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6
7 IN THE UNITED STATES DISTRICT COURT FOR THE
8 EASTERN DISTRICT OF CALIFORNIA
9

10 UNITED STATES OF AMERICA,) 1:08-cr-00259 OWW
)
11 Plaintiff,)
)
12 v.) NOTICE OF INTENT TO SEEK THE
) DEATH PENALTY
13 JOSE CABRERA SABLAN, and)
JAMES NINETE LEON GUERRERO,)
14)
)
15 Defendants.)
)
16 _____)

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18 The United States of America, pursuant to 18 U.S.C. §
19 3593(a), notifies the Court and the defendants that the government
20 believes the circumstances of the offenses charged in the
21 Indictment are such that, in the event of a conviction, a sentence
22 of death is justified under Chapter 228 (Sections 3591 through
23 3599) of Title 18 of the United States Code. Accordingly, the
24 government intends to seek a sentence of death upon the conviction
25 of the defendants for any of the offenses charged in the
26 Indictment, to wit: 18 U.S.C. § 1111(a) - First Degree Murder; 18
27 U.S.C. § 1114 - First Degree Murder of United States Correctional
28 Officer; and, 18 U.S.C. § 1118 - Murder by Federal Prisoner

1 Serving Life Sentence.

2 The government proposes to prove the following factors
3 justifying a sentence of death as to defendant JOSE CABRERA
4 SABLAN, if he is convicted of First Degree Murder, in violation of
5 18 U.S.C. § 1111(a), as alleged in Count One of the Indictment:

6 A. Age.

7 (1) JOSE CABRERA SABLAN was more than 18 years of age at
8 the time of the offense. (Title 18, United States Code, Section
9 3591(a)).

10 B. Statutory Proportionality Factor Enumerated under 18
11 U.S.C. § 3591(a)(2).

12 (1) JOSE CABRERA SABLAN intentionally inflicted serious
13 bodily injury that resulted in the death of Jose V. Rivera.
14 (Title 18, United States Code, Section 3591(a)(2)(B)).

15 C. Statutory Aggravating Factors Enumerated under 18 U.S.C.
16 § 3592(c).

17 (1) JOSE CABRERA SABLAN caused the death of Jose V.
18 Rivera during the commission of a violation of Title 18, United
19 States Code, Section 1118 (prisoner serving life term). (Title
20 18, United States Code, Section 3592(c)(1));

21 (2) JOSE CABRERA SABLAN had previously been convicted of
22 another Federal or State offense resulting in the death of a
23 person, for which a sentence of life imprisonment or death was
24 authorized by statute. (Title 18, United States Code, Section
25 3592(c)(3));

26 (3) JOSE CABRERA SABLAN committed the offense in an
27 especially heinous, cruel, or depraved manner in that it involved
28 serious physical abuse to Jose V. Rivera. (Title 18, United

1 States Code, Section 3592(c)(6)); and,

2 (4) JOSE CABRERA SABLAN committed the offense against a
3 Federal public servant, Jose V. Rivera, who was an employee of a
4 United States penal or correctional institution, and the offense
5 was committed while Jose V. Rivera was engaged in the performance
6 of his official duties. (Title 18, United States Code, Section
7 3592(c)(14)(D)).

8 The government proposes to prove the following factors
9 justifying a sentence of death as to defendant JOSE CABRERA
10 SABLAN, if he is convicted of First Degree Murder of United States
11 Correctional Officer, in violation of 18 U.S.C. § 1114, as alleged
12 in Count Two of the Indictment:

13 A. Age.

14 (1) JOSE CABRERA SABLAN was more than 18 years of age at
15 the time of the offense. (Title 18, United States Code, Section
16 3591(a)).

17 B. Statutory Proportionality Factor Enumerated under 18
18 U.S.C. § 3591(a)(2).

19 (1) JOSE CABRERA SABLAN intentionally inflicted serious
20 bodily injury that resulted in the death of Jose V. Rivera.
21 (Title 18, United States Code, Section 3591(a)(2)(B)).

22 C. Statutory Aggravating Factors Enumerated under 18 U.S.C.
23 § 3592(c).

24 (1) JOSE CABRERA SABLAN caused the death of Jose V.
25 Rivera during the commission of a violation of Title 18, United
26 States Code, Section 1118 (prisoner serving life term). (Title
27 18, United States Code, Section 3592(c)(1));

28 ///

1 (2) JOSE CABRERA SABLAN had previously been convicted of
2 another Federal or State offense resulting in the death of a
3 person, for which a sentence of life imprisonment or death was
4 authorized by statute. (Title 18, United States Code, Section
5 3592(c)(3)); and,

6 (3) JOSE CABRERA SABLAN committed the offense in an
7 especially heinous, cruel, or depraved manner in that it involved
8 serious physical abuse to Jose V. Rivera. (Title 18, United
9 States Code, Section 3592(c)(6)).

