

**IN THE  
UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
	)	
vs.	)	<b>Criminal No. 1:06CR00001</b>
	)	
	)	
<b>CARLOS DAVID CARO</b>	)	

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

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 the defendant in the above-captioned case, CARLOS DAVID CARO, that the Government believes the circumstances of the offense charged in Count One of the Indictment are such that, in the event of a conviction, a sentence of death is justified, and that the Government will seek the sentence of death for this offense: Title 18, United States Code, Section 1111 which carries a possible sentence of death.

The Government proposes to prove the following factors as justifying a sentence of death under the offense charged in Count One of the Indictment, the allegations of which are fully realleged and incorporated herein by reference:

- A. CARLOS DAVID CARO was then 18 years of age or older at the time of his commission of the offense.
- B. Statutory Intent Factors Enumerated Under Title 18, United States Code, Section 3591(a)(2).
  - i. Intentional Killing: Section 3591(a)(2)(A).  
CARLOS DAVID CARO intentionally killed Roberto Sandoval.

- ii. Intentional Infliction of Serious Bodily Injury: Section 3591(a)(2)(B)  
CARLOS DAVID CARO intentionally inflicted serious bodily injury that resulted in the death of Roberto Sandoval.
- iii. Intentional Participation in a Lethal Act: Section 3591(a)(2)(C).  
CARLOS DAVID CARO intentionally participated in an act, contemplating that the life of Roberto Sandoval be taken or intending that lethal force be used in connection with a person, other than one of the participants in the offense, namely, Roberto Sandoval, and which directly resulted in the death of Roberto Sandoval.
- iv. Intentionally Creating a Grave Risk of Death: Section 3591(a)(2)(D).  
CARLOS DAVID CARO 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 said act resulted directly in the death of Roberto Sandoval.

C. Aggravating Factors Enumerated under Title 18, United States Code, Section 3592

- i. CARLOS DAVID CARO has been previously convicted of two state or federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.[§3592(c)(10)]
- ii. CARLOS DAVID CARO had been previously convicted of violating Title II or Title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 for which a sentence of 5 or more years may be imposed. [§3592(c)(12)]
- iii. CARLOS DAVID CARO committed the offense after substantial planning and premeditation to cause the death of a person. Title 18, United States Code, Section 3592(c)(9).

D. Non-Statutory Aggravating Factors under 18 U.S.C. 3593(a)

The non-statutory aggravating factors which the Government will seek to prove as the basis for the death penalty which are applicable to the homicide and to the defendant under Count One are as follows.

- i. Victim Impact. The victim maintained close contact with his family, and the murder of the victim had a significant impact on his family and friends. *Payne v. Tennessee*, 501 U.S. 808 (1991). Specifically, the surviving members of the victim's family have been deprived of the benefits of having their son and father in their lives. Likewise, his friends have been deprived of the benefits of social interaction with the victim. As a result, their lives have changed and they have experienced significant emotional trauma.
- ii. Future Dangerousness.
  - a. *Continuing pattern of violence and recidivist conduct:* While imprisoned, CARLOS DAVID CARO has occupied a leadership position in a violent gang and, through his connection with the gang, has been involved in physical assaults on other inmates on at least two occasions. He also has committed numerous prior felony drug offenses.
  - b. *Low rehabilitative potential:* CARLOS DAVID CARO has a lengthy history of illegal conduct outside the prison setting and a significant history of violent and non-violent rules violations while in custody. Through his words and recidivism, he has demonstrated that the threat of incarceration does not deter his misconduct.

Among CARO'S in-custody misconduct, he participated in a July 11, 2002 gang-based assault on other inmates at the United States Prison in Oakdale. When questioned about his involvement in the Oakdale incident, CARO expressed a lack of concern about being prosecuted because he was already serving a 30-year sentence. He implied his belief that government officials could not meaningfully punish him in view of his pre-existing sentence. CARO expressed a similar lack of concern about the consequences arising from his August 29, 2003 attempted murder of Ricardo Benevidez, whom he stabbed 29 times.

- c. *Lack of remorse:* CARLOS DAVID CARO has not expressed remorse for his violent acts, including (but not limited to) the murder of Sandoval, the stabbing of Benevidez and the gang-based assault in Oakdale. After killing Sandoval, CARO referred to the victim in vulgar terms and taunted guards by asking when he would receive a new cell mate.

The government gives further 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 Indictment as they relate to the background and character of the defendant, his moral culpability and the nature and circumstances of the offense of conviction.

Respectfully submitted,

**JOHN L. BROWNLEE**  
**UNITED STATES ATTORNEY**

Dated: January 11, 2006

s/ Anthony P. Giorno  
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this 11<sup>th</sup> day of January, 2006, electronically filed the Notice of Intent to Seek the Death Penalty with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following: Stephen J. Kalista, Esq., P.O. Box 1186, Big Stone Gap, Virginia 24219, and mailed by United States Postal Service a copy of the document to the following non-CM/ECF participant: James Simmons, Esq., 1208 17<sup>th</sup> Avenue South, Nashville, Tennessee 37212-2802, counsel for the defendant.

s/Anthony P. Giorno  
Assistant United States Attorney  
VSB Code # 15830