

ALEJANDRO N. MAYORKAS
United States Attorney
JOHN S. GORDON
Assistant United States Attorney
Chief, Criminal Division
SUSAN BARNA (SBN 168643)
DANIEL LEVIN (SBN 183216)
Assistant United States Attorneys
1400 United States Courthouse
312 North Spring Street
Los Angeles, California 90012
Telephone: (213) 894-4849
Facsimile: (213) 894-0142
Attorneys for Plaintiff
UNITED STATES OF AMERICA

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FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
CENTRAL DISTRICT OF CALIF.

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) No. CR 99-83(A)-DOC
)
Plaintiff,) GOVERNMENT'S NOTICE OF INTENT
) TO SEEK THE DEATH PENALTY
v.) AGAINST DEFENDANT GERARDO
) JACOBO
)
GERARDO JACOBO, aka BLANCO,)
)
Defendant.)

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

The United States of America, pursuant to 18 U.S.C.
§ 3593(a), notifies the Court and defendant GERARDO JACOBO, aka
BLANCO, that the Government believes the circumstances of the
offenses charged in Counts Five, Six, Seven, Twenty-Three,
Twenty-Four and Twenty-Five of the First Superseding Indictment
are such that, in the event of a conviction, a sentence of death
is justified under Chapter 228 (Sections 3591 through 3598) of
Title 18 of the United States Code, and that the Government will
seek the sentence of death for the following offenses: the murder
of Richard Serrano in aid of racketeering, in violation of Title
18, United States Code, Section 1959(a)(1) [Count Five] and/or

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1 through the use of a firearm, in violation of Title 18, United
2 States Code, Sections 924(c), (j) [Count Twenty-Three]; the murder
3 of Jose Martin Gutierrez in aid of racketeering, in violation of
4 Title 18, United States Code, Section 1959(a) (1) [Count Six]
5 and/or through the use of a firearm, in violation of Title 18,
6 United States Code, Sections 924(c), (j) [Count Twenty-Four]; and
7 the murder of Enrique Delgadillo in aid of racketeering in
8 violation of Title 18, United States Code, Section 1959(a) (1)
9 [Count Seven] and/or through the use of a firearm, in violation
10 of Title 18, United States Code, Sections 924(c), (j) [Count
11 Twenty-Five], each of which carries a possible sentence of death.

12 The Government proposes to prove the following factors as
13 justifying a sentence of death.

14 A. Statutory Proportionality Factors Enumerated under 18
15 U.S.C. § 3591(a) (2) (A)-(D).

16 1. **Intentionally Killing the Victim.**

17 The defendant intentionally killed Richard Serrano [Counts 5 and
18 23], Jose Martin Gutierrez [Counts 6 and 24] and Enrique
19 Delgadillo [Counts 7 and 25]. Section 3591(a) (2) (A).

20 2. **Intentionally Inflicting Serious Bodily Injury**
21 **Resulting in Death.**

22 The defendant intentionally inflicted serious bodily injury that
23 resulted in the death of Richard Serrano [Counts 5 and 23], Jose
24 Martin Gutierrez [Counts 6 and 24] and Enrique Delgadillo [Counts
25 7 and 25]. Section 3591(a) (2) (B).

26 3. **Intentional Acts to Take Life or Use Lethal Force.**

27 The defendant intentionally participated in an act, contemplating
28 that the life of a person would be taken or intending that lethal

1 force would be used in connection with a person, other than one
2 of the participants in the offense, and Richard Serrano [Counts 5
3 and 23], Jose Martin Gutierrez [Counts 6 and 24] and Enrique
4 Delgadillo [Counts 7 and 25], died as a direct result of the act.
5 Section 3591(a)(2)(C).

6 B. Statutory Aggravating Factors Enumerated under 18
7 U.S.C. § 3592(c).

8 The following statutory aggravating factors apply to each of
9 Counts 5, 6, 7, 23, 24 and 25.

10 1. **Grave Risk of Death to Additional Persons**

11 The defendant, in the commission of the offense or in escaping
12 apprehension for the offense, knowingly created a grave risk of
13 death to one or more persons in addition to the victim of the
14 offense. Section 3592(c)(5).

15 2. **Substantial Planning and Premeditation.**

16 The defendant committed the offense after substantial planning
17 and premeditation to cause the death of a person, Richard
18 Serrano. Section 3592(c)(9).

19 3. **Multiple Killings or Attempted Killings.**

20 The defendant intentionally killed or attempted to kill more than
21 one person in a single criminal episode. Section 3592(c)(16).

