD THOMAS STITT, in the company of his enforcer Jason A. Davis, obstructed justice by attempting to intimidate a female acquaintance who had provided information to the Suffolk Police Department about the homicide of Sinclair Simon, Jr.

36. In or about February 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT brandished a firearm at an individual while gambling at a local barber shop.

37. On or about March 9, 1995, in Newport News, Virginia, RICHARD THOMAS STITT told Suffolk Police Department, Detectives E. C. Harris and Jeff Bangle, who were investigating the murder of Sinclair Simon, Jr., that if he had his "Tech" firearm with him, he would "take them out."

38. In or about 1995, in Chesapeake, Virginia, RICHARD THOMAS STITT hid in

the apartment of a female friend, ambushed her, pointed a gun at her head, and threatened to kill her because he believed she was seeing someone else.

39. In or about Summer 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT brandished his handgun and attempted to pistol-whip an individual while gambling at the Majik City nightclub.

40. In or about Summer 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT threatened a coconspirator because of a drug related dispute and stated that he would send one of his enforcers, Jason A. Davis, to cause physical harm to this individual.

41. In or about Summer 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT, in the company of Jason A. Davis, one of his enforcers, visited a female friend at 72 Dale Drive, removed a knife from the kitchen, heated the knife on the stove, and held the knife to the woman's face while threatening to cut her face so that no other man would ever date her.

42. In or about Summer 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT attempted to hire Ivan L. Harris and Percell Davis to physically assault "Little Mike" over an unpaid drug debt. When Harris and Davis refused, STITT himself assaulted "Little Mike" and demanded that "Little Mike's" mother satisfy the debt.

43. In or about Summer 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT and one of his enforcers, Jason A. Davis, physically assaulted and brandished a firearm at Keith Burks in retaliation for an argument that Burks had with STITT's sister.

44. In or about Summer 1995, in the Miami, Florida, area, RICHARD THOMAS STITT and a coconspirator planned and participated in an armed home invasion robbery during which STITT and the coconspirator shot an individual and stole a large sum of money.

45. On or about September 18, 1995, in Portsmouth, Virginia, RICHARD THOMAS



STITT threatened to kill John Husted, a uniformed Portsmouth Police Officer, because in the performance of his official duties Husted sprayed STITT with mace for refusing to follow lawful instructions, then chased and arrested him.

46. In or about late 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT in the company of one of his enforcers, Jason A. Davis, threatened Curtis Richardson's girlfriend over a drug debt owed to STITT by Richardson and in retaliation for a drug-related shooting.

47. In or about late 1995, RICHARD THOMAS STITT offered \$3,500 to Ivan L. Harris, one of his enforcers, to kill Curtis Richardson because of a crack cocaine debt owed by Richardson. STITT specifically instructed Harris how to carry out and execute the killing.

48. In or about early 1996, in Chesapeake, Virginia, RICHARD THOMAS STITT devised a plan to have one of his enforcers, Jason A. Davis, kill a coconspirator who STITT suspected of cooperating with law enforcement agents.

49. In or about early 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT assaulted a coconspirator with a beer bottle and by striking his head on the pavement while threatening to kill him and his mother for failure to pay a drug debt.

50. On or about September 8, 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT intentionally killed and aided and abetted the intentional killing of James E. Gilliam, Jr.

51. On or about September 8, 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT ordered the shooting of Samuel Hucks with the intent to kill him.

52. In or about September 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT ordered the murder of Tyrone Wallace, a/k/a "Woo Woo," to prevent Wallace from cooperating with law enforcement agents.

53. In or about late 1996, RICHARD THOMAS STITT and a coconspirator traveled to Mobile, Alabama and Pensacola, Florida, with the intent to kill a government informant.

54. In or about late 1996, RICHARD THOMAS STITT offered a coconspirator \$10,000 to kill another coconspirator to prevent him from cooperating with law enforcement.

55. On or about December 18, 1996, at the Majik City Club located in Portsmouth, Virginia, RICHARD THOMAS STITT directed his codefendants Jason A. Davis, Percell A. Davis, and Jason Ortega to physically assault and shoot Calvin Graves, a club employee who would not allow STITT to remain on the Club's premises while armed with a handgun. As a result of the shooting, Graves is permanently disabled.

56. In or about December 1996, RICHARD THOMAS STITT dispatched his enforcer Jason Ortega to the house of a female friend in Chesapeake, Virginia, to intimidate her and to caution her against seeing other men.

