

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:06CR0395
)	
Plaintiff,)	JUDGE DAVID D. DOWD, JR.
)	
vs.)	
)	
DONNA J. MOONDA, aka)	
DONNA SMOUSE,)	NOTICE OF INTENT TO SEEK
)	<u>THE DEATH PENALTY</u>
Defendant.)	

Now comes the United States of America, by and through its counsel, Gregory A. White, United States Attorney, and Linda H. Barr and Nancy L. Kelley, Assistant United States Attorneys, and pursuant to 18 U.S.C. § 3593(a), notifies the Court and defendant DONNA J. MOONDA, aka Donna Smouse (“defendant”), that the United States believes the circumstances of the offenses charged in Counts Two, Three and Four of the Indictment are such that, in the event of a 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 offenses of Murder for

Hire (Count 3), in violation of Title 18, United States Code, Section 1958; and Using a Firearm in a crime of violence resulting in death (Counts 2 and 4), each of which carries a possible sentence of death.

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

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

The following statutory proportionality factors apply to Counts Two, Three and Four.

1. **Intentional Acts to Take Life or Use Lethal Force**

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 Dr. Gulam Moonda died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

2. **Intentionally and Specifically Engaged in an Act of Violence
Creating a Grave Risk of Death**

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 Dr. Gulam Moonda died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

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

The following statutory aggravating factors apply to Counts Two, Three and Four.

1. Defendant procured the commission of the offenses charged in Counts Two, Three and Four by payment and promise of payment of anything of pecuniary value. 18 U.S.C. § 3592(c)(7).

2. Defendant committed the offenses charged in Counts Two, Three and Four in expectation of the receipt of anything of pecuniary value. 18 U.S.C. § 3592(c)(8).

3. **Substantial Planning and Premeditation**

Defendant committed the offenses charged in Counts Two, Three and Four after substantial planning and premeditation to cause the death of a person. 18 U.S.C. § 3592(c)(9).

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

The following non-statutory aggravating factor applies to Counts Two, Three and Four.

1. **Victim Impact Evidence**

Defendant caused injury, harm, and loss to the family, friends, and patients of Dr. Gulam Moonda as evidenced by his personal characteristics as a human being and the impact of his death on his family, his friends, and his patients.

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, DONNA J. MOONDA, aka Donna Smouse , her moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Respectfully submitted,

GREGORY A. WHITE
United States Attorney

By: s/Linda H. Barr
Linda H. Barr (PA #41079)
Assistant U.S. Attorney
100 East Federal Plaza
City Centre One, Suite 325
Youngstown, Ohio 44503
Phone: (330) 740-6984
FAX: (330) 746-0239
E-Mail: Linda.Barr@usdoj.gov

/s/ Nancy L. Kelley
Nancy L. Kelley
Assistant U.S. Attorney
400 United States Courthouse
801 West Superior Avenue
Cleveland, Ohio 44113
Phone: 216-622-3774
FAX: 216-522-8355
E-Mail: Nancy.Kelley@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of Government's Notice of Intent to Seek the Death Penalty Against Defendant Donna J. Moonda, aka Donna Smouse was filed electronically on this 6th day of September, 2006. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

/s/ Linda H. Barr
Linda H. Barr
Assistant U. S. Attorney