

TJS:JB:WYC
F.#2005R00060

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

NOTICE OF INTENT TO SEEK THE
DEATH PENALTY

- against -

05 CR 60 (S-8) (NGG)

VINCENT BASCIANO,

Defendant.

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Pursuant to the requirements of 18 U.S.C. § 3593(a), the United States hereby gives notice that it believes that the circumstances of this case are such that, in the event that the defendant VINCENT BASCIANO is convicted of Count Four of the superseding indictment, which charges the murder-in-aid-of-racketeering of Randolph Pizzolo, in violation of 18 U.S.C. § 1959(a)(1), a capital offense, a sentence of death is justified and the United States will seek the death penalty.

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

Pursuant to 18 U.S.C. § 3591(a)(2), the United States will rely on the following proportionality factors to establish the defendant's eligibility for the death penalty:

- 1. Intentionally Participating in an Act, Contemplating that a Life Would Be Taken**

The defendant intentionally participated in an act, contemplating that the life of Randolph Pizzolo would be taken or

intending that lethal force would be used in connection with a person, other than a participant in the offense, and Randolph Pizzolo died as a direct result of the act (18 U.S.C. § 3591(a)(1)(C)).

2. Intentionally Engaging in an Act of Violence that Created 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 a participant in the offense, such that participation in the act constituted a reckless disregard for human life and Randolph Pizzolo died as a direct result of the act (18 U.S.C. § 3591(a)(1)(D)).

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

Pursuant to 18 U.S.C. § 3592(c), the United States will rely on the following statutory aggravating factors as justifying a sentence of death:

1. Previous Conviction of Violent Felony Involving Firearm

The defendant previously has been convicted of an offense punishable by a term of imprisonment of more than one year, and involving the use or attempted or threatened use of a firearm against another person (18 U.S.C. § 3592(c)(2)).

2. Substantial Planning and Premeditation

The defendant committed the offense after substantial planning and premeditation to cause the death of Randolph Pizzolo (18 U.S.C. § 3592(c)(9)).

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

1. Future Dangerousness of the Defendant

The defendant is likely to commit criminal acts of violence in the future that would constitute a continuing and serious threat to the lives and safety of others, as evidenced by, at least, one or more of the following:

(a) Membership in an Organized Criminal Enterprise

The defendant has demonstrated a sworn allegiance to, active membership in and leadership of the Bonanno organized crime family of La Cosa Nostra, a criminal enterprise as defined in Title 18, United States Code, Section 1961(4), and he has continued his participation in that criminal enterprise despite incarceration.

(b) Continuing Pattern of Violence

Throughout his life, the defendant has engaged in a continuing pattern of violence, attempted violence, and threatened violence, including at least the crimes charged in the superseding indictment, and other murders, attempted murders,

murder conspiracies, murder solicitations and murder authorizations.

(c) Low Rehabilitative Potential

The defendant has demonstrated a low potential for rehabilitation as evidenced by his longstanding involvement in violent criminal activities leading up to the capital offense charged in the superseding indictment, and his continued participation in criminal activities despite incarceration.

(d) Lack of Remorse

The defendant has demonstrated a lack of remorse for the capital offense committed in this case, as indicated by the defendant's statements and actions during the course of and following the offense.

(e) Specific Threats of Violence While in Prison

Despite his arrest and incarceration, the defendant has continued to engage in conduct involving violence and threats of violence, including but not limited to murder conspiracy, murder solicitation and murder authorization.

2. Murder to Increase Standing within an Organized Criminal Enterprise

The defendant sought Randolph Pizzolo's death in order to increase his standing in and leadership of the Bonanno organized crime family of La Cosa Nostra, a criminal enterprise as defined in Title 18, United States Code, Section 1961(4).

3. Obstruction of Justice

To attempt to obstruct justice, the defendant has engaged in conduct involving violence and threats of violence, including but not limited to murder conspiracy and murder solicitation.

4. Contemporaneous Convictions

The defendant faces contemporaneous convictions for other serious acts of violence.

5. Participation in Additional Uncharged Homicides, Attempted Homicides or Other Serious Crimes of Violence

The defendant has participated in uncharged murders, attempted murders, murder conspiracies, murder solicitations and murder authorizations, and other serious crimes of violence.

6. Victim Impact Evidence

As reflected by the victim's personal characteristic as a human being and the impact of the offense on the victim and the victim's family, the defendant caused loss, injury, and harm to the victim and the victim's family. See Payne v. Tennessee, 501 U.S. 808, 825-827 (1991).

The Government further gives notice that in support of imposition of the death penalty on Count Four, it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial as it relates to the background and character of the defendant, his moral culpability, and the nature and

circumstances of the offenses charged in the superseding
indictment.

Dated: May 7, 2007
Brooklyn, New York

Respectfully submitted,



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EASTERN DISTRICT OF NEW YORK