

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

S8 02 Cr. 451 (MBM)

DARRYL HENDERSON, :

Defendant. :

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NOTICE OF INTENT TO SEEK THE DEATH PENALTY

Pursuant to the requirements of Title 21, United States Code, Section 848(h), the United States hereby gives notice that it believes the circumstances of this case are such that, in the event that the defendant, DARRYL HENDERSON, is convicted of one or more of the capital offenses charged in Counts Four, Five, and Six of Indictment S8 02 Cr. 451 (MBM), sentences of death are justified, and the United States will seek the death penalty with regard to each offense. Specifically, the United States will seek sentences of death for Counts Four, Five, and Six of the Indictment, which charge murders in connection with a drug trafficking crime, resulting in the deaths of, respectively, Louise Butler (Count Four), Crosby Rico (Count Five), and Moises Perez (Count Six), in violation of Title 21, United States Code, Section 848(e)(1)(A).

The Government proposes to prove the following factors to justify a sentence of death:

COUNTS FOUR, FIVE, AND SIX

THE MURDERS OF LOUISE BUTLER, CROSEY RICO, AND
MOISES PEREZ IN CONNECTION WITH A DRUG TRAFFICKING CRIME

A. Statutory Aggravating Factors Enumerated under 21
U.S.C. § 848(n)(1)-(12).

Pursuant to Title 21, United States Code, Section 848(n), the United States will rely on the following statutory aggravating factors as justifying a sentence of death:

1. **Intentional Killing.** The defendant intentionally killed Louise Butler, Crosby Rico, and Moises Perez. Section 848(n)(1)(A).

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the deaths of Louise Butler, Crosby Rico, and Moises Perez. Section 848(n)(1)(B).

3. **Intentional Acts to Take Life or Use Lethal Force.** The defendant intentionally engaged in conduct intending that Louise Butler, Crosby Rico, and Moises Perez be killed or that lethal force be employed against them, which resulted in the deaths of Louise Butler, Crosby Rico, and Moises Perez. Section 848(n)(1)(C).

4. **Intentional Acts in Reckless Disregard for Life.** The defendant intentionally engaged in conduct that the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense, which resulted in the

deaths of Louise Butler, Crosby Rico, and Moises Perez. Section 848(n) (1) (D).

5. **Grave Risk of Death to Other Persons.** In the commission of the offense or in escaping apprehension for a murder in connection with a drug trafficking crime, the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense. Section 848(n) (5).

6. **Pecuniary Gain.** The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. Section 848(n) (7).

7. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation. Section 848(n) (8).

8. **Previous Conviction of Serious Federal Drug Offense.** The defendant had previously been convicted of a federal controlled substances offense for which a sentence of five or more years may be imposed. Section 848(n) (10).

9. **Heinous, Cruel, or Depraved Manner of Committing 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. Section 848(n) (12).

B. Other, Non-Statutory, Aggravating Factors Identified.

In addition to the statutory aggravating factors set forth above, the Government will rely on the following non-statutory aggravating factors to justify a sentence of death:

1. **Contemporaneous Convictions.** In addition to being convicted of the murders of Louise Butler, Crosby Rico, and Moises Perez in connection with a narcotics trafficking crime, the defendant was convicted of racketeering, conspiracy to distribute and possess with intent to distribute cocaine and marijuana, and firearms offenses.

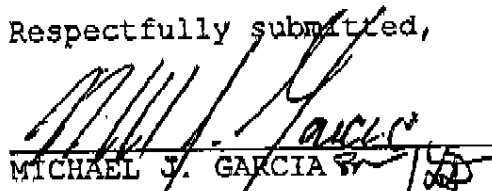
2. **Prior Convictions.** On or about October 2, 1980, the defendant was convicted in New York State Supreme Court, Bronx County, of rape in the first degree and sodomy, both class B felonies, and was sentenced to concurrent terms of 40 months to ten years of imprisonment. On or about May 10, 1988, the defendant was convicted in United States District Court for the Southern District of New York of distribution and possession with intent to distribute one kilogram and more of heroin, and distribution of heroin within 1,000 feet of a school, and was sentenced to nine years of imprisonment.

3. **Multiple Killings.** The defendant intentionally killed, and assisted others in killing, more than one person in a single criminal episode.

4. **Obstruction of Justice.** Before fleeing the crime scene, the defendant attempted to create a fire and an explosion in order to destroy evidence of the commission of the offense, and thereby obstruct justice.

5. **Victim Impact Evidence.** The defendant caused injury, harm, and loss to the victims' families because of the victims' personal characteristics as individual human beings and the impact of their deaths upon the victims' families. See Payne v. Tennessee, 501 U.S. 808, 825-26 (1991):

Respectfully submitted,



MICHAEL J. GARCIA
United States Attorney
Southern District of New York

By: 

MICHAEL Y. SCUDDER/DAVID M. RODY
Assistant United States Attorneys

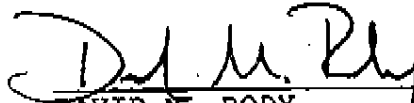
Dated: February 19, 2006

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of February, 2006,
a true and correct copy of the foregoing notice of intent to seek
the death penalty was mailed via first class mail, postage
prepaid thereon, to the following attorneys of record:

Sanford N. Talkin, Esq.
Talkin & Muccigrosso
40 Exchange Place, Suite 1800
New York, NY 10005
(212) 482-0007

John J. Byrnes, Esq.
Legal Aid Society
Federal Defender Division
52 Duane Street, 10th Floor
New York, NY 10007
(212) 417-8735



DAVID M. RODY
Assistant United States Attorney