

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FILED

209

LP
UNITED STATES OF AMERICA

v.

WILFREDO MARTINEZ ACOSTA

a/k/a "Italiano"

MAY 30 2009 CRIM NO. 98-362-11

MICHAEL E. KUNZ, Clerk

By C. C. C. Dep. Clerk

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY
FOR WILFREDO MARTINEZ ACOSTA**

The United States of America, by its attorneys, Michael R. Stiles, United States Attorney for the Eastern District of Pennsylvania, and Thomas R. Perricone and David H. Resnicoff, Assistant United States Attorneys for the Eastern District of Pennsylvania, pursuant to 18 U.S.C. § 3593(a), hereby notifies the Court and defendant Wilfredo Martinez Acosta that the Government believes the circumstances of the offenses charged in Counts 24, 26, 29, and 30 of the Fifth Superseding Indictment are such that, in the event of the defendant's conviction of one or more of these offenses, a sentence of death is justified under Chapter 228 of Title 18, United States Code, Sections 3591-3598, and that the Government will seek the sentence of death for these offenses:

Count 24, conspiracy to commit murder for hire, in violation of Title 18, United States Code, Section 1958, resulting in the deaths of Jorge Martinez, and Luis Garcia;

Count 26, murder for hire, in violation of Title 18, United States Code, Section 1958, resulting in the deaths of Jorge Martinez and Luis Garcia;

Count 29, murder in aid of racketeering, in violation of Title 18, United States Code, Sections 1959(a)(1) and 2, resulting in the death of Jorge Martinez; and

Count 30, murder in aid of racketeering, in violation of Title 18, United States Code, Sections 1959(a)(1) and 2, resulting in the death of Luis Garcia.

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

COUNT TWENTY FOUR

**CONSPIRACY TO COMMIT MURDER FOR HIRE (18 U.S.C. § 1958)
RESULTING IN THE DEATHS OF JORGE MARTINEZ AND LUIS GARCIA**

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

1. **Intentional Killing.** The defendant intentionally killed Jorge Martinez and Luis Garcia. Section 3591(a)(2)(A)
2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Jorge Martinez and Luis Garcia. Section 3592(a)(2)(B).
3. **Intentional Act to Take Life or Use Lethal Force.** The defendant intentionally participated an act, 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 that Jorge Martinez and Luis Garcia died as a direct result of that act. Section 3591(a)(2)(C).
4. **Intentional Act in Reckless Disregard for Life.** The defendant intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Jorge Martinez and Luis Garcia died as a direct result of the act. Section 3592(a)(2)(D).

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

1. **Pecuniary Gain.** The defendant committed the offense as consideration for the receipt, and in the expectation of the receipt, of anything of pecuniary value. Section 3592(c)(8).

2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. **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 victims of the offense. Section 3592(c)(5).

4. **Multiple Killings.** The defendant intentionally killed more than one person in a single criminal episode. Section 3592(c)(16).

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

1. **Future Dangerousness of the Defendant.** The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others.

2. **Contemporaneous Conviction for Another Killing.** The defendant also killed Ricky Guevara-Velez, and he is subject to a contemporaneous conviction, as part of this case, for that killing, as charged in Count 23.

3. **Victim Impact.** The defendant's murders of Jorge Martinez and Luis Garcia have caused injury, harm, and loss to the victims, and to the victims' families because of the victims' personal characteristics and potential as individual human beings and the consequent impact of the deaths upon the victims' families.

4. **Defendant's Participation in Another Killing, Not Charged in This Case.** The defendant participated in the killing of Carlos Maysonet Adorno in Rio Piedras, Puerto Rico, on September 12, 1997.

COUNT TWENTY SIX

**MURDER FOR HIRE (18 U.S.C. § 1958)
RESULTING IN THE DEATHS OF JORGE MARTINEZ AND LUIS GARCIA**

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

1. **Intentional Killing.** The defendant intentionally killed Jorge Martinez and Luis Garcia. Section 3591(a)(2)(A)

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Jorge Martinez and Luis Garcia. Section 3592(a)(2)(B).

3. **Intentional Act to Take Life or Use Lethal Force.** The defendant intentionally participated in an act, 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 that Jorge Martinez and Luis Garcia died as a direct result of that act. Section 3591(a)(2)(C).

4. **Intentional Act in Reckless Disregard for Life.** The defendant intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Jorge Martinez and Luis Garcia died as a direct result of the act. Section 3592(a)(2)(D).

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

1. **Pecuniary Gain.** The defendant committed the offense as consideration for the receipt, and in the expectation of the receipt, of anything of pecuniary value. Section 3592(c)(8).

2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. **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 victims of the offense. Section 3592(c)(5).

4. **Multiple Killings.** The defendant intentionally killed more than one person in a single criminal episode. Section 3592(c)(16).

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

1. **Future Dangerousness of the Defendant.** The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others.

2. **Contemporaneous Conviction for Another Killing.** The defendant also killed Ricky Guevara-Velez, and he is subject to a contemporaneous conviction, as part of this case, for that killing, as charged in Count 23.