57. In or about April 1997, RICHARD THOMAS STITT and another coconspirator agreed to obtain assault weapons in Virginia to be utilized in Miami, Florida, by associates engaged in a drug turf war.

58. In or about January or February 1998, in Portsmouth, Virginia, RICHARD THOMAS STITT offered \$3,500 to Ivan L. Harris to kill codefendant Teo L. Smith because he believed that Smith was cooperating with Special Agents of the Federal Bureau of Investigation and providing information about STITT's drug trafficking activities.

59. On or about February 11, 1998, in Miami, Florida, RICHARD THOMAS STITT participated in the murders of Roger Davis and Tyrone Tarver as part of an ongoing dispute between rival drug distribution gangs.

60. In or about summer 1998, while incarcerated, RICHARD THOMAS STITT attempted to obstruct justice by directing a coconspirator to lie to law enforcement about who was responsible for the murder of James E. Gilliam, Jr.

61. In or about October 2004, while incarcerated in Terre Haute, Indiana, RICHARD THOMAS STITT threatened a former girlfriend that he would have someone “pay” her “a visit” in response to the former girlfriend’s effort to prevent STITT from calling her.

62. The defendant RICHARD THOMAS STITT caused injury, harm and loss to the victim, James M. Griffin, and the victim’s family and friends, as evidenced by the impact of the victim’s death upon the victim’s family and friends.

63. Following his conviction for the murder of James M. Griffin, the defendant RICHARD THOMAS STITT proclaimed his innocence to the charges for which he was found guilty, and in so doing continued to exhibit a lack of remorse.

64. The government further gives notice that in support of the imposition of the death penalty it intends to rely on all the evidence admitted by the Court at the guilt phase of the trial and the offenses of conviction as described in the Superseding Indictment as they relate to the background and character of the defendant RICHARD THOMAS STITT, his moral culpability and the nature and circumstances of the offense charged in Count Three of the Superseding Indictment.

## II. AGGRAVATING FACTORS AS TO COUNT FIVE

The Government will seek to prove the following aggravating factors as the basis for imposition of the death penalty against RICHARD THOMAS STITT in relation to Count Five of the Superseding Indictment for the intentional killing of Sinclair Simon, Jr.:

**A. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (1) (A) through (D):**

1. The defendant intentionally engaged in conduct intending that the victim, Sinclair Simon, Jr., be killed and that lethal force be employed against the victim, which resulted in the death of Sinclair Simon, Jr. Section 848(n)(1)(C).

**B. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (2) through (12):**

1. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value. Section 848 (n)(6).

2. The defendant committed the offense described in Count Five of the Superseding Indictment after substantial planning and premeditation. Section 848(n)(8).

3. The defendant committed the offense described in Count Five of the Superseding Indictment in relation to a violation of Title 21 U.S.C. § 859, that is, distributing controlled substances to persons under 21 years of age. Section 848(n)(11).

**C. Other, Non-Statutory, Aggravating Factors Identified under 21 U.S.C. § 848 (h)(1)(B) and § 848(k):**

1. On or about July 1, 1986, in Portsmouth, Virginia, RICHARD THOMAS STITT was adjudicated delinquent for receiving stolen property and placed on 12 months suspended commitment subject to his completion of Portsmouth Boys Group Home Program.

2. On or about October 28, 1986, in Portsmouth, Virginia, RICHARD THOMAS STITT was formally accepted in the Portsmouth Boys Group Home Program. STITT was terminated from the program on or about November 4, 1986, for a petit larceny arrest.

3. On or about December 10, 1986, in Portsmouth, Virginia, RICHARD THOMAS STITT was committed to the Virginia State Board of Corrections following juvenile delinquency adjudications for petit larceny and unauthorized use of a motor vehicle. On or about August 5, 1987, RICHARD THOMAS STITT was released from the custody of the Virginia State Board of Corrections.

4. In or about November 1987, in Portsmouth, Virginia, RICHARD THOMAS STITT, while on supervised probation, committed several robberies while armed with a deadly

weapon.

5. On or about December 7, 1987, in Portsmouth, Virginia, RICHARD THOMAS STITT was committed to the Virginia State Board of Corrections following a juvenile delinquency adjudication for robbery by force and having been found in violation of juvenile probation or aftercare. On or about June 17, 1988, RICHARD THOMAS STITT was released from the custody of the Virginia State Board of Corrections.

