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10
11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,) No. CR 02-938-GHK
14 Plaintiff,)
15 v.) GOVERNMENT'S NOTICE OF INTENT
16 DAVID ALLEN CHANCE,) TO SEEK THE DEATH PENALTY
17 Defendant.) AGAINST DEFENDANT CHANCE

18 NOTICE OF INTENT TO SEEK THE DEATH PENALTY

19 The United States of America, pursuant to 18 U.S.C.
20 § 3593(a), notifies the Court and defendant DAVID ALLEN CHANCE
21 ("defendant") that the Government believes the circumstances of
22 the offenses charged in Counts Four and Five of the Indictment
23 are such that, in the event of a conviction, a sentence of death
24 is justified under Chapter 228 (Sections 3591 through 3598) of
25 Title 18 of the United States Code, and that the Government will
26 seek the sentence of death for the following offenses: (1)
27 commission of a violent crime in aid of racketeering activity, to
28

1 wit, the murder of Arthur Ruffo in violation of Title 18, United
2 States Code, Section 1959(a)(1) [Count Four]; and (2) commission
3 of a violent crime in aid of racketeering activity, to wit, the
4 murder of Aaron Marsh, in violation of Title 18, United States
5 Code, Section 1959(a)(1) [Count Five], each of which carries a
6 possible sentence of death.

7 The Government proposes to prove the following factors as
8 justifying a sentence of death.

9 A. Statutory Proportionality Factor Enumerated under 18
10 U.S.C. § 3591(a)(2)(C)

11 The following statutory proportionality factor applies to
12 each of Counts Four and Five.

13 1. **Intentional Acts to Take Life or Use Lethal Force**

14 The defendant intentionally participated in an act, contemplating
15 that the life of a person would be taken or intending that lethal
16 force would be used in connection with a person, other than one
17 of the participants in the offense, and Arthur Ruffo [Count
18 Four], and Aaron Marsh [Count Five] died as a direct result of
19 the act. 18 U.S.C. § 3591(a)(2)(C).

20 B. Statutory Aggravating Factors Enumerated under 18
21 U.S.C. § 3592(c)

22 The following statutory aggravating factors apply to each of
23 Counts Four and Five.

24 1. **Previous conviction of offense for which a**
25 **sentence of death or life imprisonment was authorized**

26 The defendant has previously been convicted of another Federal or
27 State offense resulting in the death of a person, for which a

1 sentence of life imprisonment or death was authorized by statute,
2 to wit, conviction for murder in San Diego County Superior Court
3 on March 23, 1972, in Case No. CR-25326. 18 U.S.C. § 3592(c)(3).

4 **2. Substantial Planning and Premeditation**

5 The defendant committed the offenses charged in Counts Four and
6 Five after substantial planning and premeditation to cause the
7 death of a person. 18 U.S.C. § 3592(c)(9).

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

10 The following non-statutory, aggravating factors apply to
11 each of Counts Four and Five.

12 **1. Future Dangerousness of the Defendant**

13 The defendant is likely to commit criminal acts of violence in
14 the future that would constitute a continuing and serious threat
15 to the lives and safety of others, as evidenced by, at least, one
16 or more of the following:

17 a. Continuing Pattern of Violence

18 The defendant has engaged in a continuing pattern of violence,
19 attempted violence, and threatened violence, including, at least,
20 the crimes alleged against defendant in the Indictment, and the
21 crime of which the defendant was previously convicted, as
22 described in ¶ B.1. of this Notice.

23 b. Institutional Misconduct

24 The defendant poses a future danger to the lives and safety of
25 other persons, as demonstrated by his institutional misconduct,
26 including, at least, repeated acts of institutional misconduct
27 while enlisted in the United States Marine Corps, and while in
28

1 the custody of the California Department of Corrections,
2 including two separate convictions for possession of a sharp
3 instrument while a prisoner, Counts I and II, in San Joaquin
4 County Superior Court on September 26, 1974, in Case No. 26236.

5 2. **Contemporaneous Convictions**


6 Defendant faces contemporaneous convictions for multiple murders
7 and other serious acts of violence.

8 The Government further gives notice that in support of
9 imposition of the death penalty it intends to rely upon all the
10 evidence admitted by the Court at the guilt phase of the trial
11 and the offenses of conviction as described in the Indictment as
12 they relate to the background and character of the defendant,
13 DAVID ALLEN CHANCE, his moral culpability, and the nature and
14 circumstances of the offenses charged in the Indictment.

15 DATE: May 9, 2005 Respectfully submitted,

16 DEBRA W. YANG
17 United States Attorney

18 STEVEN D. CLYMER
19 Special Assistant United States Attorney
20 Chief, Criminal Division

21 
22 GREGORY W. JESSNER
23 JOEY W. BLANCH
24 STEPHEN G. WOLFE
25 Assistant United States Attorneys
26 Organized Crime and Terrorism Section

27 Attorneys for Plaintiff
28 United States of America

1 CERTIFICATE OF SERVICE

2 I, CAREY P. CRONIN, declare:

3 That I am a citizen of the United States and resident or
4 employed in Los Angeles County, California; that my business
5 address is the Office of United States Attorney, United States
6 Courthouse, 312 North Spring Street, Los Angeles, California
7 90012; that I am over the age of eighteen years, and am not a
8 party to the above-entitled action;

9 That I am employed by the United States Attorney for the
10 Central District of California who is a member of the Bar of the
11 United States District Court for the Central District of
12 California, at whose direction I served a copy of:

13 GOVERNMENT'S NOTICE OF INTENT TO SEEK THE DEATH PENALTY AGAINST
14 DEFENDANT CHANCE

15 service was:

16 Placed in a closed
17 envelope, for collection
18 and interoffice delivery
19 addressed as follows:

20 Placed in a sealed
21 envelope for collection and
22 mailing via United States Mail,
23 addressed as follows:

24 By hand delivery
25 addressed as follows:

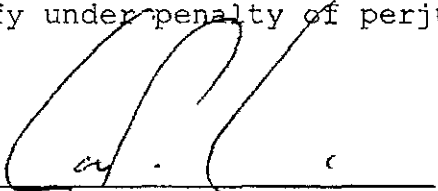
26 By facsimile as follows:

27 By messenger as follows:

28 By federal express as
follows:

29 **SEE ATTACHMENT**

30 This Certificate is executed on 5-9-05, at Los
31 Angeles, California. I certify under penalty of perjury that the
32 foregoing is true and correct.

33 
34 _____
35 CAREY P. CRONIN