

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

JUL 22 1997
d/dht
CLERK, U.S. DISTRICT COURT
RICHMOND, VA

UNITED STATES OF AMERICA)
)
)
 v.) Criminal No. 3:96-CR-66 (6)
)
)
 LEONEL ROMEO CAZACO,)
 a/k/a "Jimmy Fingers")
 a/k/a "Frank Nisbett")
 a/k/a "James Romeo Nelson")
 a/k/a "Phil")
 a/k/a "Scott")
)
 Defendant.)

FINAL AMENDED NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH

COMES NOW the United States of America, pursuant to Title 21, United States Code, Sections 848(e)(1)(A) and 848(h)(1)(A) & (B), by and through its undersigned counsel, Helen F. Fahey, United States Attorney, and Andrew G. McBride and David J. Novak, Assistant United States Attorneys, and files a Final Amended Notice of Intent to Seek a Sentence of Death. The United States notifies the Court and the defendant LEONEL ROMEO CAZACO and his counsel, that in the event of the defendant's conviction of any of Counts Ten, Eleven, or Twelve of the pending Superseding Indictment, wherein the defendant is charged with intentionally killing Anthony Baylor, Marco Baylor, and Anthony Merrit, and aiding and abetting said intentional killings, while engaging in and working in furtherance of a continuing criminal enterprise and while engaging in an offense punishable under Title 21, United States Code, Section 841(b)(1)(A), the Government will seek the sentence of death.

I. AGGRAVATING FACTORS AS TO COUNT TEN

The Government will seek to prove the following aggravating factors as the basis for imposition of the death penalty against LEONEL ROMEO CAZACO in relation to Count Ten of the Superseding Indictment for the intentional killing of Anthony Baylor:

A. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (1) (A) through (D):

1. The defendant intentionally killed Anthony Baylor. Section 848(n) (1) (A).

2. The defendant intentionally inflicted serious bodily injury which resulted in the death of Anthony Baylor. Section 848(n) (1) (B).

3. The defendant intentionally engaged in conduct intending that the victim, Anthony Baylor be killed and that lethal force be employed against the victim, which resulted in the death of Anthony Baylor. Section 848(n) (1) (C).

4. The defendant intentionally engaged in conduct which the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense, and that conduct resulted in the death of Anthony Baylor. Section 848(n) (1) (D).

B. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (2) through (12):

1. The defendant LEONEL ROMEO CAZACO committed the offense described in Count Ten of the Superseding Indictment as consideration for the receipt, and in expectation of the receipt of something of pecuniary value. Section 848(n) (7).

2. The defendant LEONEL ROMEO CAZACO committed the offense described in Count Ten of the Superseding Indictment after substantial planning and premeditation. Section 848(n)(8).

C. Other, Non-Statutory, Aggravating Factors Identified under 21 U.S.C. § 848 (h)(1)(B) and § 848(k):

1. The defendant LEONEL ROMEO CAZACO's future dangerousness that is, the probability that the defendant would commit criminal acts of violence constituting a continuing threat to society, as evidenced by some or all of the following:

a. On or about June 8, 1991, in Harford County, Maryland, the defendant LEONEL ROMEO CAZACO was arrested in possession of cocaine and "crack" cocaine, totaling approximately 180 grams, which was packaged in vials for distribution for profit.

b. On or about October 10, 1991, the defendant LEONEL ROMEO CAZACO was found guilty of Possession With Intent to Distribute Cocaine in the Harford County Circuit Court, Harford County, Maryland, Docket No. 91-C-0749 and was sentenced to ten years imprisonment with all but 10 months imprisonment suspended.

c. On or about September 23, 1992, in East Orange, New Jersey, the defendant LEONEL ROMEO CAZACO was arrested while selling "crack" cocaine on the street to persons in passing cars and resisted arrest by attempting to push Sergeant DiGiacomo to the ground and flee the area.

d. On or about September 24, 1992, in the Municipal Court of East Orange, New Jersey, in Docket Nos. C92-8626 and C92-8627, the defendant LEONEL ROMEO CAZACO was found guilty of possession of cocaine and resisting arrest and was sentenced to one year

probation, a suspended jail term of 180 days, and \$375.00 in fines.

e. On or about November 14, 1992, in East Orange, New Jersey the defendant LEONEL ROMEO CAZACO possessed a loaded .25 caliber Raven Arms semi-automatic pistol.

f. On or about November 14, 1992, in East Orange, New Jersey, the defendant LEONEL ROMEO CAZACO falsely identified himself to Detective George Casale of the East Orange Police Department as "James Romeo Nelson."

