

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

S9 04 Cr. 186 (SCR)

KHALID BARNES, :

a/k/a "Big Homie," :

a/k/a "Lid," :

Defendant. :

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NOTICE OF INTENT TO SEEK THE DEATH PENALTY

The United States of America, pursuant to the requirements of Title 18, United States Code, Section 3593(a), hereby gives notice that the Government believes the circumstances of this case are such that, in the event that the defendant, KHALID BARNES, is convicted of one or more of the capital offenses charged in Counts Twenty-Five, Twenty-Six, Twenty-Seven and Twenty-Eight of Indictment S9 04 Cr. 186 (SCR), sentences of death are justified, and the United States will seek the death penalty with regard to each offense. Specifically, the United States will seek sentences of death for Counts Twenty-Five, Twenty-Six, Twenty-Seven and Twenty-Eight of the Indictment, which charge murders in connection with drug trafficking crimes, resulting in the deaths of Demond Vaughan (Counts Twenty-Five and Twenty-Seven) and Sergio Santana (Counts Twenty-Six and Twenty-Eight), in violation of Title 21, United States Code, Section 848(e)(1)(A) (Counts Twenty-Five and Twenty-

Six), and Title 18, United States Code, Sections 924(c)(1)(A) and (j)(1) (Counts Twenty-Seven and Twenty-Eight).

The Government proposes to prove the following factors to justify a sentence of death:

**COUNTS TWENTY-FIVE, TWENTY-SIX, TWENTY-SEVEN, AND TWENTY-EIGHT**

**THE MURDERS OF DEMOND VAUGHAN AND SERGIO SANTANA  
IN CONNECTION WITH DRUG TRAFFICKING CRIMES**

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

Pursuant to Title 18, United States Code, Section 3591(a)(2), the Government will rely on the following preliminary factors to establish the defendant's eligibility for the death penalty:

1. **Intentional Killing.** The defendant intentionally killed Demond Vaughan and Sergio Santana. Section 3591(a)(2)(A).

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the deaths of Demond Vaughan and Sergio Santana. Section 3591(a)(2)(B).

3. **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 or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Demond Vaughan and Sergio Santana died as a direct result of the act. Section

3591(a)(2)(C).

**4. Intentional Acts in Reckless Disregard for Life.**

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 Demond Vaughan and Sergio Santana died as a direct result of the act. Section 3591(a)(2)(D).

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

Pursuant to Title 18, United States Code, Section 3592(c), the United States will rely on the following statutory aggravating factors as justifying a sentence of death:

**1. Pecuniary Gain.** The defendant committed the offenses as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value, that is, narcotics and money. Section 3592(c)(8).

**2. Substantial Planning and Premeditation.** The defendant committed the offenses after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

**3. Multiple Killings.** The defendant intentionally killed more than one person in a single criminal episode. Section 3952(c)(16). This factor applies only to Counts Twenty-

Seven and Twenty-Eight.

**C. Other, Non-Statutory, Aggravating Factors Identified.**

In addition to the statutory aggravating factors set forth above, the Government will rely on the following non-statutory aggravating factors to justify a sentence of death:

1. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to the victims' families because of the victims' personal characteristics as individual human beings and the impact of their deaths upon the victims' families. See Payne v. Tennessee, 501 U.S. 808, 825-26 (1991).

2. **Court Supervision.** The defendant committed the offense while under court supervision, namely while on Supervised Release following his conviction in the United States District Court for the Northern District of West Virginia for Interstate Travel in Aid of Racketeering, in violation of Title 18, United States Code, Section 1952(a)(3).

3. **Prior Convictions.** On or about June 28, 1999, the defendant was convicted in the United States District Court for the Northern District of West Virginia for Interstate Travel in Aid of Racketeering.

4. **Contemporaneous Convictions.**

a. In addition to being convicted of the murders of Demond Vaughan and Sergio Santana, the defendant was convicted of participating in a conspiracy to distribute and possess with

intent to distribute cocaine base in a form commonly referred to as "crack" cocaine;

b. In addition to being convicted of the murders of Demond Vaughan and Sergio Santana, the defendant was convicted of participating in a racketeering enterprise;

c. In addition to being convicted of the murders of Demond Vaughan and Sergio Santana, the defendant was convicted of conspiring to murder, and attempting to murder, Naim Moore; and

d. In addition to being convicted of the murders of Demond Vaughan and Sergio Santana, the defendant was convicted of conspiring to murder, conspiring to kidnap, attempting to murder, and kidnapping Eddy Solano-Herrera.

5. **Continuing Danger.** The defendant represents a continuing and serious threat to the lives of other persons.

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 Ninth Superseding Indictment as they relate to the background and

character of the defendant, KHALID BARNES, his moral culpability, and the nature and circumstances of the offenses charged in the Ninth Superseding Indictment.

Respectfully submitted,

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By:

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Dated: September \_\_, 2006