



DISTRICT ATTORNEY'S OFFICE OF CHESTER COUNTY

201 WEST MARKET STREET, SUITE 4450

POST OFFICE BOX 2746

WEST CHESTER, PENNSYLVANIA 19380-0991

Joseph W. Carroll
District Attorney

Patrick Carmody
First Assistant District Attorney

TELEPHONE: 610-344-6801

FAX: 610-344-5905

James C. Vito
Chief County Detective

Shawn D. Riley, Sr.
W.E.B. Administrator

PRESS RELEASE
CARRON LONDON HOMICIDE
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Pennsylvania law requires that in cases where the Commonwealth is seeking the death penalty, notice of that intent and the basis upon which the death penalty will be pursued must be filed in a written document at the time of the defendant's formal arraignment on murder charges.

Arraignment was scheduled today in the case of Commonwealth v. Falandez James for the murder of 17-year-old Carron London on June 26, 2010. For the reasons that follow, no death penalty notice was filed against the defendant.

A criminal homicide constitutes murder of the first degree when it is committed by an intentional killing. The death penalty is a permissible sentence for some, but not all, first-degree murderers.

In order for the death penalty to be a permissible sentence in a given case, in addition to proof of the elements required for First Degree Murder there must also exist proof beyond a reasonable doubt of at least one of 18 "aggravating circumstances" as that term is defined in section 9711 of the Judicial Code. If at least one aggravating circumstance is present, the law requires that the jury determine whether there are any "mitigating circumstances" as that term is defined in the Judicial Code. If there is at least one aggravating circumstance and no mitigating circumstances, the death penalty is appropriate. If there are both aggravating circumstances and mitigating circumstances, the jury (or judge in a non-jury trial)

must determine whether the aggravating circumstances outweigh the mitigating circumstances. If so, the death penalty is lawful. If not, the sentence must be life in prison.

Aggravating circumstances under Pennsylvania law are defined as follows:

(d) Aggravating circumstances. - Aggravating circumstances shall be limited to the following:

(1) The victim was a firefighter, peace officer, public servant concerned in official detention, as defined in 18 Pa.C.S. § 5121 (relating to escape), judge of any court in the unified judicial system, the Attorney General of Pennsylvania, a deputy attorney general, district attorney, assistant district attorney, member of the General Assembly, Governor, Lieutenant Governor, Auditor General, State Treasurer, State law enforcement official, local law enforcement official, Federal law enforcement official or person employed to assist or assisting any law enforcement official in the performance of his duties, who was killed in the performance of his duties or as a result of his official position.

(2) The defendant paid or was paid by another person or had contracted to pay or be paid by another person or had conspired to pay or be paid by another person for the killing of the victim.

(3) The victim was being held by the defendant for ransom or reward, or as a shield or hostage.

(4) The death of the victim occurred while defendant was engaged in the hijacking of an aircraft.

(5) The victim was a prosecution witness to a murder or other felony committed by the defendant and was killed for the purpose of preventing his testimony against the defendant in any grand jury or criminal proceeding involving such offenses.

(6) The defendant committed a killing while in the perpetration of a felony.

(7) In the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense.

(8) The offense was committed by means of torture.

(9) The defendant has a significant history of felony convictions involving the use or threat of violence to the person.

(10) The defendant has been convicted of another Federal or State offense, committed either before or at the time of the offense at issue, for which a sentence of life imprisonment or death was imposable or the defendant was undergoing a sentence of life imprisonment for any reason at the time of the commission of the offense.

(11) The defendant has been convicted of another murder committed in any jurisdiction and committed either before or at the time of the offense at issue.

(12) The defendant has been convicted of voluntary manslaughter, as defined in 18 Pa.C.S. § 2503 (relating to voluntary

manslaughter), or a substantially equivalent crime in any other jurisdiction, committed either before or at the time of the offense at issue.

(13) The defendant committed the killing or was an accomplice in the killing, as defined in 18 Pa.C.S. § 306(c) (relating to liability for conduct of another; complicity), while in the perpetration of a felony under the provisions of the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act, and punishable under the provisions of 18 Pa.C.S. § 7508 (relating to drug trafficking sentencing and penalties).

(14) At the time of the killing, the victim was or had been involved, associated or in competition with the defendant in the sale, manufacture, distribution or delivery of any controlled substance or counterfeit controlled substance in violation of The Controlled Substance, Drug, Device and Cosmetic Act or similar law of any other state, the District of Columbia or the United States, and the defendant committed the killing or was an accomplice to the killing as defined in 18 Pa.C.S. § 306(c), and the killing resulted from or was related to that association, involvement or competition to promote the defendant's activities in selling, manufacturing, distributing or delivering controlled substances or counterfeit controlled substances.

(15) At the time of the killing, the victim was or had been a nongovernmental informant or had otherwise provided any investigative, law enforcement or police agency with information concerning criminal activity and the defendant committed the killing or was an accomplice to the killing as defined in 18 Pa.C.S. § 306(c), and the killing was in retaliation for the victim's activities as a nongovernmental informant or in providing information concerning criminal activity to an investigative, law enforcement or police agency.

(16) The victim was a child under 12 years of age.

(17) At the time of the killing, the victim was in her third trimester of pregnancy or the defendant had knowledge of the victim's pregnancy.

(18) At the time of the killing the defendant was subject to a court order restricting in any way the defendant's behavior toward the victim pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or any other order of a court of common pleas or of the minor judiciary designed in whole or in part to protect the victim from the defendant.

The allegations in this case are that the defendant intentionally shot and killed Carron London in the 600 block of East Lincoln Highway in Coatesville as a result of a personal dispute. There is no allegation that this shooting was done during the commission of a robbery or any other violent felony. Mr. London was running away from the defendant at the time shots were fired. If proven, those facts would establish Murder in the First Degree. However, those facts would not likely establish any of the aggravating factors necessary to invoke the death penalty.

An argument can be made that there is evidence of aggravating factor number 7 - "In the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense" - on the basis that the defendant was shooting on a public street where many people were outside and traffic could be passing at any time. However, while there was the potential that someone other than Mr. London could have been endangered, there is little proof that anyone other than Mr. London was actually in danger. There were no reports of injuries to others and no reports by individuals present that bullets were fired close to them or in their direction.

In reaching this decision I also considered the wishes of Carron London's parents. Despite the terrible loss of their son, both his mother and his father were clear in expressing their desire that the Commonwealth not pursue the death penalty in this case. Those wishes will be honored.