

JS:RPD
F. #2003R01236

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

NOTICE OF INTENT TO
SEEK THE DEATH PENALTY

- against -

03 CR 851 (S-2) (LDW)

MARIO JIMENEZ,

Defendant.

- - - - - X

Pursuant to the requirements of 18 U.S.C. § 3593(a), the United States hereby gives notice that it believes that the circumstances of this case are such that, in the event that the defendant MARIO JIMENEZ is convicted of the capital offense relating to the death of victim Jaime Figueroa, a sentence of death is justified and that the United States will seek the death penalty. Specifically, the United States will seek a sentence of death for Count Six of the Second Superseding Indictment, which charges murder in aid of racketeering in violation of 18 U.S.C. §§ 1959(a)(1) and 2.

Pursuant to 18 U.S.C. § 3591(a)(2), the United States will rely on the following preliminary factor to establish the defendant's eligibility for the death penalty:

1. The defendant intentionally and specifically engaged in one or more acts of violence, knowing that the act or acts created a grave risk of death to a person, other than one of

the participants in the offense, such that participation in such act or acts constituted a reckless disregard for human life, and Jaime Figueroa died as a direct result of such act or acts. 18 U.S.C. § 3591(a)(2)(D).

Pursuant to 18 U.S.C. § 3592(c), the United States will rely on the following statutory aggravating factor as justifying a sentence of death:

1. Grave risk of death to additional persons. The defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense. 18 U.S.C. § 3592(c)(5).

In addition to the statutory aggravating factor set forth above, the United States will rely on the following non-statutory aggravating factors to justify a sentence of death pursuant to 18 U.S.C. § 3593(a)(2):

1. Victim Impact Evidence. The defendant caused injury, harm, and loss to the victim, the victim's family, and the victim's friends as demonstrated by the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family and friends. Payne v. Tennessee, 501 U.S. 808, 824-27 (1991). The United States will present information concerning the effect of the offense on the victim and his family and friends, which may include oral testimony, victim impact statements, and the extent and scope of

the injury and loss suffered by the victim, his family and friends, and any other relevant information.

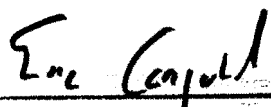
2. The United States further gives notice that, in support of the imposition of the death penalty, it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offenses of conviction, as described in the Second Superseding Indictment, as they relate to the background and character of the defendant MARIO JIMENEZ, his moral culpability, and the nature and circumstances of the offenses charged in the Second Superseding Indictment.

Dated: January ³¹, 2006
Central Islip, New York

Respectfully submitted,

ROSLYNN R. MAUSKOPF
UNITED STATES ATTORNEY

cc: John F. Carman, Esq.
Barry G. Rhodes, Esq.

BY: 
ACTING UNITED STATES ATTORNEY
PURSUANT TO 28 C.F.R. 0.136