6. On or about August 3, 1988, in Chesapeake, Virginia, RICHARD THOMAS STITT, while on supervised probation, was arrested for unauthorized use of a motor vehicle. On or about September 3, 1988, a Judge in the Juvenile and Domestic Relations Court transferred the case to the Circuit Court and ordered that STITT be tried as an adult. On or about October 31, 1988, RICHARD THOMAS STITT was found guilty of the felony offense of unauthorized use of a motor vehicle and sentenced as an adult.

7. On or about March 3, 1989, in Portsmouth, Virginia, RICHARD THOMAS STITT, while on supervised probation for a previous felony conviction, was arrested for possession with intent to distribute cocaine. A Judge in the Juvenile and Domestic Relations Court transferred the case to the Circuit Court and ordered that STITT be tried as an adult. On or about October 20, 1989, RICHARD THOMAS STITT was found guilty of the felony offense of possession of cocaine and sentenced as an adult.

8. In or about April 1993, in Raleigh, North Carolina, RICHARD THOMAS STITT was found guilty of carrying a concealed weapon, that is, a firearm.

9. In or about late 1993, in Virginia Beach, Virginia, RICHARD THOMAS STITT was found guilty of the felony offense of possessing a fraudulent driver's license, resisting arrest, obstruction of justice and another misdemeanor.

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12. In or about August 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT was found guilty of trespassing in an incident where he threatened to "smoke" (kill) several Portsmouth Deputy Sheriffs.

13. The defendant RICHARD THOMAS STITT used firearms, encouraged his coconspirators to use and carry firearms and often provided them with firearms.

14. The defendant RICHARD THOMAS STITT knowingly employed persons under the age of 21 to distribute crack cocaine for him for a profit.

15. The defendant RICHARD THOMAS STITT encouraged and required other members of his drug trafficking organization to engage in acts of violence and intimidation to further his pecuniary gain; that is, to enforce and collect drug debts from coconspirators and others.

16. The defendant RICHARD THOMAS STITT encouraged and required other members of his drug trafficking organization to engage in acts of violence and intimidation to obstruct justice; that is, to prevent people from cooperating with law enforcement agents investigating STITT's activities.

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20. In or about Summer 1992, in Portsmouth, Virginia, RICHARD THOMAS STITT shot at an individual known as "Roger Rabbit" who owed a drug debt.

21. In or about 1991, in Portsmouth, Virginia, RICHARD THOMAS STITT planned to collect a drug debt from an individual known as "Shoe Fly," and directed codefendant Kermit Brown and another individual, both armed with handguns, to hide outside of "Shoe Fly's" residence and wait for him to arrive.

22. On or about January 23, 1991, in Portsmouth, Virginia, RICHARD THOMAS STITT participated in the shooting of a rival drug dealer nicknamed "G."

23. On or about May 25, 1991, in Newport News, Virginia, RICHARD THOMAS STITT participated in and forced a coconspirator to participate in the murder of an individual in a dispute over drug money.

24. On or about August 22, 1992, RICHARD THOMAS STITT and other coconspirators participated in a shootout with rival drug dealers in the Lincoln Park area of Portsmouth endangering the lives of children who were caught in the crossfire.

25. In or about late August 1992, in the area of Victory Blvd. in Portsmouth, RICHARD THOMAS STITT and other coconspirators shot at James M. Griffin, a/k/a "Griff," a rival drug dealer.

26. On or about August 29, 1992, in Norfolk, in the area of Military Circle Mall,

RICHARD THOMAS STITT participated in the shooting of Leonard Johnson, a/k/a "Twat," a rival drug dealer.

27. On or about September 27, 1993, in Portsmouth, Virginia, RICHARD THOMAS STITT intentionally killed and aided and abetted the intentional killing of James M. Griffin.

28. In or about late 1993, RICHARD THOMAS STITT displayed a lack of remorse for the killing of James M. Griffin by joking that he "did" that murder.

29. In or about early 1994, in Winston-Salem, North Carolina, RICHARD THOMAS STITT, suspecting that a coconspirator had stolen drug proceeds belonging to him, sent a codefendant to kill the coconspirator in retribution.

30. In or about Spring 1994, in Portsmouth, Virginia, RICHARD THOMAS STITT invaded the apartment of a female friend located at 72 Dale Drive, and in the presence of the woman's young daughter, accused the woman of seeing another man and threatened to physically harm her.

