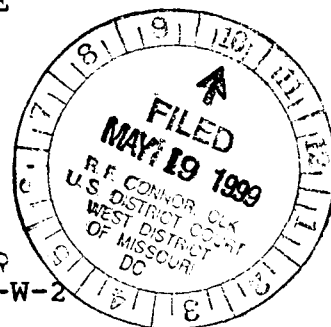


IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

RECEIVED



UNITED STATES OF AMERICA,
Plaintiff,
v.
ARBOLEDA ORTIZ,
Defendant.

)
)
) MAY 20 1999
) FEDERAL PUBLIC DEFENDER
) WESTERN DIST. MO-CR-W-2
) No. 98-0031-KANSAS CITY
)
)
)
)

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

Comes now the United States of America, by Stephen L. Hill, Jr., United States Attorney, and Mark A. Miller, Assistant United States Attorney, and Virginia P. Perez, Assistant United States Attorney, all for the Western District of Missouri, and pursuant to Title 18, United States Code, Sections 3593(a), notifies the Court and the defendant, Arboleda Ortiz, that in the event the defendant is convicted of the homicide of Julian Colon, as alleged in Counts Two and Three of the superseding indictment, 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 a sentence of death.

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

A. Statutory Proportionality Factors Enumerated Pursuant to Title 18, United States Code, Sections 3591(a)(2)(A) through (D)

1. **Intentional Killing.** Arboleda Ortiz intentionally killed Julian Colon [18 U.S.C. § 3591(a)(2)(A)].

2. Intentional Infliction of Serious Bodily Injury.

Arboleda Ortiz intentionally inflicted serious bodily injury that resulted in the death of Julian Colon [18 U.S.C. § 3591(a)(2)(B)].

3. Intentional Acts to Take a Life or Use Lethal Force.

Arboleda Ortiz 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 Julian Colon died as a direct result of the act [18 U.S.C. § 3591(a)(2)(C)].

4. Reckless Disregard for Life. Arboleda Ortiz intentionally and specifically engaged in an act of violence:

(i) knowing that the act created a grave risk of death to a person, other than one of the participants in the offense;

(ii) such that participation in the act constituted a reckless disregard for human life; and

(iii) Julian Colon died as a direct result of the act [18 U.S.C. § 3591(a)(2)(D)].

B. Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3592(c)(1) through (16)

1. Pecuniary Gain. The defendant, Arboleda Ortiz committed the offenses described in Counts Two and Three of the indictment as consideration for the receipt and in the expectation of the receipt of something of pecuniary value, that is, the payment of money. [18 U.S.C. § 3592(c)(8)].

2. **Substantial Planning and Premeditation.** The defendant, Arboleda Ortiz committed the offenses described in Counts Two and Three of the indictment after substantial planning and premeditation to cause the death of a person. [18 U.S.C. § 3592(c)(9)].

3. **Multiple Attempted Killings.** The defendant, Arboleda Ortiz, intentionally attempted to kill more than one person in a single criminal episode. [18 U.S.C. § 3592(c)(16)].

C. Non-Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3593(a)

1. **Future Dangerousness of the Defendant.** Future dangerousness based upon the probability that Arboleda Ortiz would commit criminal acts of violence in the future that would constitute a continuing threat to the lives and safety of others as evidenced for example, by one or more of the following, among others:

(a) Arboleda Ortiz displayed a lack of remorse for the killing of Julian Colon.

(b) Arboleda Ortiz used physical force and threats of violence to collect drug debts and enforce discipline for Edwin Hinestroza.

2. **Vileness of the Crime.** Defendant Arboleda Ortiz's vile conduct in committing the offense apart from the other aggravating factors was substantially greater in degree than that described in the definition of the crime. In committing the offense, the defendant did one or more of the following:

(a) Arboleda Ortiz participated in binding victim Julian Colon's wrists, ankles, face, and head with duct tape.

(b) Arboleda Ortiz participated in beating the bound and helpless victim Julian Colon immediately prior to the victim's murder.

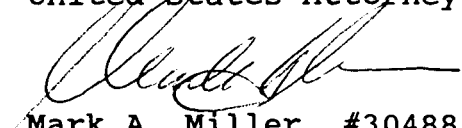
(c) Arboleda Ortiz participated in threatening the victim Julian Colon with death or serious bodily injury during the interrogation of Julian Colon immediately prior to murdering him.

3. **Victim Impact Evidence.** The offense caused injury, loss and harm because of victim Julian Colon's personal characteristics as an individual human being and the impact of the death upon victim Julian Colon's family.

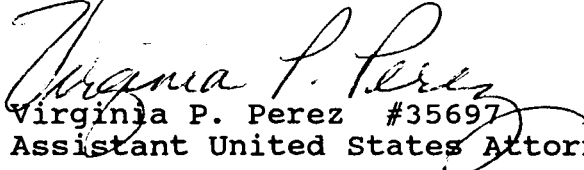
Respectfully submitted,

Stephen L. Hill, Jr.
United States Attorney

By


Mark A. Miller #30488
Assistant United States Attorney

By

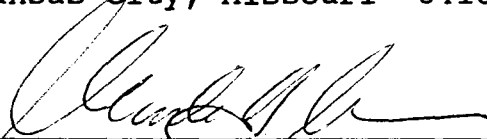

Virginia P. Perez #35697
Assistant United States Attorney

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(816) 426-3122

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed
this 19th day of May, 1999, to the following:

Larry C. Pace
Assistant Federal Public Defender
818 Grand Boulevard, Suite 300
Kansas City, Missouri 64106



Mark A. Miller
Assistant United States Attorney

MAM/nlg