

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

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 1:04CR283-A
)	
ISMAEL JUAREZ CISNEROS,)	Judge Gerald Bruce Lee
also known as "Arana,")	
)	
Defendant.)	

NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH

The United States of America, through its attorney, Paul J. McNulty, the United States Attorney for the Eastern District of Virginia, and his assistants, Ronald L. Walutes, Jr. and Patricia T. Giles, hereby notifies the Court, the defendant, ISMAEL JUAREZ CISNEROS, also known as "Arana," and his counsel, that in the event of the defendant's conviction on any of Counts One, Two, Three, Four and Five, wherein the defendant is charged with Conspiracy to Tamper with a Witness or an Informant in violation of Title 18, United States Code, Section 1512(k), Conspiracy to Retaliate against a Witness or an Informant in violation of Title 18, United States Code, Section 1513(e), Killing a Person Aiding a Federal Investigation in violation of Title 18, United States Code, Sections 2 and 1121(a)(2), Tampering with a Witness or an Informant in violation of Title 18, United States Code, Sections 2 and 1512(a)(1), and Retaliating against a Witness or an Informant in violation of Title 18, United States Code, Sections 2 and 1513(a)(1), the government will seek the sentence of death, in that the circumstances of the offenses are such that a sentence of death is justified.

A. Statutory Threshold Findings Enumerated in 18 U.S.C. § 3591(a)(2)(A) through (D).

The government will seek to prove the following threshold findings as the basis for imposition of the death penalty in relation to Counts One, Two, Three, Four and Five of the Indictment:

1. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," intentionally killed Brenda Paz, also known as "Smiley." 18 U.S.C. § 3591(a)(2)(A).
2. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," intentionally inflicted serious bodily injury that resulted in the death of Brenda Paz, also known as "Smiley." 18 U.S.C. § 3591(a)(2)(B).
3. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," 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 Brenda Paz, also known as "Smiley," died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).
4. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," 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 Brenda Paz, also known as "Smiley," died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).
5. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," was more than eighteen (18) years of age at the time of the murder of Brenda Paz, also known as "Smiley." 18

U.S.C. §3591(a).

B. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592(c)(1) through (16).

The government will seek to prove the following statutory aggravating factors as the basis for imposition of the death penalty in relation to Counts One, Two, Three, Four and Five of the Indictment:

1. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," committed the offense in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to Brenda Paz, also known as "Smiley." 18 U.S.C. § 3592(c)(6).

2. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," committed the offense after substantial planning and premeditation to cause the death of Brenda Paz, also known as "Smiley." 18 U.S.C. § 3592(c)(9).

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

The government will seek to prove the following non-statutory aggravating factors as the basis for imposition of the death penalty in relation to Counts One, Two, Three, Four and Five of the Indictment:

1. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," a citizen of Mexico, has repeatedly entered the United States illegally. On or about February 13, 2004, defendant CISNEROS pled guilty to illegal re-entry after deportation.

2. While illegally in the United States, defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," has engaged in a pattern of criminal activity including, but not limited to, the following:

(a) On or about August 3, 1999, defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," was convicted of carrying a concealed weapon in Fairfax, Virginia.

(b) On or about April 17, 1999, defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," stabbed a fifteen-year-old victim four times in the back and once in the wrist at the Fairfax Towne Center shopping center in retaliation for the victim preventing co-defendant Oscar Antonio Grande from further assaulting a fellow student at school. On or about August 10, 1999, defendant CISNEROS pled guilty for this conduct, resulting in his deportation by the U.S. Immigration and Naturalization Service on or about May 30, 2000.

(c) On or about August 28, 2001, defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," along with four others, stole merchandise valued at more than \$200 from Hecht's department store in Manassas, Virginia.

(d) On or about July 2, 2003, defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," sold a 12-gauge, pistol-grip shotgun loaded with four rounds of ammunition to a confidential informant.

(e) On or about July 25, 2003, defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," sold a .45 caliber pistol, ammunition, and cocaine to a confidential informant. At this time, defendant CISNEROS also stated that he could acquire hand grenades and would be willing to sell those to the confidential informant.

(f) On or about October 15, 2003, defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," sold a .45 caliber pistol and cocaine to an undercover agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(g) On or about October 29, 2003, defendant ISMAEL JUAREZ CISNEROS, also

known as "Arana," sold a .380 caliber pistol and cocaine to a confidential informant.

(h) On or about November 4, 2003, defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," sold a .38 caliber revolver, which was loaded, and cocaine to an undercover agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives. At that time, defendant CISNEROS stated his willingness to commit a home invasion/armed robbery and stated that the occupants of the location may need to be murdered during the course of the home invasion/armed robbery. Defendant CISNEROS also stated his desire to be in the prostitution business.