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STITT obstructed justice by threatening to have a coconspirator killed if he provided information to the Suffolk Police Department regarding the investigation of Sinclair Simon, Jr.'s homicide.

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removed a knife from the kitchen, heated the knife on the stove, and held the knife to the woman's face while threatening to cut her face so that no other man would ever date her.

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43. In or about Summer 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT and one of his enforcers, Jason A. Davis, physically assaulted and brandished a firearm at Keith Burks in retaliation for an argument that Burks had with STITT's sister.

44. On or about September 18, 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT threatened to kill John Husted, a uniformed Portsmouth Police Officer, because in the performance of his official duties Husted sprayed STITT with mace for refusing to follow lawful instructions, then chased and arrested him.

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devised a plan to have one of his enforcers, Jason A. Davis, kill a coconspirator who STITT suspected of cooperating with law enforcement agents.

49. In or about early 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT assaulted a coconspirator with a beer bottle and by striking his head on the pavement while threatening to kill him and his mother for failure to pay a drug debt.

50. On or about September 8, 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT intentionally killed and aided and abetted the intentional killing of James E. Gilliam, Jr.

51. On or about September 8, 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT ordered the shooting of Samuel Hucks with the intent to kill him.

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62. The defendant RICHARD THOMAS STITT caused injury, harm and loss to the victim, Sinclair Simon, Jr., and the victim's family and friends, as evidenced by the impact of the victim's death upon the victim's family and friends.

63. Following his conviction for the murder of Sinclair Simon, Jr., the defendant RICHARD THOMAS STITT proclaimed his innocence to the charges for which he was found guilty, and in so doing continued to exhibit a lack of remorse.

64. The government further gives notice that in support of the imposition of the death penalty it intends to rely on all the evidence admitted by the Court at the guilt phase of the trial and the offenses of conviction as described in the Superseding Indictment as they relate to the background and character of the defendant RICHARD THOMAS STITT, his moral culpability and the nature and circumstances of the offense charged in Count Five of the Superseding Indictment.

### **III. AGGRAVATING FACTORS AS TO COUNT SEVEN**

The Government will seek to prove the following aggravating factors as the basis for imposition of the death penalty against RICHARD THOMAS STITT in relation to Count Seven of the Superseding Indictment for the intentional killing of James E. Gilliam, Jr.:

**A. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (1) (A) through (D):**

1. The defendant intentionally engaged in conduct intending that the victim, James E. Gilliam, Jr., be killed and that lethal force be employed against the victim, which resulted in the death of James E. Gilliam, Jr. Section 848(n)(1)(C).

**B. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (2) through (12):**

1. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value. Section 848 (n)(6).

2. The defendant committed the offense described in Count Seven of the Superseding Indictment after substantial planning and premeditation. Section 848(n)(8).

3. The defendant committed the offense described in Count Seven of the Superseding Indictment in relation to a violation of Title 21 U.S.C. § 859, that is, distributing controlled substances to persons under 21 years of age. Section 848(n)(11).

**C. Other, Non-Statutory, Aggravating Factors Identified under 21 U.S.C. § 848 (h)(1)(B) and § 848(k):**

1. On or about July 1, 1986, in Portsmouth, Virginia, RICHARD THOMAS STITT was adjudicated delinquent for receiving stolen property and placed on 12 months suspended commitment subject to his completion of Portsmouth Boys Group Home Program.

2. On or about October 28, 1986, in Portsmouth, Virginia, RICHARD THOMAS STITT was formally accepted in the Portsmouth Boys Group Home Program. STITT was terminated from the program on or about November 4, 1986, for a petit larceny arrest.

3. On or about December 10, 1986, in Portsmouth, Virginia, RICHARD THOMAS STITT was committed to the Virginia State Board of Corrections following juvenile delinquency adjudications for petit larceny and unauthorized use of a motor vehicle. On or about August 5, 1987, RICHARD THOMAS STITT was released from the custody of the Virginia State Board of Corrections.

4. In or about November 1987, in Portsmouth, Virginia, RICHARD THOMAS STITT, while on supervised probation, committed several robberies while armed with a deadly weapon.

5. On or about December 7, 1987, in Portsmouth, Virginia, RICHARD THOMAS STITT was committed to the Virginia State Board of Corrections following a juvenile delinquency adjudication for robbery by force and having been found in violation of juvenile probation or aftercare. On or about June 17, 1988, RICHARD THOMAS STITT was released from the custody of the Virginia State Board of Corrections.

