

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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CLERK'S OFFICE  
U.S. DISTRICT COURT  
SAN JUAN, P.R.

UNITED STATES OF AMERICA,  
Plaintiff,

v.

[1] CARLOS L. AYALA-LOPEZ,  
a/k/a "MACRO,"  
Defendant.

CRIMINAL NO. 03-055 (SEC)

**UNITED STATES' NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

TO THE HONORABLE COURT:

COMES NOW the United States of America, pursuant to the attached Attorney General's authorization dated December 16, 2003, and 18 U.S.C. § 3593(a), by and through its undersigned counsel, and notifies the Court and Defendant [1] Carlos L. Ayala-Lopez that the Government believes the circumstances of the offenses charged in Counts Three and Four of the Indictment are such that, in the event of a conviction, 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: premeditated murder of Federal law enforcement officer, Jose O. Rodriguez-Reyes, in violation of 18 U.S.C. § 1114(1) and use of a firearm during a crime of violence that resulted in the death of Jose O. Rodriguez-Reyes in violation of 18 U.S.C. § 924(j), which both carry a possible sentence of death.

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

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

1. **Intentional Killing.** The Defendant intentionally killed Jose O.

Rodriguez-Reyes. Section 3591(a)(2)(A).

2. **Intentional Infliction of Serious Bodily Injury.** The Defendant intentionally inflicted serious bodily injury that resulted in the death of Jose O. Rodriguez-Reyes. Section 3591(a)(2)(B).

3. **Intentional Engagement in an Act of Violence, Knowing that the Act Created a Grave Risk of Death to a Person.** The Defendant intentionally 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 Jose O. Rodriguez-Reyes 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).

1. **Pecuniary Gain.** The Defendant committed the offense to acquire Jose O. Rodriguez-Reyes' firearm, which had pecuniary value. The firearm also was to be of great value to the continuation of the Defendant's on-going gang activities for monetary gain. Section 3592(c)(8).

2. **High Public Officials.** The Defendant committed the offense against Jose O. Rodriguez-Reyes, a Federal Police Officer with the Police and Security Division of U.S.

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Department of Veterans Affairs, who was killed while he was engaged in the performance of his official duties. Section 3592(c)(14)(D)(i).

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

1. **Future Dangerousness.** The Defendant committed the offense during a continuing pattern of violence with the use of firearms against other individuals to further his gang's criminal activities. See Simmons v. South Carolina, 512 U.S. 154, 162-64 (1994).

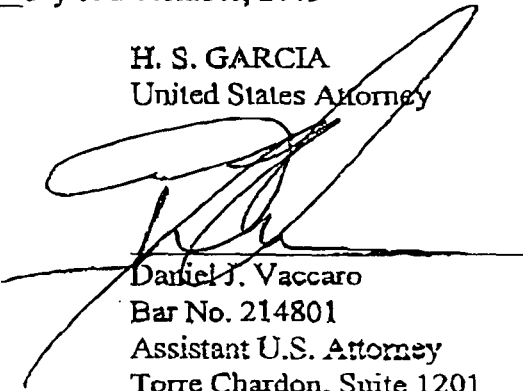
2. **Victim Impact Evidence.** The Defendant caused injury, harm, and loss to Jose O. Rodriguez-Reyes' family because of Jose O Rodriguez-Reyes' personal characteristics as an individual human being and the impact of his death upon his family. 18 U.S.C. § 3593(a); See Payne v. Tennessee, 501 U.S. 808, 825-26 (1991).

WHEREFORE, the United States very respectfully requests that its compliance with 18 U.S.C. § 3593(a) be Noted.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 17<sup>th</sup> day of December, 2003.

H. S. GARCIA  
United States Attorney



Daniel J. Vaccaro  
Bar No. 214801  
Assistant U.S. Attorney  
Torre Chardon, Suite 1201  
350 Carlos Chardón Street  
Hato Rey, Puerto Rico 00918

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY on this 17<sup>th</sup> day of December, 2003, that a true and correct copy of the foregoing United States' Notice of Intent to Seek the Death Penalty will be mailed to counsel for Defendant [1] Carlos L. Ayala-Lopez listed as follows:

Juan A. Pedrosa, Esquire  
P.O. Box 366536  
San Juan, Puerto Rico 00936-6536

William D. Matthewman, Esquire  
44 West Flagler Street  
Suite 1100  
Miami, FL 33130,

and the following counsel of the non-death eligible defendants still pending trial:

[2] Angel L. Sanjurjo-Figueroa

Juan Alvarez-Cobian, Esquire  
P.O. Box 11454  
San Juan, Puerto Rico 00910

[3] José A. Ramos-Romero

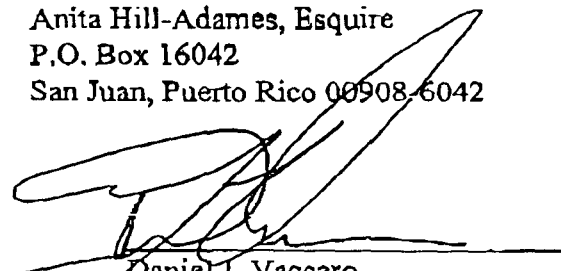
José C. Romo-Matienzo, Esquire  
504 Carlota Matienzo Street  
San Juan, Puerto Rico 00918-3229

[6] José L. Medina-Ortiz

Jose Luis Barreto-Rampolla, Esquire  
P.O. Box 9023880  
San Juan, Puerto Rico 00902-3880

[9] Rafael A. González-Vélez

Anita Hill-Adames, Esquire  
P.O. Box 16042  
San Juan, Puerto Rico 00908-6042



Daniel J. Vaccaro  
Assistant U. S. Attorney

12-17-03 09:26am From-DEPT OF JUSTICE

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Office of the Attorney General  
Washington, D. C. 20530

December 16, 2003

The Honorable Humberto Garcia  
United States Attorney  
District of Puerto Rico  
San Juan, Puerto Rico 00918

Dear Mr. Garcia:

You are authorized to seek the death penalty against Carlos Ayala-Lopez.

As described in the United States Attorneys' Manual § 9-10.100, you may not enter into a plea agreement that requires withdrawal of the notice of intention to seek the death penalty without the prior approval of the Attorney General.

Sincerely,

A handwritten signature in black ink, appearing to read "John Ashcroft".

John Ashcroft  
Attorney General