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Franklin County Attorney
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**IN THE DISTRICT COURT OF FRANKLIN COUNTY, KANSAS
FOURTH JUDICIAL DISTRICT**

STATE OF KANSAS,)
Plaintiff,)
vs.) Case No. 2013 CR 104
)
KYLE FLACK,)
Defendant.)

**STATE'S AMENDED NOTICE OF INTENT TO SEEK THE "HARD 50" AND
REQUEST SEPARATE SENTENCING AND NOTICE OF AGGRAVATING
CIRCUMSTANCES**

COMES NOW the State, by and through Stephen A. Hunting, the duly elected and qualified County Attorney for Franklin County Attorney, pursuant to K.S.A. 21-6620(e)(1), hereby provides reasonable notice to the defendant Kyle Trevor Flack, his attorneys, Timothy Frieden and Maban Wright, and the Court that the State of Kansas intends, upon conviction of the defendant of the crimes of Murder in the First Degree, to request a separate sentencing proceeding to determine whether the defendant should be required to serve a mandatory minimum term of imprisonment of 50 years or sentenced as otherwise provided by law.

NOTICE IS FURTHER PROVIDED to the defendant, Kyle Trevor Flack, his attorney, Timothy Frieden and Maban Wright, and the Court of the

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Aggravating Circumstances set forth in K.S.A. 21-6624 upon which the State will rely at the sentencing phase in the above captioned matter.

The State hereby notifies the defendant, pursuant to K.S.A. 21-6620(e)(3) that at the sentencing proceeding, evidence will be presented concerning any and all matters deemed relevant to the question of sentence and shall include matters relating to the following specifically enumerated aggravated circumstances as set forth in K.S.A. 21-6624:

AGGRAVATING CIRCUMSTANCES

With respect to the murders of **Andrew Stout and Steven White:**

1. The defendant was previously convicted in Franklin County case # 05 CR 159 of attempted second degree murder in which the defendant inflicted great bodily harm on another. K.S.A. 21-6624(a).
2. The defendant knowingly or purposely killed more than one person. K.S.A. 21-6624(b)

With respect to the murders of **Kaylie Bailey and Lana Bailey**, only in the event the jury returns a guilty verdict on the lesser included offense of Murder in the First Degree:

1. The defendant was previously convicted in Franklin County case # 05 CR 159 of attempted second degree murder in which the defendant inflicted great bodily harm on another. K.S.A. 21-6624(a)
2. The defendant knowingly or purposely killed more than one person. K.S.A. 21-6624(b)

3. The defendant committed the crime in order to avoid or prevent lawful arrest or prosecution. K.S.A. 21-6624(e)
4. The defendant, as to Kaylie Bailey, committed the crime in an especially heinous, atrocious, or cruel manner. K.S.A. 21-6624(f)
5. The victim, Kaylie Bailey, was killed because of the victim's prospective performance of the victim's duties as a witness in a criminal proceeding. K.S.A. 21-6624(h)

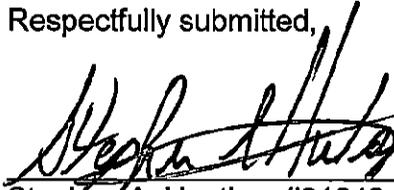
MITIGATING CIRCUMSTANCES

The State hereby notifies the defendant that based upon the evidence reviewed to the date of the filing of this notice, there are no mitigating circumstances. The State requests that the defendant, by and through counsel, advises the State of any and all mitigating circumstances upon which the defendant intends to rely upon at the sentencing proceeding.

RESERVATION OF RIGHTS

The State reserves the right to amend the list of aggravating and/or mitigating circumstances as set forth above in this notice. The evidence upon which the State will rely to support the above stated aggravating factors has been provided to the defense by way of discovery. Consistent with the State's continuing obligation to provide discovery, the State reserves the right to rely upon evidence supplied between today's date and the time of sentencing to support the aggravating factors submitted to the trier of fact.

Respectfully submitted,



Stephen A. Hunting, #21648
Franklin County Attorney
301 S. Main Street
Ottawa, KS 66067
shunting@franklincoks.org
Attorney for the plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the State's Amended Notice of Intent to Seek the "Hard 50" and Request Separate Sentencing and Notice of Aggravating Circumstances was hand-delivered on the 31st day of December, 2015, to:

The Clerk of the Franklin County District Court
301 S. Main Street
Ottawa, KS 66067

and, I hereby certify that a true and accurate copy of the State's Amended Notice of Intent to Seek the "Hard 50" and Request Separate Sentencing and Notice of Aggravating Circumstances was emailed to mwright@sbids.org and tfrieden@sbids.org and via facsimile to 785-291-3979 & 316-0267-3756 on the 31st day of December, 2015 to:

Maban Wright
Attorney for the Defendant
700 SW Jackson Street - Suite 500
Topeka, KS 66603

Timothy Frieden
Attorney for the Defendant
266 N. Main, Suite 210
Wichita, KS 67202

and, I hereby certify that a chamber copy of the State's Amended Notice of Intent to Seek the "Hard 50" and Request Separate Sentencing and Notice of Aggravating Circumstances was delivered to Hon. Eric Godderz on the 31st day of December, 2015.



Stephen A. Hunting, #21648
Franklin County Attorney