

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 RICHARD MICHAEL HAWORTH, et al.,)
)
 Defendants.)

Crim. No. 95-491 LH

NOTICE OF INTENT TO SEEK DEATH
PENALTY AS TO DEFENDANT RICHARD MICHAEL HAWORTH

The United States of America notifies the Court and defendant RICHARD MICHAEL HAWORTH, under Sections 848(h)(1)(A) and (B) of Title 21, United States Code, and the Order Setting Date for Notice of Government's Intention to Seek Death Penalty entered January 23, 1996, that if defendant is convicted for one or more of the intentional killings of James Rhodes, Jr., Ricardo Mirabal and Michael Gray, as charged by Counts Six, Seven and Eight of the Superseding Indictment, the Government will seek the sentence of death for RICHARD MICHAEL HAWORTH as to each offense.

As Section 848(k) of Title 21 requires, the Government will seek to prove as to RICHARD MICHAEL HAWORTH, for each of Counts Six, Seven and Eight:

- a. One of the statutory aggravating factors set forth by Section 848(n)(1) of Title 21, and
- b. One or more of the statutory aggravating factors set forth by Sections 848(n)(2)-(12) of Title 21.

As permitted by Sections 848(h)(1)(B) and 848(k) of Title 21, the Government will also seek to prove the non-statutory aggravating

factors set forth in Paragraphs 6, 12, 18 and 19 of this Notice. The Government believes that the circumstances of the offenses are such that, if the defendant is convicted, a sentence of death is justified under Section 848 of Title 21 of the United States Code.

This Notice lists the statutory and non-statutory aggravating factors that the Government will seek to prove separately with respect to Count Six (for the killing of James Rhodes, Jr.), Count Seven (for the killing of Ricardo Mirabal), and Count Eight (for the killing of Michael Gray). The non-statutory aggravating factor that applies to RICHARD MICHAEL HAWORTH in connection with any of these offenses is set forth once, in Paragraph 19 of this Notice.

AS TO COUNT SIX ONLY:
INTENTIONAL KILLING OF JAMES RHODES, JR.

Statutory Factors
Under 21 U.S.C. § 848(n)(1)

1. RICHARD MICHAEL HAWORTH intentionally killed James Rhodes, Jr. Section 848(n)(1)(A).

2. In the alternative, RICHARD MICHAEL HAWORTH intentionally inflicted serious bodily injury which resulted in the death of James Rhodes, Jr. Section 848(n)(1)(B).

3. In the further alternative, RICHARD MICHAEL HAWORTH intentionally engaged in conduct intending that James Rhodes, Jr. be killed and that lethal force be employed against James Rhodes, Jr., which resulted in James Rhodes, Jr.'s death. Section 848(n)(1)(C).

Statutory Factors Under
21 U.S.C. §§ 848(n)(2)-(12)

4. RICHARD MICHAEL HAWORTH committed the offense as consideration for the receipt, or in the expectation of the receipt, of something of pecuniary value. Section 848(n)(7).

5. RICHARD MICHAEL HAWORTH committed the offense after substantial planning and premeditation. Section 848(n)(8).

Non-Statutory Factor Under
21 U.S.C. §§ 848(h)(1)(B) and 848(k)

6. Victim impact. RICHARD MICHAEL HAWORTH caused the family of James Rhodes, Jr. to suffer by murdering James Rhodes, Jr., and hiding his body so that his remains could not be found for almost sixteen months.

AS TO COUNT SEVEN ONLY:
INTENTIONAL KILLING OF RICARDO MIRABAL

Statutory Factors
Under 21 U.S.C. § 848(n)(1)

7. RICHARD MICHAEL HAWORTH intentionally killed Ricardo Mirabal. Section 848(n)(1)(A).

8. In the alternative, RICHARD MICHAEL HAWORTH intentionally inflicted serious bodily injury which resulted in the death of Ricardo Mirabal. Section 848(n)(1)(B).

9. In the further alternative, RICHARD MICHAEL HAWORTH intentionally engaged in conduct intending that Ricardo Mirabal be killed and that lethal force be employed against Ricardo Mirabal, which resulted in Ricardo Mirabal's death. Section 848(n)(1)(C).

Statutory Factors Under
21 U.S.C. §§ 848(n)(2)-(12)

10. RICHARD MICHAEL HAWORTH committed the offense as consideration for the receipt, or in the expectation of the receipt, of something of pecuniary value. Section 848(n)(7).

11. RICHARD MICHAEL HAWORTH committed the offense after substantial planning and premeditation. Section 848(n)(8).

Non-Statutory Factor Under
21 U.S.C. §§ 848(h)(1)(B) and 848(k)

12. Victim impact. RICHARD MICHAEL HAWORTH caused the family of Ricardo Mirabal to suffer by murdering Ricardo Mirabal and hiding his body so that his remains could not be found for almost sixteen months.

AS TO COUNT EIGHT ONLY:
INTENTIONAL KILLING OF MICHAEL GRAY

Statutory Factors
Under 21 U.S.C. § 848(n)(1)

13. RICHARD MICHAEL HAWORTH intentionally killed Michael Gray. Section 848(n)(1)(A).

14. In the alternative, RICHARD MICHAEL HAWORTH intentionally inflicted serious bodily injury which resulted in the death of Michael Gray. Section 848(n)(1)(B).

15. In the further alternative, RICHARD MICHAEL HAWORTH intentionally engaged in conduct intending that Michael Gray be killed and that lethal force be employed against Michael Gray, which resulted in Michael Gray's death. Section 848(n)(1)(C).

