

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

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 1:04CR283-A
)	
OSCAR ANTONIO GRANDE,)	Judge Gerald Bruce Lee
also known as "Pantera,")	
)	
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, OSCAR ANTONIO GRANDE, also known as "Pantera," 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 OSCAR ANTONIO GRANDE, also known as “Pantera,” intentionally killed Brenda Paz, also known as “Smiley.” 18 U.S.C. § 3591(a)(2)(A).

2. Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” 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 OSCAR ANTONIO GRANDE, also known as “Pantera,” 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 OSCAR ANTONIO GRANDE, also known as “Pantera,” 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 OSCAR ANTONIO GRANDE, also known as “Pantera,” 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 OSCAR ANTONIO GRANDE, also known as “Pantera,” 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 OSCAR ANTONIO GRANDE, also known as “Pantera,” 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 OSCAR ANTONIO GRANDE, also known as “Pantera,” engaged in a pattern of juvenile criminal activity as demonstrated by, but not limited to, the following:

(a) On or about April 14, 1999, defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” assaulted a student at Fairfax High School.

(b) On or about April 17, 1999, defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” solicited co-defendant Ismael Juarez Cisneros to stab a fifteen-year-old

victim at the Fairfax Towne Center shopping center in retaliation for the victim preventing defendant GRANDE from further assaulting a fellow student at school. Defendant GRANDE was also armed with a knife during the attack on this student at the Fairfax Towne Center.

2. Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” while a student in the Fairfax County school system, repeatedly engaged in misconduct that resulted in multiple suspensions, and his expulsion.

3. Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” has engaged in a pattern of criminal activity as an adult as demonstrated by, but not limited to, the following:

(a) On or about April 25, 2002, defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” pled guilty to Assault and Battery.

(b) On or about June 18, 2003, defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” along with other members of the Mara Salvatrucha, also known as “MS-13,” knocked an individual to the ground, struck him in the head with a large rock, and then kicked and stomped him. On or about May 19, 2004, defendant GRANDE pled guilty to Malicious Wounding and Street Gang Participation in Arlington, Virginia.

(c) On or about December 19, 2003, defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” pled guilty to Obstructing Justice.

(d) Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” repeatedly carried a concealed weapon, namely a knife.

(e) Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” repeatedly hit Brenda Paz, also known as “Smiley,” and threatened to kill her.

(f) Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,”

repeatedly abused females with whom he associated, including hitting, kicking, and threatening them with knives.

4. Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” 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 GRANDE agreed to engage in acts of violence, including murder and aggravated assaults. Defendant GRANDE 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.

5. Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” 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 detained at the Arlington County Detention Facility and facing the pending charges, defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” threatened to kill an individual whom he believed had cooperated with law enforcement.

(b) While detained at the Arlington County Detention Facility, defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” has shown poor institutional adjustment in that he has committed numerous disciplinary violations.

(c) While detained at the Arlington County Detention Facility, defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” continued to conduct and influence MS-13 gang business occurring inside and outside of the correctional institution.

(d) While detained at the Loudoun County Detention Center, defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” along with other members of MS-13, caused a

disturbance in the facility.

6. Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” murdered Brenda Paz, also known as “Smiley,” while knowing that she was pregnant at the time of her murder.

7. Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” has demonstrated a lack of remorse toward the death of Brenda Paz, also known as “Smiley.”

8. Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” 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.

9. Defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” 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 Ismael Juarez Cisneros and Oscar Alexander Garcia-Orellana’s departure from the Holiday Inn Fair Oaks with Brenda Paz, also known as “Smiley,” on July 13, 2003.

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

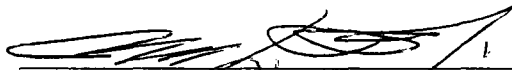
The government further gives notice that, in support of the imposition of the death penalty, it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offenses of conviction as described in the Indictment as they relate to the background and character of defendant OSCAR ANTONIO GRANDE, also known as “Pantera,” his moral culpability, and the nature and circumstances of the offense charged in Counts One,

Two, Three, Four and Five of the Indictment.

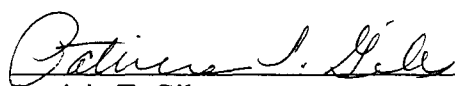
Respectfully submitted,

PAUL J. McNulty
UNITED STATES ATTORNEY

By:



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Assistant United States Attorney



Patricia T. Giles
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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:

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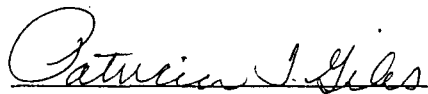
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