

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

FILED  
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U.S. DISTRICT COURT  
N.D. OF ALABAMA

UNITED STATES OF AMERICA )  
 )  
 -v- ) CR 00-S-422-S  
 )  
 ERIC ROBERT RUDOLPH )

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

COMES NOW the United States of America, by and through its counsel, Alice H. Martin, United States Attorney for the Northern District of Alabama and Michael W. Whisonant and Robert Joe McLean, Assistant United States Attorneys, pursuant to Title 18, United States Code, Section 3593(a), and notifies the Court and the Defendant, ERIC ROBERT RUDOLPH, in the above-captioned case that the United States believes the circumstances of the offense charged in Count One of the Superseding Indictment are such that, in the event of the 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 United States will seek the sentence of death for this offense: the malicious damage, by means of an explosive, to a building and property used in an activity affecting interstate and foreign commerce, which prohibited conduct resulted in the death of Robert D. Sanderson and personal injury to Emily Lyons, in violation of Title 18, United States Code, Section 844(i), which carries a possible sentence of death.

The Government proposes to prove the following statutory factors pursuant to 18 U.S.C. § 3591(a)(2) and 3592(c) as charged in the Superseding Indictment Notice of Special Findings, hereby incorporated by reference, and non-statutory factors pursuant to 18 U.S.C. § 3593(a)(2), as justifying a sentence of death.

COUNT ONE

MALICIOUS DAMAGE TO A BUILDING USED IN INTERSTATE COMMERCE BY  
MEANS OF AN EXPLOSIVE RESULTING IN DEATH

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

1. **Intentional Killing.** The Defendant, ERIC ROBERT RUDOLPH, intentionally killed Robert D. Sanderson (Title 18, U.S.C. §3591(a)(2)(A)).

2. **Intentional Infliction of Serious Bodily Injury.** The Defendant, ERIC ROBERT RUDOLPH, intentionally inflicted serious bodily injury that resulted in the death of Robert D. Sanderson (Title 18, U.S.C. §3591(a)(2)(B)).

3. **Intentional Act Contemplating the Taking of the Life of Another or Intending Lethal Force.** The Defendant, ERIC ROBERT RUDOLPH, intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with another person, who died as a direct result of the act (18 U.S.C. §3591(a)(2)(C));

4. **Intentional Act of Violence in Reckless Disregard for Human Life.** The Defendant, ERIC ROBERT RUDOLPH, intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to other persons, such that participation in the act constituted a reckless disregard for human life and Robert D. Sanderson died as a direct result of the act (18 U.S.C. §3591(a)(2)(D)).

B Statutory Aggravating Factors Enumerated Under Title 18 U.S.C., §3592(c)

1. **Death During the Commission of Another Crime.** The Defendant, ERIC ROBERT RUDOLPH, during the commission of an offense under Title 18, United States Code, Section 844(i), caused the death of and injuries resulting in the death of Robert D. Sanderson (18 U.S.C. §3592(c)(1)).

2. **Grave Risk of Death to Additional Persons.** The Defendant, ERIC ROBERT RUDOLPH, in the commission of the offenses charged in the Superseding Indictment, knowingly created a grave risk of death to Emily Lyons and other persons (18 U.S.C. §3592(c)(5)).

3. **Substantial Planning and Premeditation.** The Defendant, ERIC ROBERT RUDOLPH, committed the offense after substantial planning and premeditation to cause the death of another person and to commit an act of terrorism (18 U.S.C. §3592(c)(9)).

4. **Multiple attempted killings.** The Defendant, ERIC ROBERT RUDOLPH, intentionally attempted to kill more than one person in a single criminal episode (18 U.S.C. §3592(c)(16)).

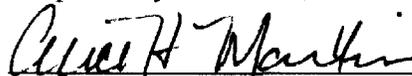
C. Other, Non-Statutory, Aggravating Factors Identified Under Title 18 U.S.C., §3593(a)(2).

1. **Future Dangerousness of the Defendant.** The Defendant, ERIC ROBERT RUDOLPH, 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 others. In addition to the capital offense charged in Count I of the superseding Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the Defendant has demonstrated low rehabilitative potential, and/or has demonstrated

lack of remorse.

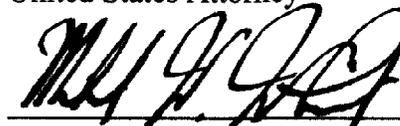
2. **Victim Impact Evidence.** The Defendant, ERIC ROBERT RUDOLPH, caused injury, harm and loss to the family of Robert D. Sanderson because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. The murder of Robert D. Sanderson has caused the victim's family extreme emotional suffering, and the victim's family has suffered severe and irreparable harm. The Defendant, ERIC ROBERT RUDOLPH, caused injury, harm and loss to Emily Lyons and her family because of the victim's personal characteristics as an individual human being. The injury of Emily Lyons has caused her and her family extreme emotional suffering, and severe and irreparable harm.

Respectfully submitted,



ALICE H. MARTIN

United States Attorney



MICHAEL W. WHISONANT

Assistant United States Attorney



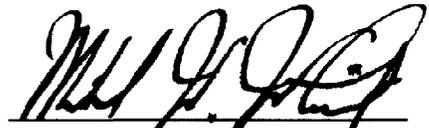
ROBERT JOE MCLEAN

Assistant United States Attorney

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned Assistant United States Attorney this day caused a copy of the foregoing has been served on the defendant by placing same in the United States mail, postage prepaid, to his attorneys of Record: Mr. Richard Jaffee and Ms. Judy Clark care of Jaffee, Strickland & Drennan, 2320 Arlington Avenue, Birmingham, Alabama 35205 and Mr. William Bowen, White, Dunn & booker, 2025 3<sup>rd</sup> Avenue North, Suite 600, Birmingham, Alabama 35203.

Done this 11<sup>th</sup> day of December, 2003.

  
MICHAEL W. WHISONANT  
Assistant United States Attorney