

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

CRIMINAL NO. 97-80727-DT

Plaintiff,

HON. NANCY G. EDMUNDS

-vs-

D-3 EFRAIM GARCIA,
a/k/a "Gauge",

Defendant.

Dec 15 1 01 PM '98
U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

NOW COMES the United States of America, pursuant to 18 U.S.C. §§ 3591(a)(2)(A) and 1959(a)(1), by and through SAUL A. GREEN, United States Attorney, MICHAEL R. CARITHERS, JR., and WILLIAM J. SAUGET, Assistant United States Attorneys, and notifies the Court, the defendant EFRAIM GARCIA, a/k/a "Gauge," and the defendant's counsel, that in the event this defendant is convicted of the murder of Evan Ison as reflected in Count Four of the Second Superseding Indictment, in violation of 18 U.S.C. § 1959(a)(1), the government will seek the sentence of death for EFRAIM GARCIA, a/k/a "Gauge."

As the basis for the imposition of the death penalty against EFRAIM GARCIA, a/k/a "Gauge," the government will seek to prove the aggravating factors listed below.

I. Aggravating Factor Enumerated under 18 U.S.C. § 3591(a)(2) Initiating Death Penalty Consideration:

- 1. The defendant intentionally killed the victim (18 U.S.C. § 3591(a)(2)(A)).

II. Aggravating Factors Enumerated under 18 U.S.C. 3592(c) 1 through 16:

1. The defendant has a previous conviction of a violent felony involving a firearm (18 U.S.C. § 3592(c)(2)). More specifically, on or about April 1, 1996, the defendant was sentenced to terms of imprisonment by the St. Clair County (Michigan) Circuit Court as a result of having been convicted of the crimes of felonious assault and possession of a firearm during the commission of a felony.

2. The defendant committed the murder of Evan Ison after substantial planning and premeditation (18 U.S.C. § 3592(c)(9)).

III. Non-statutory Aggravating Factors Cognizable under 18 U.S.C. 3593(a):

1. The defendant has participated in at least four other murders; viz. those acts of murder chargeable under the law of the state of Michigan and charged as Racketeering Acts reflected in Count One of the Second Superseding Indictment. See, e.g., United States v. Pitera, 795 F.Supp. 546, 564 (E.D.N.Y. 1992); aff'd, 986 F.2d 499 (2nd Cir. 1992); vacated 28 F.3d 103 (2nd Cir. 1994).

2. Evan Ison was murdered, because GARCIA believed Mr. Ison was cooperating with local law enforcement authorities in attempting to solve the murder of Jose Rubio. See, e.g. 18 U.S.C. §§ 1510, 1512, 1513.

3. The defendant represents a continuing danger to the lives and safety of other persons in the future. In addition to the other acts of violence committed by the defendant, which reflect a pattern of violence, the government intends to show that he assaulted local law enforcement officers in Port Huron, Michigan, on or about August 17, 1995. See Jurek v. Texas, 428 U.S. 262,

272-73 (1976); Simmons v. North Carolina, 114 S.Ct. 2187, 2193 (1994); and Barefoot v. Estelle, 463 U.S. 880, 898 (1993).

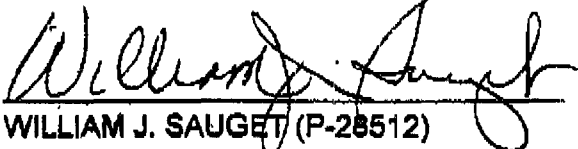
4. The defendant showed a total lack of remorse for the murder. The government intends to show that when advised by a fellow gang member that it was a waste of time to kill Evan Ison, the defendant replied, "It's never a waste of time to kill a snitch."

5. The murder of Evan Ison had a significant impact on his family. See Payne v. Tennessee, 111 S.Ct. 2597, 2609 (1991).

Respectfully submitted,

Dated: December 16, 1998

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