

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA)
)
 v.) Case No. 2:11 CR 77 PPS
)
 JUAN BRISENO a/k/a "Tito")

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY PURSUANT TO TITLE 18
UNITED STATES CODE SECTION 3593**

The United States of America, by and through undersigned counsel, hereby notifies this Court and defendant Juan Briseño that the government believes the circumstances of the offenses charged in Counts Eleven, Twelve, and Fifteen through Twenty-Four of the Third Superseding Indictment [R. 309] are such that, in the event defendant Juan Briseño is convicted of any of these charges, a sentence of death is justified, and the government will seek a sentence of death for the offenses of Murder in Aid of Racketeering (18 U.S.C. § 1959), and Firearm Murder (18 U.S.C. § 924(j)), stemming from the killings of Luis Ortiz (Counts Eleven and Twelve), Michael Sessum (Counts Fifteen and Sixteen), Miguel Mejias (Counts Seventeen and Eighteen), Harris Brown (Counts Nineteen and Twenty), Miguel Colon (Counts Twenty-One and Twenty-Two), and Latroy Howard (Counts Twenty-Three and Twenty-Four).

COUNTS 11 & 12 – THE MURDER OF LUIS ORTIZ

(A.) The government will prove the following intent factors in justifying a sentence of death.

The defendant, Juan Briseño:

1. intentionally killed Luis Ortiz. Title 18, United States Code, Section 3591(a)(2)(A);

2. intentionally inflicted serious bodily injury which resulted in the death of Luis Ortiz.

Title 18, United States Code, Section 3591(a)(2)(B);

3. 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 Luis Ortiz died as a direct result of the act.

Title 18, United States Code, Section 3591(a)(2)(C);

4. 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 Luis Ortiz died as a direct result of the act. Title 18, United States Code, Section 3591(a)(2)(D).

(B.) The government will prove the following statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

5. committed the offense after substantial planning and premeditation to cause the death of a person. Title 18, United States Code, Section 3592(c)(9).

(C.) Pursuant to Title 18, United States Code, Section 3593(a), the government will prove the following non-statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

6. is a continuing danger to the lives and safety of other persons and defendant Juan Briseño is likely to commit criminal acts of violence in the future as evidenced by:

- a) a low potential for rehabilitation as demonstrated by repeated violent criminal acts,
 - b) a willingness to take human life and a lack of remorse for his acts of violence and attempted acts of violence as demonstrated by statements that he made following these violent acts,
 - c) his stated desire to impose a rule requiring fellow members of the Imperial Gangsters to shoot at rivals on site.
7. faces contemporaneous convictions for other criminal activity, including additional murders and attempted murders.
8. demonstrated an allegiance to and active membership in the Imperial Gangsters, an organization falling within the definition of a criminal street gang, as set forth in Title 18, United States Code, Section 521(a).
9. caused injury, harm and loss to the victim and the victim's family and friends, as evidenced by the victim's personal characteristics and by the impact of her death upon the victim's family and friends. *See Payne v. Tennessee*, 501 U.S. 808 (1991).

COUNTS 15 & 16 – THE MURDER OF MICHAEL SESSUM

(A.) The government will prove the following intent factors in justifying a sentence of death.

The defendant, Juan Briseño:

- 1. intentionally killed Michael Sessum. Title 18, United States Code, Section 3591(a)(2)(A);

2. intentionally inflicted serious bodily injury which resulted in the death of Michael Sessum. Title 18, United States Code, Section 3591(a)(2)(B);
3. 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 Michael Sessum died as a direct result of the act. Title 18, United States Code, Section 3591(a)(2)(C);
4. 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 Michael Sessum died as a direct result of the act. Title 18, United States Code, Section 3591(a)(2)(D).

(B.) The government will prove the following statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

5. in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense. Title 18, United States Code, Section 3592(c)(5)
6. committed the offense after substantial planning and premeditation to cause the death of a person. Title 18, United States Code, Section 3592(c)(9).
7. in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense. Title 18, United States Code, Section 3592(c)(16).

(C.) Pursuant to Title 18, United States Code, Section 3593(a), the government will prove the following non-statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

8. is a continuing danger to the lives and safety of other persons and defendant Juan Briseño is likely to commit criminal acts of violence in the future as evidenced by:

a) a low potential for rehabilitation as demonstrated by repeated violent criminal acts,

b) a willingness to take human life and a lack of remorse for his acts of violence and attempted acts of violence as demonstrated by statements that he made following these violent acts,

c) his stated desire to impose a rule requiring fellow members of the Imperial Gangsters to shoot at rivals on site.

