

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

UNITED STATES OF AMERICA,
Plaintiff,

v.

EDISON BURGOS-MONTES
Defendant.

CRIMINAL NO. 06-009 (JAG)

UNITED STATES' NOTICE OF INTENT TO SEEK THE DEATH PENALTY

TO THE HONORABLE COURT:

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 Defendant Edison Burgos-Montes 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: death resulting from tampering with a federal witness or informant, in violation of 18 U.S.C. § 1512(a)(1)(A) & (C), and death resulting from retaliation against a federal witness or informant, in violation of 18 U.S.C. § 1513(a)(1)(B), which all carry a possible sentence of death.

The Government proposes to prove the following factors as justifying a sentence of death with regard to each of Count Three and Count Four:

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

1. **Intentional Killing.** Edison Burgos-Montes intentionally killed the victim, Madelin Semidey-Morales. 18 U.S.C. § 3591(a)(2)(A).

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2. **Intentional Infliction of Serious Bodily Injury.** Edison Burgos-Montes intentionally inflicted serious bodily injury that resulted in the death of Madelin Semidey-Morales. 18 U.S.C. § 3591(a)(2)(B).

3. **Intentional Acts to Take Life or Use Lethal Force.** Edison Burgos-Montes 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 Madelin Semidey-Morales died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

4. **Intentional Engagement in an Act of Violence, Knowing that the Act Created a Grave Risk of Death to a Person.** Edison Burgos-Montes 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 Madelin Semidey-Morales 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).

1. **Substantial Planning and Premeditation.** Edison Burgos-Montes committed the offense after substantial planning and premeditation to cause the death of Madelin Semidey-Morales. 18 U.S.C. § 3592(c)(9).

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

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1. **Participation in Serious Acts of Violence.** Edison Burgos-Montes has participated in several acts of violence, which include, but are not limited to, the following:

- a) An incident of Domestic violence charged in May 1995.
- b) An incident of Aggravated Assault charged in November 1999.
- c) An incident of Aggravated Assault charged in October 2002.
- d) An incident of Domestic violence charged in April 2004.

2. **Contemporaneous Convictions.** Edison Burgos-Montes killed Madelin Semidey-Morales while engaged in an offense punishable under 21 U.S.C. § 841(a), to wit, conspiracy to distribute and possess with intent to distribute five (5) kilograms or more of Cocaine, a Schedule II controlled substance.

3. **Obstruction of Justice.** Edison Burgos-Montes killed Madelin Semidey-Morales in an effort to obstruct justice, tamper with a witness, and retaliate against the victim for cooperating with authorities.

4. **Vulnerable Victim.** The victim, Madelin Semidey-Morales, was particularly vulnerable due to (1) her relationship with, her dependence on, and her trust in, Edison Burgos-Montes, and (2) the relative body size differences between Semidey-Morales's slight stature and Burgos-Montes's larger build.

5. **Victim Impact Evidence.** Edison Burgos-Montes caused injury, harm, and loss to the victim's family as demonstrated by the victim's personal characteristics as an individual human being and the impact of her death upon her family. 18 U.S.C. § 3593(a); See

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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 be Noted.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 27th day of June, 2007.

ROSA E. RODRIGUEZ-VELEZ
United States Attorney

OS/ Julie B. Mosley

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 27th day of June, 2007, that a true and correct copy of the foregoing United States' Notice of Intent to Seek the Death Penalty is being hand-delivered and served via ECF to counsels for Defendant, as follows: Rachel Brill, Steve Potolsky, and Michael Pizzi.

OS/ Julie B. Mosley

Julie B. Mosley
Assistant U. S. Attorney