Statutory Factors Under
21 U.S.C. §§ 848(n)(2)-(12)

16. RICHARD MICHAEL HAWORTH committed the offense as consideration for the receipt, or in the expectation of the receipt, of something of pecuniary value. Section 848(n)(7).

17. RICHARD MICHAEL HAWORTH committed the offense after substantial planning and premeditation. Section 848(n)(8).

Non-Statutory Factors Under
21 U.S.C. §§ 848(h)(1)(B) and 848(k)

18. Victim Impact. RICHARD MICHAEL HAWORTH caused the family of Michael Gray to suffer by murdering Michael Gray and hiding his body so that his remains have yet to be found.

FOR THE INTENTIONAL
KILLINGS OF JAMES RHODES, JR.,
RICARDO MIRABAL AND MICHAEL GRAY, OR ANY OF THEM

Non-Statutory Factor Under
21 U.S.C. §§ 848(h)(1)(B) and 848(k)

19. Future dangerousness. RICHARD MICHAEL HAWORTH represents a continuing, serious threat to the lives and safety of others. His future dangerousness is shown by his commission of offenses resulting in multiple deaths, by his commission of other acts of violence or potential violence, by his low potential for rehabilitation, and by his threats of violence to others, as described in the following subparagraphs:

a. The offenses committed by RICHARD MICHAEL HAWORTH have resulted in the deaths of three persons, two of them in a single incident.

b. RICHARD MICHAEL HAWORTH has engaged in acts of violence or potential violence in addition to the murders of

James Rhodes, Jr., Ricardo Mirabal and Michael Gray. These include, but are not limited to:

(1) On or about January 27, 1987, RICHARD MICHAEL HAWORTH committed, among other offenses, Commercial Burglary.

(2) On or about January 28 and 29, 1987, RICHARD MICHAEL HAWORTH committed Residential Burglary and Commercial Burglary.

(3) On or about January 29, 1987, RICHARD MICHAEL HAWORTH committed, among other offenses, Armed Robbery While Armed with a Firearm.

(4) From in or about 1992 to in or about March 1995, RICHARD MICHAEL HAWORTH used and carried firearms in connection with narcotics trafficking offenses, as is charged by Count Twenty-One of the Superseding Indictment, and on or about November 12, 1993, RICHARD MICHAEL HAWORTH unlawfully possessed a .40 caliber pistol and a .22 caliber pistol frame from which the serial number had been obliterated, as charged in United States v. Richard Michael Haworth, Crim. No. 93-616 HB (D.N.M.).

(5) In December 1994, RICHARD MICHAEL HAWORTH conspired to murder Maximino J. Baca, and on December 30, 1994, RICHARD MICHAEL HAWORTH attempted to murder Maximino J. Baca.

c. RICHARD MICHAEL HAWORTH has a low potential for rehabilitation. This is shown by facts including, but not limited to:

(1) On June 18, 1987, after a diagnostic evaluation, the New Mexico Corrections Department recommended that RICHARD MICHAEL HAWORTH be incarcerated because it found that he posed a threat to society at that time.

(2) Beginning in or about 1988, while he was in prison for, among other felonies, the convictions set forth in Paragraphs 19.b.(1) through 19.b.(3) of this Notice, RICHARD MICHAEL HAWORTH entered into the racketeering enterprise, the racketeering conspiracy, and the narcotics trafficking conspiracy charged by Counts One, Two and Three of the Superseding Indictment.

(3) RICHARD MICHAEL HAWORTH was on parole for Armed Robbery while Armed with a Firearm when he murdered James Rhodes, Jr. and Ricardo Mirabal.

(4) While RICHARD MICHAEL HAWORTH was purporting to cooperate with law enforcement authorities when, from April 1994 to March 1995, he committed offenses including but not limited to conspiring to murder Michael Gray and Maximino J. Baca, murdering Michael Gray, and attempting to murder Maximino J. Baca.

d. RICHARD MICHAEL HAWORTH has made threats of violence against others. These include, but are not limited to:

(1) During November 1994, RICHARD MICHAEL HAWORTH threatened defendant BOBBY BARRIOS ("BARRIOS") at gunpoint when BARRIOS refused to provide RICHARD MICHAEL HAWORTH with marijuana, as is described in Count Three of the Superseding Indictment.

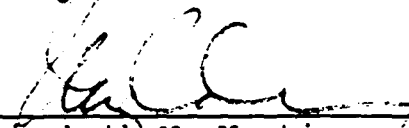
(2) In or around February 1995, after Maximino J. Baca had been arrested on federal charges and placed in federal custody in Torrance County, New Mexico, RICHARD MICHAEL HAWORTH asked defendant ALFREDO URDIALEZ if he knew anybody who could "make a hit" on a federal inmate in the Torrance County Detention Center.

(3) Before Maximino J. Baca helped law enforcement officers find the grave of James Rhodes, Jr. and Ricardo Mirabal in March 1995, RICHARD MICHAEL HAWORTH told him that he would be "next" if he did not "keep [his] mouth shut" about the murders of James Rhodes, Jr. and Ricardo Mirabal.

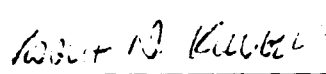
Respectfully submitted,



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I CERTIFY that true copies of
the foregoing notice were served
on the following counsel of record
this 14th day of February, 1996:

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