9. faces contemporaneous convictions for other criminal activity, including additional murders and attempted murders.

10. demonstrated an allegiance to and active membership in the Imperial Gangsters, an organization falling within the definition of a criminal street gang, as set forth in Title 18, United States Code, Section 521(a).

11. caused injury, harm and loss to the victim and the victim's family and friends, as evidenced by the victim's personal characteristics and by the impact of her death upon the victim's family and friends. *See Payne v. Tennessee*, 501 U.S. 808 (1991).

COUNTS 17 & 18 – THE MURDER OF MIGUEL MEJIAS

(A.) The government will prove the following intent factors in justifying a sentence of death.

The defendant, Juan Briseño:

1. intentionally killed Miguel Mejias. Title 18, United States Code, Section 3591(a)(2)(A);
2. intentionally inflicted serious bodily injury which resulted in the death of Miguel Mejias. Title 18, United States Code, Section 3591(a)(2)(B);
3. 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 Miguel Mejias died as a direct result of the act. Title 18, United States Code, Section 3591(a)(2)(C);
4. 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 Miguel Mejias died as a direct result of the act. Title 18, United States Code, Section 3591(a)(2)(D).

(B.) The government will prove the following statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

5. in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense. Title 18, United States Code, Section 3592(c)(5)

6. committed the offense after substantial planning and premeditation to cause the death of a person. Title 18, United States Code, Section 3592(c)(9).

7. in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense. Title 18, United States Code, Section 3592(c)(16).

(C.) Pursuant to Title 18, United States Code, Section 3593(a), the government will prove the following non-statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

8. is a continuing danger to the lives and safety of other persons and defendant Juan Briseño is likely to commit criminal acts of violence in the future as evidenced by:

a) a low potential for rehabilitation as demonstrated by repeated violent criminal acts,

b) a willingness to take human life and a lack of remorse for his acts of violence and attempted acts of violence as demonstrated by statements that he made following these violent acts,

c) his stated desire to impose a rule requiring fellow members of the Imperial Gangsters to shoot at rivals on site.

9. faces contemporaneous convictions for other criminal activity, including additional murders and attempted murders.

10. demonstrated an allegiance to and active membership in the Imperial Gangsters, an organization falling within the definition of a criminal street gang, as set forth in Title 18, United States Code, Section 521(a).

11. caused injury, harm and loss to the victim and the victim's family and friends, as evidenced by the victim's personal characteristics and by the impact of her death upon the victim's family and friends. *See Payne v. Tennessee*, 501 U.S. 808 (1991).

COUNTS 19 & 20 – THE MURDER OF HARRIS BROWN

(A.) The government will prove the following intent factors in justifying a sentence of death.

The defendant, Juan Briseño:

1. intentionally killed Harris Brown. Title 18, United States Code, Section 3591(a)(2)(A);
2. intentionally inflicted serious bodily injury which resulted in the death of Harris Brown. Title 18, United States Code, Section 3591(a)(2)(B);
3. 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 Harris Brown died as a direct result of the act. Title 18, United States Code, Section 3591(a)(2)(C);
4. 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 Harris Brown died as a direct result of the act. Title 18, United States Code, Section 3591(a)(2)(D).

(B.) The government will prove the following statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

5. committed the offense after substantial planning and premeditation to cause the death of a person. Title 18, United States Code, Section 3592(c)(9).

(C.) Pursuant to Title 18, United States Code, Section 3593(a), the government will prove the following non-statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

6. is a continuing danger to the lives and safety of other persons and defendant Juan Briseño is likely to commit criminal acts of violence in the future as evidenced by:

a) a low potential for rehabilitation as demonstrated by repeated violent criminal acts,

b) a willingness to take human life and a lack of remorse for his acts of violence and attempted acts of violence as demonstrated by statements that he made following these violent acts,

c) his stated desire to impose a rule requiring fellow members of the Imperial Gangsters to shoot at rivals on site.

7. faces contemporaneous convictions for other criminal activity, including additional murders and attempted murders.

8. demonstrated an allegiance to and active membership in the Imperial Gangsters, an organization falling within the definition of a criminal street gang, as set forth in Title 18, United States Code, Section 521(a).

9. caused injury, harm and loss to the victim and the victim's family and friends, as evidenced by the victim's personal characteristics and by the impact of her death upon the victim's family and friends. *See Payne v. Tennessee*, 501 U.S. 808 (1991).

COUNTS 21 & 22 – THE MURDER OF MIGUEL COLON

(A.) The government will prove the following intent factors in justifying a sentence of death.