10 The government proposes to prove the following factors
11 justifying a sentence of death as to defendant JOSE CABRERA
12 SABLAN, if he is convicted of Murder by Federal Prisoner Serving
13 Life Sentence, in violation of 18 U.S.C. § 1118, as alleged in
14 Count Three of the Indictment:

15 A. Age.

16 (1) JOSE CABRERA SABLAN was more than 18 years of age at
17 the time of the offense. (Title 18, United States Code, Section
18 3591(a)).

19 B. Statutory Proportionality Factor Enumerated under 18
20 U.S.C. § 3591(a)(2).

21 (1) JOSE CABRERA SABLAN intentionally inflicted serious
22 bodily injury that resulted in the death of Jose V. Rivera.
23 (Title 18, United States Code, Section 3591(a)(2)(B)).

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

26 (1) JOSE CABRERA SABLAN committed the offense in an
27 especially heinous, cruel, or depraved manner in that it involved
28 serious physical abuse to Jose V. Rivera. (Title 18, United

1 States Code, Section 3592(c)(6));

2 (2) JOSE CABRERA SABLAN had previously been convicted of
3 another Federal or State offense resulting in the death of a
4 person, for which a sentence of life imprisonment or death was
5 authorized by statute. (Title 18, United States Code, Section
6 3592(c)(3)); and,

7 (3) JOSE CABRERA SABLAN committed the offense against a
8 Federal public servant, Jose V. Rivera, who was an employee of a
9 United States penal or correctional institution, and the offense
10 was committed while Jose V. Rivera was engaged in the performance
11 of his official duties. (Title 18, United States Code, Section
12 3592(c)(14)(D)).

13 The government proposes to prove the following factors
14 justifying a sentence of death as to defendant JAMES NINETE LEON
15 GUERRERO, if he is convicted of First Degree Murder, in violation
16 of 18 U.S.C. § 1111(a), as alleged in Count One of the Indictment:

17 A. Age.

18 (1) JAMES NINETE LEON GUERRERO was more than 18 years of
19 age at the time of the offense. (Title 18, United States Code,
20 Section 3591(a)).

21 B. Statutory Proportionality Factor Enumerated under 18
22 U.S.C. § 3591(a)(2).

23 (1) JAMES NINETE LEON GUERRERO intentionally and
24 specifically engaged in one or more acts of violence, knowing that
25 the act or acts created a grave risk of death to a person, other
26 than one of the participants in the offense, such that
27 participation in such act or acts constituted a reckless disregard
28 for human life, and Jose V. Rivera died as a direct result of such

1 act or acts. (Title 18, United States Code, Section
2 3591(a) (2) (D)).

3 C. Statutory Aggravating Factors Enumerated under 18 U.S.C.
4 § 3592(c).

5 (1) JAMES NINETE LEON GUERRERO caused the death of Jose
6 V. Rivera during the commission of a violation of Title 18, United
7 States Code, Section 1118 (prisoner serving life term). (Title
8 18, United States Code, Section 3592(c) (1));

9 (2) JAMES NINETE LEON GUERRERO had previously been
10 convicted of a Federal or State offense punishable by a term of
11 imprisonment of more than one year, involving the use or attempted
12 or threatened use of a firearm against another person. (Title 18,
13 United States Code, Section 3592(c) (2));

14 (3) JAMES NINETE LEON GUERRERO had previously been
15 convicted of two or more Federal or State offenses, each
16 punishable by a term of imprisonment of more than one year,
17 committed on different occasions, involving the infliction of, or
18 attempted infliction of, serious bodily injury or death upon
19 another person. (Title 18, United States Code, Section
20 3592(c) (4));

21 (4) JAMES NINETE LEON GUERRERO committed the offense in
22 an especially heinous, cruel, or depraved manner in that it
23 involved serious physical abuse to Jose V. Rivera. (Title 18,
24 United States Code, Section 3592(c) (6)); and,

25 (5) JAMES NINETE LEON GUERRERO committed the offense
26 against a Federal public servant, Jose V. Rivera, who was an
27 employee of a United States penal or correctional institution, and
28 the offense was committed while Jose V. Rivera was engaged in the

1 performance of his official duties. (Title 18, United States
2 Code, Section 3592(c)(14)(D)).

