

IN THE CIRCUIT COURT OF MARION COUNTY, MISSOURI
DIVISION II AT HANNIBAL, MISSOURI

STATE OF MISSOURI,)
)
 Plaintiff,)
)
 vs.) Case No. 16MR-CR00243-01
)
)
 TIMOTHY M. BROKES JR.,)
)
 Defendant.)

NOTICE OF INTENT BY THE
MARION COUNTY, MISSOURI, PROSECUTING
ATTORNEY TO SEEK THE DEATH PENALTY

COMES NOW the State of Missouri, by David N. Clayton, Prosecuting Attorney of Marion County, Missouri, and Monroe County Prosecuting Attorney Talley M. Kendrick, as Special Assistant Prosecutor, and hereby gives notice to Defendant and his counsel, pursuant to Section 565.005.1, RSMo., that the State intends to seek the death penalty in this cause.

The State announces that it intends to prove one or more of the following statutory aggravating circumstance or circumstances [any one of which, if proven, warrants a penalty of death]:

(List of Statutory Aggravating Circumstances)

1. The offense was committed by a person who has one or more serious assaultive criminal convictions [Section 565.032.2(1)]; specifically,

A) That on or about November 7, 2001, the defendant pleaded guilty to the felony offense of Armed Robbery in the Circuit Court of Madison County, Illinois, case number 00-CF-2856; and

B) That on or about June 16, 1998, the defendant pleaded guilty to the felony offense of Unlawful Use of a Weapon in the Circuit Court of Marion County, Missouri, case number 10146-98.

2. The murder in the first degree offense was committed while the offender was engaged in the commission or attempted commission of another unlawful homicide [Section 565.032.2(2)]. Specifically, the State alleges that defendant attempted to kill Aaron Gauch and following the commission of that attempt, defendant murdered Brittany Gauch.

3. The murder in the first degree knowingly created a great risk of death to more than one person by means of a weapon or device that would normally be hazardous to the lives of more than one person [Section 565.032.2(3)]. Specifically, the State alleges that defendant murdered Brittany Gauch while her two (2) year old child was in the house and the child was at risk of being shot or injured when Brittany Gauch was shot and killed with a firearm.

4. The murder in the first degree was outrageously or wantonly vile, horrible or inhuman in that it involved torture, or depravity of mind [Section 565.032.2(7)]. Specifically, the State alleges that:

A) the victim was murdered in the presence of Brittany Gauch's two (2) year old child and the child was left alone with her mother's dead body; and

B) the murder of Brittany Gauch involved serious physical abuse; [*St. v. Sloan*, 756 S.W. 2d 503 (1988)]; and

C) the attempts to avoid responsibility both before and after the crime indicate the defendant lacks remorse. [*St. v. Sloan*, 756 S.W. 2d at 503 (1988)].

5. The murdered individual was a witness or potential witness in any past or pending investigation or past or pending prosecution, and was killed as a result of his or her status as a witness or potential witness [Section 565.032.2(12)]. Specifically, the State alleges that the defendant returned to Brittany Gauch's residence to kill her to prevent her from testifying as a witness against the defendant. Brittany Gauch was the last person who saw Aaron Gauch and defendant together on the evening of the assault against Aaron Gauch.

6. The murder was committed for the purpose of concealing or attempting to conceal a felony offense defined in chapter 195 or 579 [Section 565.032.2(15)]. Specifically, the State alleges

that the defendant was engaged in or involved in the conspiracy of the manufacture, distribution and/or possession of methamphetamine and the assault on Aaron Gauch and murder of Brittany Gauch were done so to conceal the drug related offense(s).

7. The murder was committed for the purpose of causing or attempting to cause a person to refrain from initiating or aiding in the prosecution of a felony offense defined in chapter 195 or 579 [Section 565.032.2(16)]. Specifically, the State alleges that Brittany Gauch had firsthand knowledge of defendant's involvement or conspiracy of manufacture, distribution and/or possession of methamphetamine and she was murdered to prevent her from aiding in any prosecution against defendant.

Respectfully Submitted,

/s/ David Clayton

David N. Clayton MBE# 56154
Prosecuting Attorney of the County of
Marion, State of Missouri

/s/ Tally Kendrick

Talley M. Kendrick, MBE #62107
Special Assistant Prosecutor

Certificate of Service

This document was electronically filed this 19th day of September, 2017, pursuant to Supreme Court rule 103.08.

/s/ David Clayton

David N. Clayton, Prosecuting Attorney