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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA)	CRIMINAL NO. 02-256 (ESH)
)	
v.)	
)	
FRANCOIS KARAKE,)	
also known as Rafiki)	
GREGOIRE NYAMINANI)	
LEONIDAS BIMENYIMANA)	
also known as Zappy Gaddi,)	
Defendants.)	

**GOVERNMENT'S NOTICE
OF ITS INTENT TO SEEK THE DEATH PENALTY**

The United States of America hereby submits its notice to the Court and the defendants, **FRANCOIS KARAKE**, also known as **Rafiki**, **GREGOIRE NYAMINANI**, and **LEONIDAS BIMENYIMANA**, also known as **Zappy Gaddi**, and their counsel, that in the event of defendants' convictions on Count Two, Three, and/or Four of the superseding indictment, wherein defendants are charged with Terrorist Acts of Murder Abroad Against United States Nationals and Using a Firearm During a Crime of Violence, Causing a Death Through the Use of the Firearm, and Aiding and Abetting and Causing an Act to be Done, in violation of Title 18, United States Code, Sections 2332, 924(c), (j), and 2, the government will seek the sentence of death, in that the circumstances of the offenses are such that a sentence of death is justified.

I. Statutory Threshold Findings Enumerated in 18 U.S.C. § 3591(a)

The government will seek to prove the following threshold findings as the basis for imposition of the death penalty in relation to Counts Two, Three, and/or Four of the superseding indictment:

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A. Defendants FRANCOIS KARAKE, also known as Rafiki, GREGOIRE NYAMINANI, and LEONIDAS BIMENYIMANA, also known as Zappy Gaddi, were each over 18 years of age at the time they committed the offenses. Title 18, United States Code, Section 3591 (a).

B. (1) Defendant FRANCOIS KARAKE, also known as Rafiki, intentionally killed Robert Haubner. Title 18, United States Code, Section 3591(a)(2)(A).

(2) Defendant GREGOIRE NYAMINANI intentionally killed Susan Miller. Title 18, United States Code, Section 3591(a)(2)(A).

C. (1) Defendant FRANCOIS KARAKE, also known as Rafiki, inflicted serious bodily injury that resulted in the death of Robert Haubner. Title 18, United States Code, Section 3591(a)(2)(B).

(2) Defendant GREGOIRE NYAMINANI inflicted serious bodily injury that resulted in the death of Susan Miller. Title 18, United States Code, Section 3591(a)(2)(B).

D. Defendants FRANCOIS KARAKE, also known as Rafiki, GREGOIRE NYAMINANI, and LEONIDAS BIMENYIMANA, also known as Zappy Gaddi, intentionally participated in acts, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Susan Miller and Robert Haubner died as a direct result of the acts. Title 18, United States Code, Section 3591(a)(2)(C).

E. Defendants FRANCOIS KARAKE, also known as Rafiki, GREGOIRE NYAMINANI, and LEONIDAS BIMENYIMANA, also known as Zappy Gaddi, intentionally and specifically engaged in acts of violence, knowing that the acts created a grave risk of death to

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a person, other than one of the participants in the offense, such that participation in the acts constituted a reckless disregard for human life and the victims Susan Miller and Robert Haubner died as a direct result of the acts. Title 18, United States Code, Section 3591(a)(2)(D).

II. Statutory Aggravating Factors Enumerated in 18 U.S.C. § 3592(c)

The government will seek to prove the following statutory aggravating factors as the basis for imposition of the death penalty in relation to Counts Two, Three, and/or Four of the superseding indictment:

A. The deaths and injuries resulting in the deaths of the victims occurred during the commission and attempted commission of, and during the immediate flight from the commission of, offenses under Section 2332 of Title 18 (terrorist acts of murder abroad against United States nationals). Title 18, United States Code, Section 3592(c)(1).

B. Defendants committed the offenses described in Counts Two, Three, and Four and in committing those offenses, knowingly created a grave risk of death to one or more persons in addition to the victims of the offense. Title 18, United States Code, Section 3592(c)(5).

C. Defendants committed the offenses described in Counts Two, Three, and Four in an especially heinous, cruel, and depraved manner in that the offenses involved torture and serious physical abuse to the victims. Title 18, United States Code, Section 3592(c)(6).