6. On or about August 3, 1988, in Chesapeake, Virginia, RICHARD THOMAS STITT, while on supervised probation, was arrested for unauthorized use of a motor vehicle. On

or about September 3, 1988, a Judge in the Juvenile and Domestic Relations Court transferred the case to the Circuit Court and ordered that STITT be tried as an adult. On or about October 31, 1988, RICHARD THOMAS STITT was found guilty of the felony offense of unauthorized use of a motor vehicle and sentenced as an adult.

7. On or about March 3, 1989, in Portsmouth, Virginia, RICHARD THOMAS STITT, while on supervised probation for a previous felony conviction, was arrested for possession with intent to distribute cocaine. A Judge in the Juvenile and Domestic Relations Court transferred the case to the Circuit Court and ordered that STITT be tried as an adult. On or about October 20, 1989, RICHARD THOMAS STITT was found guilty of the felony offense of possession of cocaine and sentenced as an adult.

8. In or about April 1993, in Raleigh, North Carolina, RICHARD THOMAS STITT was found guilty of carrying a concealed weapon, that is, a firearm.

9. In or about late 1993, in Virginia Beach, Virginia, RICHARD THOMAS STITT was found guilty of the felony offense of possessing a fraudulent driver's license, resisting arrest, obstruction of justice and a misdemeanor.

10. In or about late 1993, in Virginia Beach, Virginia, RICHARD THOMAS STITT was found guilty of carrying a concealed weapon, that is, a firearm.

11. In or about October 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT was found guilty of assaulting a uniformed Portsmouth Police Officer.

12. In or about August 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT was found guilty of trespassing in an incident where he threatened to "smoke" (kill) several Portsmouth Deputy Sheriffs.

13. The defendant RICHARD THOMAS STITT used firearms, encouraged his

coconspirators to use and carry firearms and often provided them with firearms.

14. The defendant RICHARD THOMAS STITT knowingly employed persons under the age of 21 to distribute crack cocaine for him for a profit.

15. The defendant RICHARD THOMAS STITT encouraged and required other members of his drug trafficking organization to engage in acts of violence and intimidation to further his pecuniary gain; that is, to enforce and collect drug debts from coconspirators and others.

16. The defendant RICHARD THOMAS STITT encouraged and required other members of his drug trafficking organization to engage in acts of violence and intimidation to obstruct justice; that is, to prevent people from cooperating with law enforcement agents investigating STITT's activities.

17. The defendant RICHARD THOMAS STITT recruited and hired several enforcers and paid them a weekly salary to guard him, collect drug debts and carry out acts of violence and intimidation on his behalf.

18. The defendant RICHARD THOMAS STITT and his coconspirators Kermit Brown, a/k/a "Bear," Jason Ortega, Marcus Reid, and others, planned and participated in several home invasions, wherein they, armed with firearms, forcibly entered the homes of other individuals and stole money, drugs and other valuables.

19. In or about 1991, in Portsmouth, Virginia, RICHARD THOMAS STITT shot at an individual with a firearm.

20. In or about Summer 1992, in Portsmouth, Virginia, RICHARD THOMAS STITT shot at an individual known as "Roger Rabbit" who owed a drug debt.

21. In or about 1991, in Portsmouth, Virginia, RICHARD THOMAS STITT planned



to collect a drug debt from an individual known as "Shoe Fly," and directed codefendant Kermit Brown and another individual, both armed with handguns, to hide outside of "Shoe Fly's" residence and wait for him to arrive.

22. On or about January 23, 1991, in Portsmouth, Virginia, RICHARD THOMAS STITT participated in the shooting of a rival drug dealer nicknamed "G."

23. On or about May 25, 1991, in Newport News, Virginia, RICHARD THOMAS STITT participated in and forced a coconspirator to participate in the murder of an individual in a dispute over drug money.

24. On or about August 22, 1992, RICHARD THOMAS STITT and other coconspirators participated in a shootout with rival drug dealers in the Lincoln Park area of Portsmouth endangering the lives of children who were caught in the crossfire.

25. In or about late August 1992, in the area of Victory Blvd. in Portsmouth, RICHARD THOMAS STITT and other coconspirators shot at James M. Griffin, a/k/a "Griff," a rival drug dealer.