g. On or about December 3, 1992, in the Circuit Court of Harford County, Maryland a warrant was issued for the defendant LEONEL ROMEO CAZACO's arrest for violations of probation.

h. In or about May of 1993, in the Municipal Court of East Orange, New Jersey, in Docket No. C93-4825, the defendant LEONEL ROMEO CAZACO failed to appear as ordered to answer charges of possession of marijuana and a warrant for his arrest was issued.

i. On or about July 26, 1993, the defendant LEONEL ROMEO CAZACO, using the false name "James Romeo Nelson," was convicted in the Superior Court of Essex County, New Jersey in Docket No. I-93-6-2060 of unlawful possession of a weapon in the third degree, to wit: a loaded Raven Arms .25 caliber semi-automatic pistol and received a sentence of time served (168 days), two years probation, and a \$30.00 fine.

j. On or about April 7, 1994, less than three months after the defendant committed offense charged in Count Ten of the Superseding Indictment, the defendant LEONEL ROMEO CAZACO shot

and killed Walter Raynard Twitty in Richmond, Virginia during the course of a pre-planned robbery attempt.

k. On or about March 22, 1995, in an abandoned apartment on Drake Street, in Richmond, Virginia, the defendant LEONEL ROMEO CAZACO was apprehended by a Richmond City Police Officer with cocaine and falsely identified himself as "Frank Nisbett."

l. In or about the Summer of 1995, the defendant LEONEL ROMEO CAZACO broke away from members of the "Poison Clan" and established his own drug-trafficking enterprise in the Bellemeade area of Richmond, Virginia, with his co-defendant RICHARD ANTHONY THOMAS and others.

m. On or about September 8, 1995, in Richmond, Virginia, the defendant LEONEL ROMEO CAZACO and his co-defendant RICHARD ANTHONY THOMAS jointly possessed a loaded .45 caliber High Point semi-automatic pistol with the serial number removed and a loaded .44 caliber Llama revolver in a vehicle operated by the defendant CAZACO.

n. On March 20, 1996, the defendant LEONEL ROMEO CAZACO was found guilty in the United States District Court for the Eastern District of Virginia, Richmond Division, Docket No. 3:95CR87-01 of Maintaining a Place for the Distribution of "crack" Cocaine.

2. The nature of the offense charged in Count Ten of the Superseding Indictment, including, but not limited to, the following:

- a. In committing the offense the defendant LEONEL ROMEO CAZACO knowingly and intentionally killed two other human beings, to wit: Marco Baylor and Anthony Merrit.

II. AGGRAVATING FACTORS AS TO COUNT ELEVEN

The Government will seek to prove the following aggravating factors as the basis for imposition of the death penalty against LEONEL ROMEO CAZACO in relation to Count Eleven of the Superseding Indictment for the intentional killing of Marco Baylor:

A. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (1) (A) through (D):

1. The defendant intentionally killed Marco Baylor. Section 848(n) (1) (A).
2. The defendant intentionally inflicted serious bodily injury which resulted in the death of Marco Baylor. Section 848(n) (1) (B).
3. The defendant intentionally engaged in conduct intending that the victim, Marco Baylor be killed and that lethal force be employed against the victim, which resulted in the death of Marco Baylor. Section 848(n) (1) (C).
4. The defendant intentionally engaged in conduct which the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense, and that conduct resulted in the death of Marco Baylor. Section

848(n) (1) (D) .

B. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (2) through (12):

1. The defendant LEONEL ROMEO CAZACO committed the offense described in Count Eleven of the Superseding Indictment as consideration for the receipt, and in expectation of the receipt of something of pecuniary value. Section 848(n)(7).

2. The defendant LEONEL ROMEO CAZACO committed the offense described in Count Eleven of the Superseding Indictment after substantial planning and premeditation. Section 848(n)(8).

C. Other, Non-Statutory, Aggravating Factors Identified under 21 U.S.C. § 848 (h)(1)(B) and § 848(k):

1. The defendant LEONEL ROMEO CAZACO's future dangerousness that is, the probability that the defendant would commit criminal acts of violence constituting a continuing threat to society, as evidenced by some or all of the following:

a. On or about June 8, 1991, in Harford County, Maryland, the defendant LEONEL ROMEO CAZACO was arrested in possession of cocaine and "crack" cocaine, totaling approximately 180 grams, which was packaged in vials for distribution for profit.

b. On or about October 10, 1991, the defendant LEONEL ROMEO CAZACO was found guilty of Possession With Intent to Distribute Cocaine in the Harford County Circuit Court, Harford County, Maryland, Docket No. 91-C-0749 and was sentenced to ten years imprisonment with all but 10 months imprisonment suspended.

