

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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UNITED STATES OF AMERICA,
Plaintiff

v.

CRIMINAL NO. 97-049 (JAF)

- 1) JAIME ROSADO ROSARIO,
a/k/a "La Mosca",
 - 2) MODESTO ROBERTO MOLINA,
a/k/a "El Viejo",
a/k/a "El Tio",
 - 3) LUIS SUAREZ ASENCIO,
a/k/a "La Momia"
 - 4) FRANK ORTIZ FLORES,
a/k/a "Pistón",
 - 5) RICARDO GARAYUA DIAZ,
a/k/a "Ricky"
 - 6) EDGARDO I. MEJIAS VILLALBA,
a/k/a "Nini",
 - 7) JESUS MIRANDA GONZALEZ,
a/k/a "Pito Corozal",
 - 8) EDWIN MORENO,
 - 9) REINALDO NARVAEZ MAISONET,
a/k/a "Chacho",
- Defendants.

* * * * *

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States of America, pursuant to 18 U.S.C. § 3593(a), by and through its undersigned counsel, and notifies the Court and defendants JAIME ROSADO ROSARIO, a/k/a "La Mosca" and MODESTO ROBERTO MOLINA, a/k/a "El Viejo", a/k/a "El Tio", in the above-captioned case that the Government believes the circumstances of the offense charged in Count Two of the 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

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this offense: aiding and abetting each other, with malice aforethought, did unlawfully, willfully, deliberately, maliciously, and with premeditation kill Eduardo Molina Rivera, a/k/a "Pito Guayo", by shooting him with a firearm, with the intent to prevent the attendance and/or testimony of Eduardo Molina Rivera, a/k/a "Pito Guayo" in the case of United States of America v. Jaime Rosado Rosario, a/k/a "La Mosca", et al., Criminal Number 96-023 (PG), an official proceeding in the District of Puerto Rico, which killing is a murder as defined in Title 18 United States Code, Section 1111, in violation of 18 U.S.C. 1512(a)(1)(A), which carries a possible sentence of death.

The Government proposes to prove the following factors as justifying a sentence of death for both of the defendants named above.

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

1. Intentional Acts to Take Life or Use Lethal Force.

The defendants 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 Eduardo Molina Rivera died as a direct result of the act.

Section 3591(a)(2)(C).

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2. **Intentional and Specific Act of Violence Creating Grave Risk of Death.**

The defendants 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 Eduardo Molina Rivera died as a direct result of the act. Section 3591(a)(2)(D).

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

1. **Procurement Of The Offense By Payment.**

The defendants procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value. Section 3592(c)(7).

2. **Substantial Planning and Premeditation.** The

defendants committed the offense after substantial planning and premeditation to cause the death of Eduardo Molina Rivera. Section 3592(c)(9).

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

1. **Tampering With a Witness.** Eduardo Molina Rivera, the victim, was killed in an effort by defendants to obstruct justice, tamper with a witness or juror, or in retaliation for

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cooperating with authorities.

2. **Future Dangerousness of the Defendants.** The defendants are likely to commit criminal acts of violence in the future which would be a continuing and serious threat to society. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994).

a. **Specific Threats of Violence.** The defendants have made specific threats of violence after the murder of Eduardo Molina Rivera, the government witness, to have all the government witnesses killed.

b. **Lack of Remorse.** The defendants have demonstrated a lack of remorse for the capital offense committed in this case, by statements and/or actions.

3. **Victim Impact Evidence.** The victim's personal characteristics as an individual human being and/or the impact of the death upon the victim's family. Payne v. Tennessee, 111 S.Ct. 2597, 2608-09 (1991).

a. **Characteristics.** The victim's personal characteristics as an individual human being include but are not limited to one or more of the following:

(1) Eduardo Molina Rivera was in his twenty seventh year, was married and had three children. He also had a close relationship with his mother.

(2) Eduardo Molina Rivera was remorseful for the

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narcotics trafficking acts he had been charged with since he had decided to cooperate with the government.

b. Impact of Death. The family of Eduardo Molina Rivera, the victim, has suffered injury and loss, as a result of his death.

RESPECTFULLY SUBMITTED in San Juan, Puerto Rico, this 2d day of January, 1998.

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