

COPY

IN THE DISTRICT COURT OF THE UNITED STATES 95-538-MV

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CRIMINAL NO. 95-538-MV
	)	
MARCOS MAZZINI,	)	
	)	
Defendant.	)	

NOTICE OF INTENT TO SEEK DEATH PENALTY AS TO  
DEFENDANT MARCOS MAZZINI

The United States of America notifies the Court and defendant MARCOS MAZZINI under 18 U.S.C. § 3591(a)(2), 18 U.S.C. § 3592(c), and 18 U.S.C. § 3593(a), that if defendant is convicted for one or more of the murders of Edward Sandoval, Dwight Denard Cobbs, Johnny Lee Dixon, and Lawuentoa Shawn Johnson, as charged by Counts Seventeen, Twenty-Two, Twenty-Three, and Twenty-Four of the Second Superseding Indictment, the Government will seek the sentence of death for MARCOS MAZZINI as to each offense.

As required by 18 U.S.C. §§ 3593(a), (d), and (e), the United States will introduce evidence establishing beyond a reasonable doubt:

- a. One of the statutory aggravating factors set forth by 18 U.S.C. § 3591(a)(2), and
- b. One or more of the statutory aggravating factors set forth by 18 U.S.C. §§ 3592(c)(1)-(16).

As permitted by 18 U.S.C. §§ 3593(a) and (d), the United States will also seek to prove the non-statutory aggravating factors set forth in paragraphs 4, 9, 14, 19, and 20 of this Notice. The United States believes that the circumstances of each offense are such that, if the defendant MARCOS MAZZINI is convicted, a sentence of death is justified under 18 U.S.C. §§ 3591 through 3593.

This Notice lists the statutory and non-statutory aggravating factors that the Government will seek to prove separately with respect to Count Seventeen (for the murder of Edward Sandoval), Count Twenty-Two (for the murder of Dwight Denard Cobbs), Count Twenty-Three (for the murder of Johnny Lee Dixon), and Count Twenty-Four (for the murder of Lawuentoa Shawn Johnson). The non-statutory aggravating factor that applies to MARCOS MAZZINI in connection with any of these offenses is set forth once, in paragraph 20 of this Notice.

AS TO COUNT SEVENTEEN:

MURDER OF EDWARD SANDOVAL

Statutory Factors under 18 U.S.C. § 3591(a)(2):

1. MARCOS MAZZINI intentionally killed Edward Sandoval. 18 U.S.C. § 3591(a)(2)(A).
2. In the alternative, MARCOS MAZZINI intentionally participated in an act, contemplating that the life of Edward Sandoval would be taken or intending that lethal force would be used in connection with Edward Sandoval, who was not one of the participants in the offense, and Edward Sandoval died

as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

Statutory Factors under 18 U.S.C. §§ 3592(c)(1)-(16):

3. MARCOS MAZZINI committed the offense after substantial planning and premeditation to cause the death of Edward Sandoval. 18 U.S.C. § 3592(c)(9).

Non-Statutory Factor Under 18 U.S.C. § 3593(a):

4. Victim Impact. By murdering Edward Sandoval, MARCOS MAZZINI has devastated Edward Sandoval's family, especially Edward Sandoval's parents.

AS TO COUNT TWENTY-TWO ONLY:

MURDER OF DWIGHT DENARD COBBS

Statutory Factors under 18 U.S.C. § 3591(a)(2):

5. MARCOS MAZZINI intentionally killed Dwight Denard Cobbs. 18 U.S.C. § 3591(a)(2)(A).

6. In the alternative, MARCOS MAZZINI intentionally participated in an act, contemplating that the life of Dwight Denard Cobbs would be taken or intending that lethal force would be used in connection with Dwight Denard Cobbs, who was not one of the participants in the offense, and Dwight Denard Cobbs died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

Statutory Factors under 18 U.S.C. §§ 3592(c)(1)-(16):

7. MARCOS MAZZINI committed the offense as consideration for the receipt, or in the expectation of the receipt, of something of pecuniary value. 18 U.S.C. § 3592(c)(8).

8. MARCOS MAZZINI committed the offense after substantial planning and premeditation to cause the death of Dwight Denard Cobbs. 18 U.S.C. § 3592(c)(9).

Non-Statutory Factor Under 18 U.S.C. § 3593(a):

9. Victim Impact. By murdering Dwight Denard Cobbs, MARCOS MAZZINI caused the family of Dwight Denard Cobbs to suffer, especially Dwight Denard Cobbs' mother, brother, and sister.

AS TO COUNT TWENTY-THREE ONLY:

MURDER OF JOHNNY LEE DIXON

Statutory Factors under 18 U.S.C. § 3591(a)(2):

10. MARCOS MAZZINI intentionally killed Johnny Lee Dixon. 18 U.S.C. § 3591(a)(2)(A).

11. In the alternative, MARCOS MAZZINI intentionally participated in an act, contemplating that the life of Johnny Lee Dixon would be taken or intending that lethal force would be used in connection with Johnny Lee Dixon, who was not one of the participants in the offense, and Johnny Lee Dixon died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

Statutory Factors under 18 U.S.C. §§ 3592(c)(1)-(16):

12. MARCOS MAZZINI committed the offense as consideration for the receipt, or in the expectation of the receipt, of something of pecuniary value. 18 U.S.C. § 3592(c)(8).

