

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 99-714-CR-MORENO(s)(s)/Garber

FILED BY _____ D.C.
02 MAY 20 PM 2:22
CLEMENCE HADDOX
CLERK U.S. DIST. CT.
S.D. OF FL. - MIAMI

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE DENIS,

Defendant.

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

The United States of America, by and through the undersigned Assistant United States Attorney, notifies the Court, the defendant and his counsel that pursuant to 18 U.S.C. § 3593(a), the Government believes the circumstances of the offense charged in Count Four of the Superseding Indictment are such that, in the event of the defendant's conviction of this offense, a sentence of death is justified under Chapter 228 (Sections 3591 through 3597) of Title 18 of the United States Code. The Government will seek the sentence of death for this offense against this defendant: Count Four, the Murder of Richard Valdez, in violation of Title 18, United States Code §§ 924(i), (j) and 1111, which carries a possible sentence of death.

The Government will seek to prove the following aggravating factors as the basis for imposition of the death penalty.

COUNT FOUR

MURDER OF RICHARD VALDEZ

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

1. **Intentional Killing.** The defendant intentionally killed Richard Valdez. See Section 3591(a)(2)(A).

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

1. **Heinous, cruel or depraved manner of committing the offense.** The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. See Section 3592(c)(6).

2. **Commission of the offense for pecuniary gain.** The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. See Section 3592(c)(8).

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

1. **Participation in an additional uncharged attempted murder to obstruct justice.** After the homicide of Richard Valdez, Jose Denis conspired to kill Willie Martinez in an effort to prevent his arrest and ability to cooperate with the police and link Denis and others to the homicide.

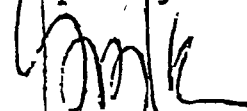
2. **Future dangerousness of the defendant.** The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to the capital offense charged in the Superseding Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the defendant has made specific threats of violence and has engaged

in a continuing pattern of violent conduct as evidenced by his commission of other armed robberies and the murder charged in the indictment. Further, the defendant has displayed a total lack of remorse for any of his violent conduct.

3. **Victim impact evidence concerning the effect of the offense on the victim's family.** The victim, Richard Valdez, left behind an extensive family which was understandably devastated by the violent death of the victim. They do not accept the possibility that the victim was involved in any criminal activity. The impact to the victim's fiancé is compounded by the telephone call she received during the attack of the victim in which she was able to hear the sound of the violence that was being administered to the victim.

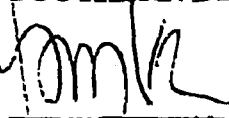
Respectfully submitted,

By:



GUY A. LEWIS,
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

By:



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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was mailed on May 20, 2002 to counsel: **Thomas Almon**, at 321 N.E. 26th Street, Miami, Florida 33137, Assistant Federal Public Defender, **Reuben C. Cahn**, at 150 West Flagler, Suite 1700, Miami, Florida 33130, and **Paul D. Petruzzi**, at 100 N. Biscayne Blvd., Suite 1100, Miami, Florida, 33132 – attorneys for **Jose Denis**; **Michael Blacker**, at 701 Brickell Avenue, Suite 2080, Miami, Florida, 33131, and **Neil Schuster**, at 407 Lincoln Road, Miami Beach, Suite 11B, Miami Beach, Florida 33139 – attorneys for **Pedro Castillo**; **Barry Greff**, at 1112 Weston Road, Suite 707, Weston, Florida, 33326 – attorney for **Evelio Guzman**; and **Lawrence Besser**, at 1925 Brickell Avenue, Suite D207, Miami, Florida 33129 – attorney for **Jorge Ginart**.



5/20/02

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ASSISTANT UNITED STATES ATTORNEY