

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. <u>DKC-05-0393</u>
)	
ANTONIO ROBERTO ARGUETA,)	
a/k/a "Alex Antonio Cruz,")	
a/k/a "Buda,")	
)	
Defendant.)	

NOTICE OF INTENTION TO SEEK THE DEATH PENALTY
AS TO DEFENDANT ANTONIO ROBERTO ARGUETA

COMES NOW the United States of America, pursuant to 18 U.S.C. § 3593(a), by and through its undersigned counsel, and notifies the Court and the defendant in the above-captioned case that the Government believes the circumstances of the offenses charged in Counts Fifteen and Eighteen of the Third Superseding Indictment are such that, in the event of the defendant's conviction of any of these offenses, 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 these offenses: Count Fifteen, murder of Nancy Diaz in aid of racketeering, in violation of 18 U.S.C. § 1959(a)(1); and Count Eighteen, causing the death of Nancy Diaz with a firearm, in violation of 18 U.S.C. § 924(j).

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

COUNT FIFTEEN

MURDER IN AID OF RACKETEERING

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

1. **Intentional Acts to Take Life or Use Lethal Force.** The defendant 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 a person, other than one of the participants in the offense, and Nancy Diaz died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

2. **Intentional Acts of Violence Creating a Grave Risk of Death.** The 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 Nancy Diaz 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).

3. **Substantial planning and premeditation** – the defendant committed the offenses after substantial planning and premeditation to cause the death of a person (18 U.S.C. § 3592(c)(9)); and

4. **Multiple killings or attempted killings** - the defendant killed or attempted to kill more than one person in a single criminal episode (18 U.S.C. § 3592 (c)(16)).

participants in the offense, and Nancy Diaz died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

2. **Intentional Acts of Violence Creating a Grave Risk of Death.** The 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 Nancy Diaz 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).

3. **Substantial planning and premeditation** – the defendant committed the offenses after substantial planning and premeditation to cause the death of a person (18 U.S.C. § 3592(c)(9)); and

4. **Multiple killings or attempted killings** - the defendant killed or attempted to kill more than one person in a single criminal episode (18 U.S.C. § 3592(c)(16)).

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

1. **Victim Impact Evidence.** As demonstrated by the victim's personal characteristics as an individual human being and the impact of the death upon the victim and the victim's family and friends, the defendant caused injury, harm, and loss to the victim and the victim's family and friends.

2. **Callous Disregard for the Severity of the Offense.** The defendant has demonstrated a callous disregard for the severity of the offense, as evidenced by a statement made by the defendant to law enforcement officers in which he callously disregarded the severity of his actions in the murder of Nancy Diaz.

3. **Participation in additional serious acts of violence.** Those serious acts of violence include, but are not limited to, the following:

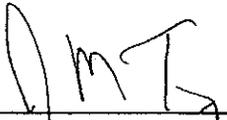
- a) The assault of Jhony Diaz on September 17, 2004 outside a nightclub in Langley Park, Maryland.

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, in his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Respectfully submitted,

Rod J. Rosenstein
United States Attorney

By:



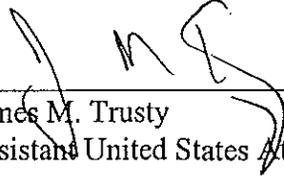
James M. Trusty
Assistant United States Attorney
District of Maryland

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of May, 2006, a true and correct copy of the above and foregoing Notice of Intention to Seek the Death Penalty As To Defendant ANTONIO ROBERTO ARGUETA to be mailed first class, postage prepaid to counsel for Argueta as follows:

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