22 C. Other, Non-Statutory, Aggravating Factors Identified
23 under 18 U.S.C. § 3593(a)(2).

24 1. **Future Dangerousness of the Defendant.**

25 The defendant is likely to commit criminal acts of violence in
26 the future that would constitute a continuing and serious threat
27 to the lives and safety of others, as evidenced by, at least, one
28 or more of the following:

1 a. Other Acts of Violence.

2 The defendant has committed, attempted to commit, and/or
3 threatened to commit other acts of violence, in addition to the
4 capital offenses committed in this case and the statutory factors
5 alleged in this Notice, including, at least, the crimes alleged
6 against defendant in the First Superseding Indictment and conduct
7 related to defendant's December 5, 1996 arrest for carrying a
8 loaded firearm in a vehicle (Cal. Pen. Code § 12031).

9 b. Affiliation with Mexican Mafia and
10 Participation in Gang-Related Acts of
11 Violence.

12 As a result of the defendant's affiliation with the Mexican Mafia
13 and participation in gang-related acts of violence, he would pose
14 a continuing danger to others, including other inmates, prison
15 guards and those outside of prison, if incarcerated. The
16 government will rely both on evidence presented during the guilt
17 phase and additional evidence to be presented at any penalty
18 phase concerning the Mexican Mafia's activities in state and
19 federal jails and prisons.

20 c. Lack of Remorse.

21 The defendant has demonstrated a lack of remorse for the capital
22 offenses committed in this case, by statements to Max Torvisco
23 following the murder.

24 2. **Victim Impact**

25 The government will present evidence concerning the effect of the
26 offense on the victims and the victims' families, including
27 victim impact statements identifying the victims of the offense
28 and the extent and scope of the injury and loss suffered by the

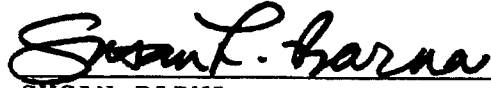
1 victims and the victims' families, and any other relevant
2 information.

3 DATE: March 19, 2001

Respectfully submitted,

4 ALEJANDRO N. MAYORKAS
5 United States Attorney

6 JOHN S. GORDON
7 Assistant United States Attorney
8 Chief, Criminal Division

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10 SUSAN BARNA
11 Assistant United States Attorney
12 Attorneys for Plaintiff
13 United States of America
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UNITED STATES v. FRANK FERNANDEZ, et al., CR 99-83(A)-DT

Manuel Araujo
8484 Wilshire Blvd.
Suite 605
Beverly Hills, CA 90211
(323) 653-4992
Fax: (310) 652-9609
Attorney for Frank Fernandez

Paul E. Potter
Potter, Cohen & Samulson
3852 East Colorado Blvd
Pasadena, CA 91107
(626) 795-0681
Fax: (626) 795-0725
Attorney for Juan Garcia

Neison Marks
Federal Public Defender's Office
321 East Second Street
Los Angeles, CA 90012
(213) 894-2918
Fax: (213) 894-0081
Attorney for Mariano Martinez

Charles Pereyra-Suarez
Suite 3200
445 South Figueroa Street
Los Angeles, CA 90071
(213) 623-5923
Fax: (213) 430-4780
Attorney for Jimmy Sanchez

David R. Evans
35 South Raymond Ave.
Suite 420
Pasadena, CA 91105
(626) 432-5100
Fax: (626) 432-5110
Attorney for Suzanne Sanchez

Sonia E. Chahin
2222 Foothill Blvd.
Suite E-278
La Canada, CA 91011
(818) 549-0149
Fax: (818) 549-0990
Attorney for Marcel Arevalo

Elliot Stanford
15332 Antioch Street
Suite 526
Pacific Palisades, CA 90272
(310) 473-4017
(No fax #)
Attorney for Daniel Bravo

Kenneth Alan Reed
4806 W. First Street
Santa Ana, CA 92703-5155
(714) 953-7400
Fax: (714) 953-7412
Attorney for Robert Cervantes

Thomas Nishi
1000 Wilshire Blvd.
Suite 600
Los Angeles, CA 90017
(213) 629-9066
Fax: (213) 629-9022
Attorney for Roy Gavaldon

Philip Deitch
8530 Wilshire Blvd.
Suite 404
Beverly Hills, CA 90211
(323) 938-3306
fax: (323) 938-3318
Attorney for David Gonzales-Contreras

Terry Amdur
1939 Rose Villa Street
Pasadena, CA 91107
(626) 449-9254
Fax: (626) 568-1277
Attorney for Robert Mercado