c. On or about September 23, 1992, in East Orange, New Jersey, the defendant LEONEL ROMEO CAZACO was arrested while

selling "crack" cocaine on the street to persons in passing cars and resisted arrest by attempting to push Sergeant DiGiacomo to the ground and flee the area.

d. On or about September 24, 1992, in the Municipal Court of East Orange, New Jersey, in Docket Nos. C92-8626 and C92-8627, the defendant LEONEL ROMEO CAZACO was found guilty of possession of cocaine and resisting arrest and was sentenced to one year probation, a suspended jail term of 180 days, and \$375.00 in fines.

e. On or about November 14, 1992, in East Orange, New Jersey the defendant LEONEL ROMEO CAZACO possessed a loaded .25 caliber Raven Arms semi-automatic pistol.

f. On or about November 14, 1992, in East Orange, New Jersey, the defendant LEONEL ROMEO CAZACO falsely identified himself to Detective George Casale of the East Orange Police Department as "James Romeo Nelson."

g. On or about December 3, 1992, in the Circuit Court of Harford County, Maryland a warrant was issued for the defendant LEONEL ROMEO CAZACO's arrest for violations of probation.

h. In or about May of 1993, in the Municipal Court of East Orange, New Jersey, in Docket No. C93-4825, the defendant LEONEL ROMEO CAZACO failed to appear as ordered to answer charges of possession of marijuana and a warrant for his arrest was issued.

i. On or about July 26, 1993, the defendant LEONEL ROMEO CAZACO, using the false name "James Romeo Nelson," was convicted in the Superior Court of Essex County, New Jersey in Docket

No. I-93-6-2060 of unlawful possession of a weapon in the third degree, to wit: a loaded Raven Arms .25 caliber semi-automatic pistol and received a sentence of time served (168 days), two years probation, and a \$30.00 fine.

j. On or about April 7, 1994, less than three months after the defendant committed offense charged in Count Ten of the Superseding Indictment, the defendant LEONEL ROMEO CAZACO shot and killed Walter Raynard Twitty in Richmond, Virginia during the course of a pre-planned robbery attempt.

k. On or about March 22, 1995, in an abandoned apartment on Drake Street, in Richmond, Virginia, the defendant LEONEL ROMEO CAZACO was apprehended by a Richmond City Police Officer with cocaine and falsely identified himself as "Frank Nisbett."

l. In or about the Summer of 1995, the defendant LEONEL ROMEO CAZACO broke away from members of the "Poison Clan" and established his own drug-trafficking enterprise in the Bellemeade area of Richmond, Virginia, with his co-defendant RICHARD ANTHONY THOMAS and others.

m. On or about September 8, 1995, in Richmond, Virginia, the defendant LEONEL ROMEO CAZACO and his co-defendant RICHARD ANTHONY THOMAS jointly possessed a loaded .45 caliber High Point semi-automatic pistol with the serial number removed and a loaded .44 caliber Llama revolver in a vehicle operated by the defendant CAZACO.

n. On March 20, 1996, the defendant LEONEL ROMEO CAZACO was found guilty in the United States District Court for the

Eastern District of Virginia, Richmond Division, Docket No. 3:95CR87-01 of Maintaining a Place for the Distribution of "crack" Cocaine.

2. The nature of the offense charged in Count Eleven of the Superseding Indictment, including, but not limited to, the following:

- a. In committing the offense the defendant LEONEL ROMEO CAZACO knowingly and intentionally killed two other human beings, to wit: Anthony Baylor and Anthony Merrit.

III. AGGRAVATING FACTORS AS TO COUNT TWELVE

The Government will seek to prove the following aggravating factors as the basis for imposition of the death penalty against LEONEL ROMEO CAZACO in relation to Count Twelve of the Superseding Indictment for the intentional killing of Anthony Merrit:

A. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (1) (A) through (D):

1. The defendant intentionally killed Anthony Merrit. Section 848(n) (1) (A).
2. The defendant intentionally inflicted serious bodily injury which resulted in the death of Anthony Merrit. Section 848(n) (1) (B).
3. The defendant intentionally engaged in conduct intending that the victim, Anthony Merrit be killed and that lethal force be employed against the victim, which resulted in the death of Anthony Merrit. Section 848(n) (1) (C).
4. The defendant intentionally engaged in conduct which

the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense, and that conduct resulted in the death of Anthony Merrit. Section 848(n)(1)(D).