The defendant, Juan Briseño:

1. intentionally killed Miguel Colon. Title 18, United States Code, Section 3591(a)(2)(A);
2. intentionally inflicted serious bodily injury which resulted in the death of Miguel Colon. Title 18, United States Code, Section 3591(a)(2)(B);
3. 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 Miguel Colon died as a direct result of the act. Title 18, United States Code, Section 3591(a)(2)(C);
4. 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 Miguel Colon died as a direct result of the act. Title 18, United States Code, Section 3591(a)(2)(D).

(B.) The government will prove the following statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

5. in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense. Title 18, United States Code, Section 3592(c)(5)

6. committed the offense after substantial planning and premeditation to cause the death of a person. Title 18, United States Code, Section 3592(c)(9).

(C.) Pursuant to Title 18, United States Code, Section 3593(a), the government will prove the following non-statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

7. is a continuing danger to the lives and safety of other persons and defendant Juan Briseño is likely to commit criminal acts of violence in the future as evidenced by:

a) a low potential for rehabilitation as demonstrated by repeated violent criminal acts,

b) a willingness to take human life and a lack of remorse for his acts of violence and attempted acts of violence as demonstrated by statements that he made following these violent acts,

c) his stated desire to impose a rule requiring fellow members of the Imperial Gangsters to shoot at rivals on site.

8. faces contemporaneous convictions for other criminal activity, including additional murders and attempted murders.

9. demonstrated an allegiance to and active membership in the Imperial Gangsters, an organization falling within the definition of a criminal street gang, as set forth in Title 18, United States Code, Section 521(a).

10. caused injury, harm and loss to the victim and the victim's family and friends, as evidenced by the victim's personal characteristics and by the impact of her death upon the victim's family and friends. *See Payne v. Tennessee*, 501 U.S. 808 (1991).

COUNTS 23 & 24 – THE MURDER OF LATROY HOWARD

(A.) The government will prove the following intent factors in justifying a sentence of death.

The defendant, Juan Briseño:

1. intentionally killed Latroy Howard. Title 18, United States Code, Section 3591(a)(2)(A);
2. intentionally inflicted serious bodily injury which resulted in the death of Latroy Howard. Title 18, United States Code, Section 3591(a)(2)(B);
3. 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 Latroy Howard died as a direct result of the act. Title 18, United States Code, Section 3591(a)(2)(C);
4. 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 Latroy Howard died as a direct result of the act. Title 18, United States Code, Section 3591(a)(2)(D).

(B.) The government will prove the following statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

5. committed the offense after substantial planning and premeditation to cause the death of a person. Title 18, United States Code, Section 3592(c)(9).

(C.) Pursuant to Title 18, United States Code, Section 3593(a), the government will prove the following non-statutory aggravating factors in justifying a sentence of death.

The defendant, Juan Briseño:

6. is a continuing danger to the lives and safety of other persons and defendant Juan

Briseño is likely to commit criminal acts of violence in the future as evidenced by:

a) a low potential for rehabilitation as demonstrated by repeated violent criminal acts,

b) a willingness to take human life and a lack of remorse for his acts of violence and attempted acts of violence as demonstrated by statements that he made following these violent acts,

c) his stated desire to impose a rule requiring fellow members of the Imperial Gangsters to shoot at rivals on site.

7. faces contemporaneous convictions for other criminal activity, including additional murders and attempted murders.

8. demonstrated an allegiance to and active membership in the Imperial Gangsters, an organization falling within the definition of a criminal street gang, as set forth in Title 18, United States Code, Section 521(a).

9. caused injury, harm and loss to the victim and the victim's family and friends, as evidenced by the victim's personal characteristics and by the impact of her death upon the victim's family and friends. *See Payne v. Tennessee*, 501 U.S. 808 (1991).

ADDITIONAL NOTICE

The government will rely upon all of the evidence admitted by the Court in the determination of guilt, and upon the offenses of conviction as noticed in the Special Findings in the Indictment, as these prior criminal acts demonstrate the background, character, and culpability of the defendant, Juan Briseño, as well as the circumstances of the offense charged in this Indictment.

CONCLUSION

Based on all of the available information regarding the defendant's criminal behavior, the government believes that the above-listed intent and aggravating factors apply to defendant Juan Briseño. Should additional information become available which is applicable to these factors or should additional information become available that supports additional factors, the government will seek to amend this Notice at a reasonable time prior to trial.

Respectfully submitted,

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NORTHERN DISTRICT OF INDIANA
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the government's Notice of Intent to Seek the Death Penalty Pursuant to Title 18, United States Code, Section 3593 was electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of said filing to the following individuals:

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