26. On or about August 29, 1992, in Norfolk, in the area of Military Circle Mall, RICHARD THOMAS STITT participated in the shooting of Leonard Johnson, a/k/a "Twat," a rival drug dealer.

27. On or about September 23, 1993, in Portsmouth, Virginia, RICHARD THOMAS STITT intentionally killed and aided and abetted the intentional killing of James M. Griffin.

28. In or about late 1993, RICHARD THOMAS STITT displayed a lack of remorse for the killing of James M. Griffin by joking that he "did" that murder.

29. In or about early 1994, in Winston-Salem, North Carolina, RICHARD THOMAS STITT, suspecting that a coconspirator had stolen drug proceeds belonging to him, sent a

codefendant to kill the coconspirator in retribution.

30. In or about Spring 1994, in Portsmouth, Virginia, RICHARD THOMAS STITT invaded the apartment of a female friend located at 72 Dale Drive, and in the presence of the woman's young daughter, accused the woman of seeing another man and threatened to physically harm her.

31. On or about June 3, 1994, in Portsmouth, Virginia, RICHARD THOMAS STITT participated in the intentional killing of Andre Holley, a/k/a "Tank," to avenge a drug-related dispute.

32. In or about September 1994, in Portsmouth, Virginia, RICHARD THOMAS STITT dispatched Marcus Reid and "Red Boy" to the London Oaks housing area to physically assault Calton Faulcon because of a dispute.

33. In or about October 1994, RICHARD THOMAS STITT traveled to Raleigh, North Carolina, where he brandished a firearm at codefendant Marcus Reid and threatened to kill him because of a drug related dispute.

34. On or about October 24, 1994, in Suffolk, Virginia, RICHARD THOMAS STITT intentionally killed and aided and abetted the intentional killing of Sinclair Simon, Jr.

35. In or about late October 1994, in Portsmouth, Virginia, RICHARD THOMAS STITT obstructed justice by threatening to have a coconspirator killed if he provided information to the Suffolk Police Department regarding the investigation of Sinclair Simon, Jr.'s homicide.

36. In or about November 1994, in Portsmouth, Virginia, RICHARD THOMAS STITT, in the company of his enforcer Jason A. Davis, obstructed justice by attempting to intimidate a female acquaintance who had provided information to the Suffolk Police Department about the homicide of Sinclair Simon, Jr.

37. In or about February 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT brandished a firearm at an individual while gambling at a local barber shop.

38. On or about March 9, 1995, in Newport News, Virginia, RICHARD THOMAS STITT told Suffolk Police Department, Detectives E. C. Harris and Jeff Bangley, who were investigating the murder of Sinclair Simon, Jr., that if he had his "Tech" firearm with him, he would "take them out."

39. In or about 1995, in Chesapeake, Virginia, RICHARD THOMAS STITT hid in the apartment of a female friend, ambushed her, pointed a gun at her head, and threatened to kill her because he believed she was seeing someone else.

40. In or about Summer 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT brandished his handgun and attempted to pistol-whip an individual while gambling at the Majik City nightclub.

41. In or about Summer 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT threatened a coconspirator because of a drug related dispute and stated that he would send one of his enforcers, Jason A. Davis, to cause physical harm to this individual.

42. In or about Summer 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT, in the company of Jason A. Davis, one of his enforcers, visited a female friend at 72 Dale Drive, removed a knife from the kitchen, heated the knife on the stove, and held the knife to the woman's face while threatening to cut her face so that no other man would ever date her.

43. In or about Summer 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT attempted to hire Ivan L. Harris and Percell Davis to physically assault "Little Mike" over an unpaid drug debt. When Harris and Davis refused, STITT himself assaulted "Little Mike" and demanded that "Little Mike's" mother satisfy the debt.

44. In or about Summer 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT and one of his enforcers, Jason A. Davis, physically assaulted and brandished a firearm at Keith Burks in retaliation for an argument that Burks had with STITT's sister.

45. In or about Summer 1995, in the Miami, Florida, area, RICHARD THOMAS STITT and a coconspirator planned and participated in an armed home invasion robbery during which STITT and the coconspirator shot an individual and stole a large sum of money.

46. On or about September 18, 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT threatened to kill John Husted, a uniformed Portsmouth Police Officer, because in the performance of his official duties Husted sprayed STITT with mace for refusing to follow lawful instructions, then chased and arrested him.