3. **Victim Impact.** The defendant's murders of Jorge Martinez and Luis Garcia have caused injury, harm, and loss to the victims, and to the victims' families, because of the victims' personal characteristics and potential as individual human beings and the consequent impact of the deaths upon the victims' families.

4. **Defendant's Participation in Another Killing, Not Charged in This Case.** The defendant participated in the killing of Carlos Maysonet Adorno in Rio Piedras, Puerto Rico, on September 12, 1997.

COUNT TWENTY NINE

**MURDER IN AID OF RACKETEERING [18 U.S.C. §§ 1959(a)(5) and 2]
JORGE MARTINEZ**

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

1. **Intentional Killing.** The defendant intentionally killed Jorge Martinez . Section 3591(a)(2)(A)
2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Jorge Martinez. Section 3592(a)(2)(B).
3. **Intentional Act to Take Life or Use Lethal Force.** The defendant intentionally participated in an act, 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 that Jorge Martinez died as a direct result of that act. Section 3591(a)(2)(C).
4. **Intentional Act in Reckless Disregard for Life.** The defendant intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Jorge Martinez died as a direct result of the act. Section 3592(a)(2)(D).

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

1. **Pecuniary Gain.** The defendant committed the offense as consideration for the receipt, and in the expectation of the receipt, of anything of pecuniary value. Section 3592(c)(8).
2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. **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. Section 3592(c)(5).

4. **Multiple Killings.** The defendant intentionally killed more than one person in a single criminal episode. Section 3592(c)(16).

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

1. **Future Dangerousness of the Defendant.** The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others.

2. **Contemporaneous Convictions for Another Killing.** The defendant also killed Ricky Guevara-Velez and he is subject to a contemporaneous conviction, as part of this case, for that killing, as charged in Count 23.

3. **Victim Impact.** The defendant's murder of Jorge Martinez has caused injury, harm, and loss to the victim, and to the victim's family, because of the victim's personal characteristics and potential as an individual human being and the consequent impact of the death upon the victim's family.

4. **Defendant's Participation in Another Killing, Not Charged in This Case.** The defendant participated in the killing of Carlos Maysonet Adorno in Rio Piedras, Puerto Rico, on September 12, 1997.

COUNT THIRTY

MURDER IN AID OF RACKETEERING [18 U.S.C. §§ 1959(a)(5) and 2]

LUIS GARCIA

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

1. **Intentional Killing.** The defendant intentionally killed Luis Garcia . Section 3591(a)(2)(A)
2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Luis Garcia. Section 3592(a)(2)(B).
3. **Intentional Act to Take Life or Use Lethal Force.** The defendant intentionally participated in an act, 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 that Luis Garcia died as a direct result of that act. Section 3591(a)(2)(C).
4. **Intentional Act in Reckless Disregard for Life.** The defendant intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Luis Garcia died as a direct result of the act. Section 3592(a)(2)(D).

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

1. **Pecuniary Gain.** The defendant committed the offense as consideration for the receipt, and in the expectation of the receipt, of anything of pecuniary value. Section 3592(c)(8).
2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. **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. Section 3592(c)(5).

4. **Multiple Killings.** The defendant intentionally killed more than one person in a single criminal episode. Section 3592(c)(16).

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

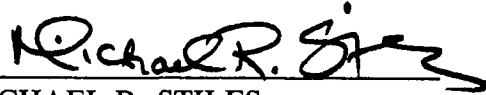
1. **Future Dangerousness of the Defendant.** The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others.

2. **Contemporaneous Convictions for Another Killing.** The defendant also killed Ricky Guevara-Velez and he is subject to a contemporaneous conviction, as part of this case, for that killing, as charged in Count 23.

3. **Victim Impact.** The defendant's murder of Luis Garcia has caused injury, harm, and loss to the victim, and to the victim's family, because of the victim's personal characteristics and potential as an individual human being and the consequent impact of the death upon the victim's family.

4. **Defendant's Participation in Another Killing, Not Charged in This Case.** The defendant participated in the killing of Carlos Maysonet Adorno in Rio Piedras, Puerto Rico, on September 12, 1997.

Respectfully submitted,



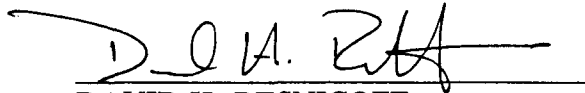
MICHAEL R. STILES
United States Attorney



THOMAS J. EICHER
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THOMAS R. PERRICONE
Assistant United States Attorney



DAVID H. RESNICOFF
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2000, a true and correct copy of the foregoing Notice of Intent to Seek the Death Penalty For Wilfredo Acosta Martinez, the original of which was filed with the Court this day, was delivered by First Class Mail, postage prepaid, to the following attorney of record:

L. Felipe Restrepo, Esquire
5th Floor
211 North 13th Street
Philadelphia, PA 19107

FILED

MAY 30 2000

MICHAEL E. KUNZ, Clerk

By  Dep. Clerk


THOMAS R. PERRICONE

Assistant United States Attorney