3 The government proposes to prove the following factors
4 justifying a sentence of death as to defendant JAMES NINETE LEON
5 GUERRERO, if he is convicted of First Degree Murder of United
6 States Correctional Officer, in violation of 18 U.S.C. § 1114, as
7 alleged in Count Two of the Indictment:

8 A. Age.

9 (1) JAMES NINETE LEON GUERRERO was more than 18 years of
10 age at the time of the offense. (Title 18, United States Code,
11 Section 3591(a)).

12 B. Statutory Proportionality Factor Enumerated under 18
13 U.S.C. § 3591(a)(2).

14 (1) JAMES NINETE LEON GUERRERO intentionally and
15 specifically engaged in one or more acts of violence, knowing that
16 the act or acts created a grave risk of death to a person, other
17 than one of the participants in the offense, such that
18 participation in such act or acts constituted a reckless disregard
19 for human life, and Jose V. Rivera died as a direct result of such
20 act or acts. (Title 18, United States Code, Section
21 3591(a)(2)(D)).

22 C. Statutory Aggravating Factors Enumerated under 18 U.S.C.
23 § 3592(c).

24 (1) JAMES NINETE LEON GUERRERO caused the death of Jose
25 V. Rivera during the commission of a violation of Title 18, United
26 States Code, Section 1118 (prisoner serving life term). (Title
27 18, United States Code, Section 3592(c)(1));

28 ///

1 (2) JAMES NINETE LEON GUERRERO had previously been
2 convicted of a Federal or State offense punishable by a term of
3 imprisonment of more than one year, involving the use or attempted
4 or threatened use of a firearm against another person. (Title 18,
5 United States Code, Section 3592(c)(2));

6 (3) JAMES NINETE LEON GUERRERO had previously been
7 convicted of two or more Federal or State offenses, each
8 punishable by a term of imprisonment of more than one year,
9 committed on different occasions, involving the infliction of, or
10 attempted infliction of, serious bodily injury or death upon
11 another person. (Title 18, United States Code, Section
12 3592(c)(4)); and,

13 (4) JAMES NINETE LEON GUERRERO committed the offense in
14 an especially heinous, cruel, or depraved manner in that it
15 involved serious physical abuse to Jose V. Rivera. (Title 18,
16 United States Code, Section 3592(c)(6)).

17 The government proposes to prove the following factors
18 justifying a sentence of death as to defendant JAMES NINETE LEON
19 GUERRERO, if he is convicted of Murder by Federal Prisoner Serving
20 Life Sentence, in violation of 18 U.S.C. § 1118, as alleged in
21 Count Three of the Indictment:

22 A. Age.

23 (1) JAMES NINETE LEON GUERRERO was more than 18 years of
24 age at the time of the offense. (Title 18, United States Code,
25 Section 3591(a)).

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1 B. Statutory Proportionality Factor Enumerated under 18
2 U.S.C. § 3591(a) (2).

3 (1) JAMES NINETE LEON GUERRERO intentionally and
4 specifically engaged in one or more acts of violence, knowing that
5 the act or acts created a grave risk of death to a person, other
6 than one of the participants in the offense, such that
7 participation in such act or acts constituted a reckless disregard
8 for human life, and Jose V. Rivera died as a direct result of such
9 act or acts. (Title 18, United States Code, Section
10 3591(a) (2) (D)).

11 C. Statutory Aggravating Factors Enumerated under 18 U.S.C.
12 § 3592(c).

13 (1) JAMES NINETE LEON GUERRERO had previously been
14 convicted of a Federal or State offense punishable by a term of
15 imprisonment of more than one year, involving the use or attempted
16 or threatened use of a firearm against another person. (Title 18,
17 United States Code, Section 3592(c) (2));

18 (2) JAMES NINETE LEON GUERRERO had previously been
19 convicted of two or more Federal or State offenses, each
20 punishable by a term of imprisonment of more than one year,
21 committed on different occasions, involving the infliction of, or
22 attempted infliction of, serious bodily injury or death upon
23 another person. (Title 18, United States Code, Section
24 3592(c) (4));

25 (3) JAMES NINETE LEON GUERRERO committed the offense in
26 an especially heinous, cruel, or depraved manner in that it
27 involved serious physical abuse to Jose V. Rivera. (Title 18,
28 United States Code, Section 3592(c) (6)); and,

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(4) JAMES NINETE LEON GUERRERO committed the offense against a Federal public servant, Jose V. Rivera, who was an employee of a United States penal or correctional institution, and the offense was committed while Jose V. Rivera was engaged in the performance of his official duties. (Title 18, United States Code, Section 3592(c)(14)(D)).

DATED: April 6, 2009

Respectfully Submitted,

LAWRENCE G. BROWN
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By /s/Dawrence W. Rice, Jr.
DAWRENCE W. RICE, JR.
Assistant U.S. Attorney