47. In or about late 1995, in Portsmouth, Virginia, RICHARD THOMAS STITT in the company of one of his enforcers, Jason A. Davis, threatened Curtis Richardson's girlfriend over a drug debt owed to STITT by Richardson and in retaliation for a drug-related shooting.

48. In or about late 1995, RICHARD THOMAS STITT offered \$3,500 to Ivan L. Harris, one of his enforcers, to kill Curtis Richardson because of a crack cocaine debt owed by Richardson. STITT specifically instructed Harris how to carry out and execute the killing.

49. In or about early 1996, in Chesapeake, Virginia, RICHARD THOMAS STITT devised a plan to have one of his enforcers, Jason A. Davis, kill a coconspirator who STITT suspected of cooperating with law enforcement agents.

50. In or about early 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT assaulted a coconspirator with a beer bottle and by striking his head on the pavement while threatening to kill him and his mother for failure to pay a drug debt.

51. On or about September 8, 1996, in Portsmouth, Virginia, RICHARD THOMAS

STITT ordered the shooting of Samuel Hucks with the intent to kill him.

52. In or about September 1996, in Portsmouth, Virginia, RICHARD THOMAS STITT ordered the murder of Tyrone Wallace, a/k/a "Woo Woo," to prevent Wallace from cooperating with law enforcement agents.

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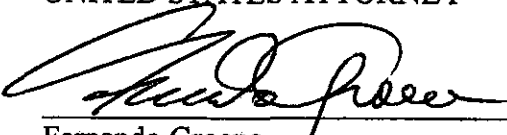
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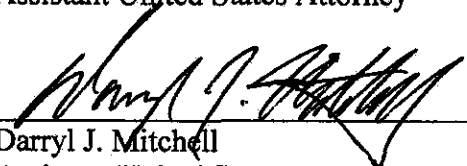
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Respectfully submitted,

NEIL H. MACBRIDE  
UNITED STATES ATTORNEY

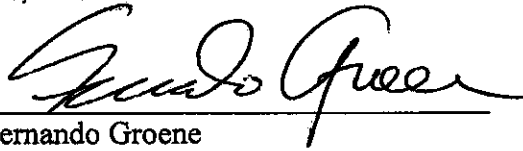
By:   
\_\_\_\_\_  
Fernando Groene  
Assistant United States Attorney

By:   
\_\_\_\_\_  
Darryl J. Mitchell  
Assistant United States Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of October 2009, a true copy of the foregoing Second Amended Notice of Intent to Seek a Sentence of Death was mailed, postage prepaid to the following counsel:

Gerald Zerkin, Esq.  
Amy Austin, Esq.  
Federal Public Defender  
830 E. Main Street, Suite 1100  
Richmond, VA 23219



Fernando Groene  
Assistant United States Attorney  
United States Attorney's Office  
8000 World Trade Center  
101 W. Main Street  
Norfolk, VA 23510  
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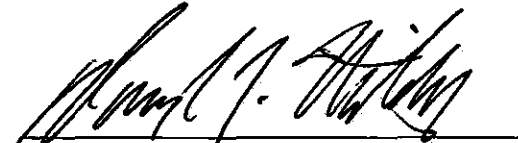
IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

UNITED STATES OF AMERICA )  
 )  
 v. ) Criminal No. 2:98cr47  
 )  
 RICHARD THOMAS STITT )  
 a/k/a "Patrick V. Hardy" )  
 a/k/a "Tom Tom" )  
 a/k/a "Death" )  
 a/k/a "Mike Jones" )  
 a/k/a "Erol Joseph" )  
 )  
 Defendant. )

**AMENDED CERTIFICATE OF SERVICE FOR  
SECOND AMENDED NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH**

I hereby certify that on this 26th day of October 2009, a true copy of the foregoing Second Amended Notice of Intent to Seek a Sentence of Death was mailed, postage prepaid to the following counsel: Gerald Zerkin, Esq. and Amy Austin, Esq., Federal Public Defender, 830 E. Main Street, Suite 1100, Richmond, VA 23219.

I hereby certify that on this 27th day of October 2009, a true copy of the foregoing Second Amended Notice of Intent to Seek a Sentence of Death was mailed, postage prepaid to the following counsel: Christopher J. Collins, 304 East Main Street, Richmond, VA 23219



Darryl J. Mitchell  
Assistant United States Attorney  
United States Attorney's Office  
8000 World Trade Center  
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