D. Defendants committed the offenses described in Counts Two, Three, and Four after substantial planning and premeditation to cause the death of a person and commit an act of terrorism. Title 18, United States Code, Section 3592(c)(9).

E. Defendants intentionally killed and attempted to kill more than one person in a single criminal episode. Title 18, United States Code, Section 3592(c)(16).

III. Non-Statutory Aggravating Factors Identified Under 18 U.S.C. § 3593(a) and (c)

The government will rely upon the following non-statutory aggravating factors as the basis for imposition of the death penalty in relation to Counts Two, Three, and/or Four of the superseding indictment:

A. Non-capital Offense Charged in the Indictment. The government intends to rely upon the non-capital offense charged in Count One of the superseding indictment, if defendants are found guilty during trial.

B. Victim Impact in Relation to Those Victims Who Were Killed. As demonstrated by the personal characteristics of the nine identified victims who were killed as the result of the offenses described in Counts Two, Three, and Four, and the impact of their deaths on their families, friends and co-workers, defendants caused injury, harm and loss to the victims who were killed, their families and their friends. The government will present information concerning the personal characteristics of the nine identified victims who were killed as the result of the offenses described in Counts Two, Three, and Four and the effect of those offenses upon the victims who were killed, their families and their friends, which may include oral testimony, particularized victim impact statements referencing the scope of the injury and loss suffered by the victims who were killed, their families and their friends and any other relevant information. See Payne v. Tennessee, 501 U.S. 808, 825-27 (1991).

C. Victim Impact in Relation to Those Victims Who Survived. Defendants caused serious physical, emotional and psychological injuries to the more than 30 victims who survived the attack and kidnapping during which the offenses described in Counts Two, Three, and Four were committed. The government will present information concerning the effect of the

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offenses described in Counts Two, Three, and Four upon the victims who survived this offense, which may include oral testimony, particularized victim impact statements referencing the scope of the injury and loss suffered by the victims who survived this offense, and any other relevant information. Cf. Payne, supra, 501 U.S. at 825-27.

D. Participation in the Activities of the Army for the Liberation of Rwanda.

According to their own statements and other evidence, defendants willingly joined the Army for the Liberation of Rwanda (hereinafter referred to as "ALIR"), knowing it to be an extremist organization that used violence to promote its goals which, among other things, included targeting citizens of other countries that supported the Rwandan government, including Americans. Defendants willingly participated in and supported ALIR's activities for at least seven years. Defendants demonstrated their personal commitment to and support for the violent activities of the ALIR by committing the offenses described in Counts Two, Three and Four which were targeted at Americans and other English-speakers because of their countries' support for the current Rwandan regime.

E. Future Dangerousness. The defendants are likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of other persons, including, but not limited to, United States citizens and citizens of those countries

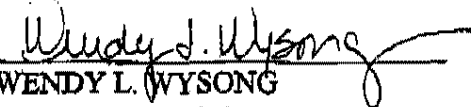
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which support the Rwandan government, as evidenced by the offenses charged in the indictment as well as the statutory and non-statutory aggravating factors alleged in this Notice.

Respectfully submitted,

KENNETH L. WAINSTEIN
UNITED STATES ATTORNEY
D.C. Bar Number 451058

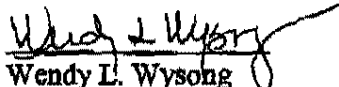
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of November 2004, a copy of the foregoing Notice was sent by facsimile and mail to counsel for the defendant Francois Karake, Shawn Moore, 625 Indiana Ave., N.W. Washington, D.C. 20004 and Adam Thurschwell, 2121 Euclid Avenue LB 138, Cleveland, OH 44115-2214, defendant Gregoire Nyaminani, Steven Kiersh, 717 D St., N.W., Suite 400, Washington, D.C. 20004 and Reita Pendry, P.O. Box 5432, Charlotte, NC, 28299, and defendant Leonidas Bimenyimana, Jeffrey B. O'Toole and Julie Dietrich at 1350 Connecticut Ave., N.W., Suite 200, Washington, D.C. 20036 and Harry Trainor, 5407 Water St., Suite 105, Upper Marlboro, MD 20772.


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Assistant United States Attorney