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UNITED STATES OF AMERICA

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

13 UNITED STATES OF AMERICA,) No. CR 05-578(A)-JFW
14 Plaintiff,) GOVERNMENT'S NOTICE OF INTENT
15 v.) TO SEEK THE DEATH PENALTY
16 JAVIER COVARRUBIUS,) AGAINST DEFENDANT JAVIER
17 Defendant.) COVARRUBIUS
18

19 NOTICE OF INTENT TO SEEK THE DEATH PENALTY

20 The United States of America, pursuant to 18 U.S.C.
21 § 3593(a), notifies the Court and defendant JAVIER COVARRUBIUS
22 ("defendant"), that the Government believes the circumstances of
23 the offense charged in Counts Six and Fifty-Four of the First
24 Superseding Indictment are such that, in the event of a
25 conviction, a sentence of death is justified under Chapter 228
26 (Sections 3591 through 3598) of Title 18 of the United States
27 Code, and that the Government will seek the sentence of death for
28 the offense of violent crime (murder) in aid of racketeering, in

1 violation of Title 18, United States Code, Section 1959(a)(1),
2 which carries a possible sentence of death.

3 The Government proposes to prove the following factors as
4 justifying a sentence of death.

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

7 The following statutory proportionality factors apply to
8 Counts Six and Fifty-Four.

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

10 Defendant intentionally participated in an act,
11 contemplating that the life of a person would be taken or
12 intending that lethal force would be used in connection with a
13 person, other than one of the participants in the offense, and
14 Martha Puebla died as a direct result of the act. 18 U.S.C.
15 § 3591(a)(2)(C).

16 2. **Intentionally and Specifically Engaged in an Act**
17 **of Violence Creating a Grave Risk of Death**

18 Defendant intentionally and specifically engaged in an act
19 of violence knowing that the act created a grave risk of death to
20 a person, other than one of the participants in the offense, such
21 that participation in the act constituted a reckless disregard
22 for human life and Martha Puebla died as a direct result of the
23 act. 18 U.S.C. § 3591(a)(2)(D).

24 B. Statutory Aggravating Factor Enumerated under 18 U.S.C.
25 § 3592(c)

26 The following statutory aggravating factor applies to Counts
27 Six and Fifty-Four.

1 1. **Substantial Planning and Premeditation**

2 Defendant committed the offenses charged in Counts Six and
3 Fifty-Four after substantial planning and premeditation to cause
4 the death of a person. 18 U.S.C. § 3592(c)(9).

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

7 The following non-statutory aggravating factors apply to
8 Counts Six and Fifty-Four.

9 1. **The murder was committed in an attempt to obstruct**
10 **justice**

11 Defendant participated in the murder of the victim because
12 she had testified at a preliminary hearing for a co-conspirator
13 in pretrial confinement and was expected to testify at the co-
14 conspirator's trial.

15 2. **Future Dangerousness of the Defendant**

16 Defendant is likely to commit criminal acts of violence in
17 the future that would constitute a continuing and serious threat
18 to the lives and safety of others, as evidenced by, at least, his
19 engagement in a continuing pattern of violence, attempted
20 violence, and threatened violence, including, at least, the
21 crimes alleged against defendant in the First Superseding
22 Indictment.

23 3. **Victim Impact Evidence**

24 Defendant caused injury, harm, and loss to the
25 family, friends, and classmates of Martha Puebla as evidenced by
26 her personal characteristics as a human being and the impact of
27 her death on her family, her friends, and her classmates.

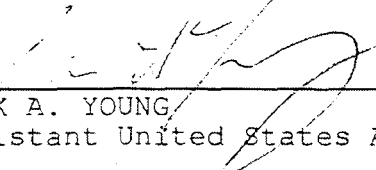
1 The Government further gives notice that in support of
2 imposition of the death penalty it intends to rely upon all the
3 evidence admitted by the Court at the guilt phase of the trial
4 and the offenses of conviction as described in the First
5 Superseding Indictment as they relate to the background and
6 character of the defendant, JAVIER COVARRUBIUS, his moral
7 culpability, and the nature and circumstances of the offenses
8 charged in the Second Superseding Indictment.

9 DATE: June 28, 2006

Respectfully submitted,

10 DEBRA WONG YANG
United States Attorney

11 THOMAS P. O'BRIEN
12 Assistant United States Attorney
13 Chief, Criminal Division

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15 _____
MARK A. YOUNG,
Assistant United States Attorney

16 Attorneys for Plaintiff
17 United States of America
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1 CERTIFICATE OF SERVICE

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3 I, REGINA AUTREY, declare:

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

8 That I am employed by the United States Attorney for the Central District of California
9 who is a member of the Bar of the United States District Court for the Central District of
10 California, at whose direction I served a copy of: **GOVERNMENT'S NOTICE OF INTENT**
11 **TO SEEK THE DEATH PENALTY AGAINST DEFENDANT JAVIER COVARRUBIUS**

12
13 **SERVICE WAS:**

14 Placed in a closed
15 envelope, for collection
16 and interoffice delivery
addressed as follows:

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

17 By hand delivery
18 addressed as follows:

By facsimile as follows:

19 By messenger as follows:

By federal express as follows:

20 **SEE ATTACHED PROOF OF SERVICE LIST.**

21 This Certificate is executed on June 28, 2006, at Los Angeles, California.

22 I certify under penalty of perjury that the foregoing is true and correct.

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24 
25 REGINA AUTREY
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