13. MARCOS MAZZINI committed the offense after substantial planning and premeditation to cause the death of

Johnny Lee Dixon. 18 U.S.C. § 3592(c)(9).

Non-Statutory Factor Under 18 U.S.C. § 3593(a):

14. Victim Impact. MARCOS MAZZINI caused the family of Johnny Lee Dixon to suffer by murdering Johnny Lee Dixon.

AS TO COUNT TWENTY-FOUR ONLY:

MURDER OF LAWUENTOA SHAWN JOHNSON

Statutory Factors under 18 U.S.C. § 3591(a)(2):

15. MARCOS MAZZINI intentionally killed Lawuentoa Shawn Johnson. 18 U.S.C. § 3591(a)(2)(A).

16. In the alternative, MARCOS MAZZINI intentionally participated in an act, contemplating that the life of Lawuentoa Shawn Johnson would be taken or intending that lethal force would be used in connection with Lawuentoa Shawn Johnson, who was not one of the participants in the offense, and Lawuentoa Shawn Johnson died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

Statutory Factors under 18 U.S.C. §§ 3592(c)(1)-(16):

17. MARCOS MAZZINI committed the offense as consideration for the receipt, or in the expectation of the receipt, of something of pecuniary value. 18 U.S.C. § 3592(c)(8).

18. MARCOS MAZZINI committed the offense after substantial planning and premeditation to cause the death of Lawuentoa Shawn Johnson. 18 U.S.C. § 3592(c)(9).

Non-Statutory Factor Under 18 U.S.C. § 3593(a):

19. Victim Impact. MARCOS MAZZINI caused the family of Lawuentoa Shawn Johnson to suffer by murdering Lawuentoa Shawn Johnson.

FOR THE MURDERS

OF EDWARD SANDOVAL, DWIGHT DENARD COBBS,

JOHNNY LEE DIXON, AND LAWUENTOA SHAWN JOHNSON, OR ANY OF THEM

Non-Statutory Factor Under 18 U.S.C. § 3593(a):

20. Future Dangerousness. MARCOS MAZZINI represents a continuing, serious threat to the lives and safety of others. His future dangerousness is shown by his commission of offenses resulting in multiple deaths, by his commission of other acts of violence or potential violence, by his low potential for rehabilitation, by his lack of remorse for violent acts he has committed, and by his threats of violence to others, as described in the following subparagraphs.

a. On October 13, 1995, MARCOS MAZZINI murdered three persons in a single criminal episode.

b. MARCOS MAZZINI has engaged in acts of violence or potential violence in addition to the murders of Edward Sandoval, Dwight Denard Cobbs, Johnny Lee Dixon, and Lawuentoa Shawn Johnson. These include, but are not limited to:

(1) On or about June 13, 1995, MARCOS MAZZINI conspired to murder and attempted to murder Robert King.

(2) On or about June 14, 1995, MARCOS MAZZINI conspired to murder and attempted to murder Franklin Snowden.

(3) On or about October 13, 1995, MARCOS MAZZINI conspired to murder Rosa Montoya.

(4) On or about August 1, 1995, MARCOS MAZZINI carried and used firearms during and in relation to a drug trafficking crime, as charged in Count Seventy-Seven of the Second Superseding Indictment.

(5) From on or about October 1, 1995, to on or about October 14, 1995, MARCOS MAZZINI carried and used a firearm during and in relation to a drug trafficking crime, as charged in Count Seventy-Nine of the Second Superseding Indictment.

c. MARCOS MAZZINI has a low potential for rehabilitation. This is shown by facts including, but not limited to:

(1) MARCOS MAZZINI engaged in substantial violence during the time frame alleged in the Second Superseding Indictment.

d. MARCOS MAZZINI lacks remorse for his violent acts. This is shown by facts including, but not limited to:

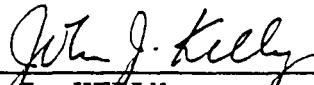
(1) After MARCOS MAZZINI murdered Dwight Denard Cobbs, Johnny Lee Dixon, and Lawuentoia Shawn Johnson on October 13, 1995, MARCOS MAZZINI told Cesar Gonzales "you should be real proud of 'Stalker' (Vincent Najjar) for doing the job."

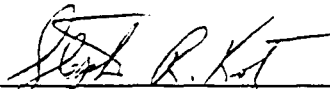
e. MARCOS MAZZINI has made threats of violence against others. These include, but are not limited to:

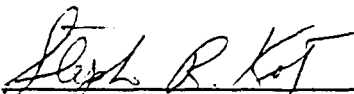
(1) MARCOS MAZZINI threatened to kill Michael Mora for losing \$10,500 in a drug deal and threatened to kill other individuals involved in the drug deal.



Respectfully submitted,

  
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JOHN J. KELLY  
United States Attorney

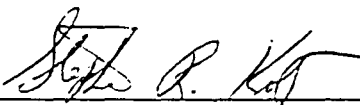
  
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I CERTIFY that true copies of  
the foregoing NOTICE were served  
on the following counsel of record for  
MARCOS MAZZINI this 21st day of June, 1996:

Paul Kennedy, Esq.  
Billy Blackburn, Esq.

  
\_\_\_\_\_  
Thomas L. English  
Stephen R. Kotz

Assistant U.S. Attorneys