B. Statutory Aggravating Factors Enumerated under 21 U.S.C. § 848(n) (2) through (12):

1. The defendant LEONEL ROMEO CAZACO committed the offense described in Count Twelve of the Superseding Indictment as consideration for the receipt, and in expectation of the receipt of something of pecuniary value. Section 848(n)(7).

2. The defendant LEONEL ROMEO CAZACO committed the offense described in Count Twelve of the Superseding Indictment after substantial planning and premeditation. Section 848(n)(8).

C. Other, Non-Statutory, Aggravating Factors Identified under 21 U.S.C. § 848 (h) (1) (B) and § 848(k):

1. The defendant LEONEL ROMEO CAZACO's future dangerousness that is, the probability that the defendant would commit criminal acts of violence constituting a continuing threat to society, as evidenced by some or all of the following:

a. On or about June 8, 1991, in Harford County, Maryland, the defendant LEONEL ROMEO CAZACO was arrested in possession of cocaine and "crack" cocaine, totaling approximately 180 grams, which was packaged in vials for distribution for profit.

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years imprisonment with all but 10 months imprisonment suspended.

c. On or about September 23, 1992, in East Orange, New Jersey, the defendant LEONEL ROMEO CAZACO was arrested while selling "crack" cocaine on the street to persons in passing cars and resisted arrest by attempting to push Sergeant DiGiacomo to the ground and flee the area.

d. On or about September 24, 1992, in the Municipal Court of East Orange, New Jersey, in Docket Nos. C92-8626 and C92-8627, the defendant LEONEL ROMEO CAZACO was found guilty of possession of cocaine and resisting arrest and was sentenced to one year probation, a suspended jail term of 180 days, and \$375.00 in fines.

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f. On or about November 14, 1992, in East Orange, New Jersey, the defendant LEONEL ROMEO CAZACO falsely identified himself to Detective George Casale of the East Orange Police Department as "James Romeo Nelson."

g. On or about December 3, 1992, in the Circuit Court of Harford County, Maryland a warrant was issued for the defendant LEONEL ROMEO CAZACO's arrest for violations of probation.

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j. On or about April 7, 1994, less than three months after the defendant committed offense charged in Count Ten of the Superseding Indictment, the defendant LEONEL ROMEO CAZACO shot and killed Walter Raynard Twitty in Richmond, Virginia during the course of a pre-planned robbery attempt.

k. On or about March 22, 1995, in an abandoned apartment on Drake Street, in Richmond, Virginia, the defendant LEONEL ROMEO CAZACO was apprehended by a Richmond City Police Officer with cocaine and falsely identified himself as "Frank Nisbett."

l. In or about the Summer of 1995, the defendant LEONEL ROMEO CAZACO broke away from members of the "Poison Clan" and established his own drug-trafficking enterprise in the Bellemeade area of Richmond, Virginia, with his co-defendant RICHARD ANTHONY THOMAS and others.

m. On or about September 8, 1995, in Richmond, Virginia, the defendant LEONEL ROMEO CAZACO and his co-defendant RICHARD ANTHONY THOMAS jointly possessed a loaded .45 caliber High Point semi-automatic pistol with the serial number removed and a loaded .44 caliber Llama revolver in a vehicle operated by the defendant

CAZACO.

n. On March 20, 1996, the defendant LEONEL ROMEO CAZACO was found guilty in the United States District Court for the Eastern District of Virginia, Richmond Division, Docket No. 3:95CR87-01 of Maintaining a Place for the Distribution of "crack" Cocaine.

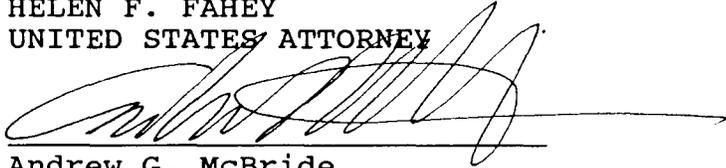
2. The nature of the offense charged in Count Twelve of the Superseding Indictment, including, but not limited to, the following:

- a. In committing the offense the defendant LEONEL ROMEO CAZACO knowingly and intentionally killed two other human beings, to wit: Marco Baylor and Anthony Baylor.

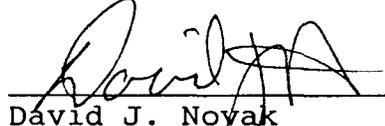
Respectfully submitted,

HELEN F. FAHEY
UNITED STATES ATTORNEY

By:



Andrew G. McBride
Assistant U.S. Attorney



David J. Novak
Assistant U.S. Attorney

Certificate of Service

The undersigned hereby certifies that a copy of the Government's Final Amended Notice was hand-delivered in Court on July 22, 1997 to the following attorneys for the defendants:

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