(i) On or about November 18, 2003, officers conducted a search of the residence occupied by defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," and recovered cocaine, tools of the drug trade, and ammunition.

(j) In or about November 2003, defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," made statements to a confidential informant that defendant CISNEROS wanted to shoot a police officer due to the amount of friends that defendant CISNEROS had that were currently incarcerated.

3. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," was a member of a criminal street gang as defined by 18 U.S.C. § 521(a), namely the Mara Salvatrucha, also known as "MS-13." As a member of MS-13, defendant CISNEROS agreed to engage in acts of violence, including murder and aggravated assaults. Defendant CISNEROS was a senior member of the Centrales Locos Salvatrucha, or "CLS," clique of MS-13, and as such was an enforcer of the rules of MS-13.

4. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," a citizen of

Mexico, participated in the murder of Brenda Paz, also known as "Smiley," after he illegally re-entered the United States in or about mid-2001.

5. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," poses a future danger based upon the probability that he would commit criminal acts of violence that would constitute a continuing threat to society as demonstrated by, but not limited to, the following:

(a) While in custody at the Arlington County Detention Facility, defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," continued to conduct and influence MS-13 gang business occurring outside of the correctional institution.

(b) While in custody, defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," made telephone calls to members of MS-13 and their associates identifying witnesses against him.

6. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," murdered Brenda Paz, also known as "Smiley," while knowing that she was pregnant at the time of her murder.

7. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," committed Counts One, Two, Three, Four and Five of the Indictment to prevent Brenda Paz, also known as "Smiley," from and to retaliate against her for assisting in the investigation and prosecution of co-defendant Denis Rivera for the murder of Joaquin Diaz, and in the investigation of other MS-13 members for their criminal activity.

8. Defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," attempted to obstruct justice after murdering Brenda Paz, also known as "Smiley," by threatening to kill anyone who revealed to law enforcement details of his and co-defendants Oscar Antonio Grande and Oscar Alexander Garcia-Orellana's departure from the Holiday Inn Fair Oaks with Brenda

Paz, also known as "Smiley," on July 13, 2003.

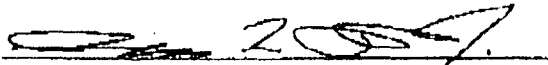
9. The impact of the loss of Brenda Paz, also known as "Smiley," on her family is an aggravating factor.


The government further gives notice that, in support of the 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 defendant ISMAEL JUAREZ CISNEROS, also known as "Arana," his moral culpability, and the nature and circumstances of the offense charged in Counts One, Two, Three, Four and Five of the Indictment.

Respectfully submitted,

PAUL J. McNulty
UNITED STATES ATTORNEY

By:


Ronald L. Walutes, Jr.
Assistant United States Attorney


Patricia T. Giles
Assistant United States Attorney

Certificate of Service

The undersigned hereby certifies that on the 1st day of October, 2004, a copy of the Government's Notice of Intent to Seek a Sentence of Death was mailed and faxed to the following attorneys for the defendants:

Robert L. Jenkins, Jr., Esquire
901 North Pitt Street
Suite 320
Alexandria, Virginia 22314
(703) 549-7211
fax: (703) 549-7701

Jerome P. Aquino, Esquire
221 South Alfred Street
Alexandria, Virginia 22314
(703) 549-1131
fax: (703) 549-5750

David P. Baugh, Esquire
223 South Cherry
Richmond, Virginia 23241-0137
(804) 643-8111
fax: (804) 225-8035

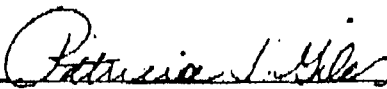
L. Felipe Restrepo, Esquire
239 South Camac Street
Philadelphia, Pennsylvania 19107
(215) 731-9500
fax: (215) 731-9907

Nina J. Ginsberg, Esquire
908 King Street
Suite 200
Alexandria, Virginia 22314-3019
(703) 684-4333
fax: (703) 548-3181

James C. Clark, Esquire
524 King Street (or P.O. Box 19888)
Alexandria, Virginia 22320
(703) 778-1433
fax: (703) 549-3335

Alexander N. Levay, Jr., Esquire
21 North King Street
Leesburg, Virginia 20176
(703) 777-6800
fax: (703) 777-8429

Frank Salvato, Esquire
1203 Duke Street
Alexandria, Virginia 22314
(703) 548-5000
fax: (703) 739-0179


Patricia T. Giles
Assistant United States Attorney