

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 98-436-Cr-T-26(B)
	:	
LOUIS CLEMENTE	:	

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

The United States of America, pursuant to Title 18, United States Code, Section 3593(a), notifies the Court and the defendant in the above-captioned case that the United States believes the circumstances of the offenses charged in Counts Five through Eight of the Superseding 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 United States will seek the sentence of death for these offenses: violent crimes (murders) in aid of racketeering (Counts Five and Seven), in violation of Title 18, United States Code, Sections 1959(a)(1), and firearms murders of Jesus Sanchez and Omar Sanchez (Counts Six and Eight), in violation of Title 18, United States Code, Section 924(j)(1), which carry a possible sentence of death.

The United States proposes to prove the following factors as justifying a sentence of death.

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

1. **Intentional Killing.** The defendant intentionally killed Jesus Sanchez and Omar Sanchez. Section 3591(a)(2)(A).
 2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the deaths of Jesus Sanchez and Omar Sanchez. Section 3591(a)(2)(B).
 3. **Intentional Acts to Take Life or Use Lethal Force.** The defendant 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 Jesus Sanchez and Omar Sanchez died as a direct result of the act. Section 3591(a)(2)(C).
 4. **Intentional Acts In Reckless Disregard Of Life.** The defendant intentionally engaged in conduct which: (i) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and (ii) resulted in the deaths of Jesus Sanchez and Omar Sanchez. Section 3591(a)(2)(D).
- B. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592(c).
1. **Procurement of the Offense by Payment.** The defendant procured the murders of Jesus Sanchez and Omar Sanchez by payment, or promise of payment, of money to co-defendants Cesar Mayo Lynch, Jose Hernandez-Miranda and Hector Duran. Section 3592(c)(7).
 2. **Substantial Planning and Premeditation.** The defendant committed the offenses after substantial planning and premeditation to cause the deaths of Jesus Sanchez and Omar Sanchez. Section 3592(c)(9).

3. **Continuing Criminal Enterprise Involving Distribution to Minors.** The defendant committed the offenses in the course of engaging in a continuing criminal enterprise in violation of Title 21, United States Code, Section 848(c), and that violation involved the distribution of drugs to persons under the age of 21 in violation of Title 21, United States Code, Section 859. Section 3592(c)(13).

4. **Multiple Killings or Attempted Killings.** The defendant intentionally killed Jesus Sanchez and Omar Sanchez in a single criminal episode. Section 3592(c)(16).

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

1. **Vileness of the Crime.** The defendant's conduct in committing the offense, apart from the other aggravating factors, was substantially greater in degree than that described in the definition of the crime. Smith v. Commonwealth, 219 Va. 455, 478, 248 S.E.2d 135, 149 (1978), cert. denied, 441 U.S. 967 (1979). In committing the offense, the defendant did one or more of the following:

- a. The victims were lured to the defendant's residence by the defendant.
- b. Both victims were shot a close range multiple times.
- c. Two separate firearms, provided by the defendant, were utilized.
- d. One victim was shot in the back of the head and chest; the other victim was shot in the back of the head, the upper

back, and the hand.

- e. There were two separate assailants so that neither of the victims could escape the residence.
- f. When one victim observed his brother being shot, he attempted to flee from the residence and was shot in the back of the head and upper back.
- g. After the murders were committed, the defendant directed that the victims bodies be removed and buried in an orange grove in a rural area.

2. Defendant Committed Offense While Under Criminal Justice

Sentence. The defendant was serving a state burglary sentence at the time of the murders. In lieu of serving his sentence in a state prison, the defendant was placed on community control and was confined to his residence. The murders were planned by the defendant to be committed, and were committed, at his residence.

3. Future Dangerousness of the Defendant. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 512 U.S. 154, 161 (1994). In addition to the capital offense(s) charged in the indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the defendant has engaged in a continuing pattern of violent conduct, has threatened others with violence, and has demonstrated a lack of remorse, including but not limited to one or more of the following:

- a. The defendant threatened a next door neighbor, warning the neighbor that he would hurt the neighbor if the neighbor ever called the police.
- b. As a result of a drug debt, the defendant and a coconspirator held another individual against his will, assaulting the individual with a board. The defendant also placed a pistol to the individual's head, and threatened to kill the individual.
- c. Following the murders of Jesus Sanchez and Omar Sanchez, the defendant made numerous threats to kill another individual, who was warned to keep silent concerning what the individual had seen and heard concerning the murders.
- d. The defendant showed a firearm to another individual and threatened to shoot that individual.
- e. The defendant's admissions to his ordering the murders of the Sanchez brothers indicate an utter lack of remorse. The defendant has stated to a law enforcement agent, "They (the victims) f---ed up and had to pay - it's as simple as that".

4. **Grave Risk of Harm to Others.** The defendant's conduct in committing the offense created a grave risk of harm to others. "A grave risk of death" has been interpreted to mean "reckless disregard for human life", Tison v. Arizona, 481

U.S. 137, 157-58 (1987) or "extreme indifference to human life." Enmund v. Florida, 458 U.S. 782, 790-91 (1982). In committing the offense, the defendant did one or more of the following:

- a. The defendant was on community control at the time of the murders and was restricted to his residence. The defendant planned the murders at his residence and the murders occurred inside his residence. After the murders were committed and while cleaning up the crime scene, a state probation officer made an unscheduled home visit. The defendant initially refused to answer the door, then did so, not allowing the probation officer inside the residence. The probation officer came within risk of death as she stumbled upon the murder scene and the defendant's efforts to conceal the murders.
- b. At the defendant's direction, co-defendants Lynch and Hernandez-Miranda took the bodies of Jesus Sanchez and Omar Sanchez in the victims' truck to an orange grove and buried the bodies 75-100 yards into the grove. The victims' truck got stuck in the grove. The following morning, a deputy sheriff responded to a report of a trespass in the groves. The deputy checked the identification of Lynch and Hernandez-Miranda,

determined that the truck was not reported stolen,
and allowed Lynch and Hernandez-Miranda to leave
with the truck. The deputy came within risk of death as he
stumbled upon the efforts to bury the bodies of the victims
conceal the murders.

Respectfully submitted,

CHARLES R. WILSON
United States Attorney

By:


STEPHEN M. KUNZ

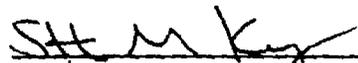
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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of August, 1999, a true and correct copy of the foregoing notice of intent to seek the death penalty was mailed via first class mail, postage prepaid thereon, to the following attorneys of record:

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