

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

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UNITED STATES OF AMERICA,
Plaintiff,
v.
LUIS GINES PEREZ,
RICARDO MELENDEZ PEREZ
Defendants.

Criminal No. 98-164(DRD)

**NOTICE OF INTENTION BY THE UNITED STATES TO SEEK
THE DEATH PENALTY FOR DEFENDANTS
LUIS GINES LOPEZ AND RICARDO MELENDEZ PEREZ**

TO THE HONORABLE COURT:

COMES NOW the United States of America, by and through its attorneys, Guillermo Gil, United States Attorney, Miguel A. Pereira and John R. Teakell, Assistant U.S. Attorneys, for the District of Puerto Rico, and respectfully state as follows:

1. That they are "attorneys for the government" as that term is defined in Federal Rule of Criminal Procedure 54(c) and as the term is used in 18 U.S.D.C. § 3593(a). Further, that pursuant to 18. U.S.C., §3593(a), and Local Rule 428(11)(B)(3), and the Scheduling Order of this Court, the undersigned counsel very respectfully submit the instant Notice to the Court and counsel for the defendants in this case.

2. Further, that the United States believes that the circumstances of the below enumerated offenses are such that, following conviction, a sentence of death is justified with respect to defendants Luis Gines Perez and Ricardo Melendez Perez for the murder of Miguel Huertas in violation of 18 U.S.C. § 924 (c), (j), murder by firearm during and in relation to a federal drug trafficking offense, which carries a possible sentence of death and is described in Count 2 of the Superseding Indictment, for the reasons set forth below. The United States proposes to prove

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the following factors, outlined separately with respect to each defendant, as justifying a sentence of death with respect to those defendants.

**PROPORTIONALITY FACTORS
UNDER 18 U.S.C. § 3591 (a)(2)**

3. That defendant **Gines Perez** intentionally killed the victim Miguel Huertas. *See* 18 U.S.C. §3591(a)(2)(A). That he did so by intentionally inflicting serious bodily injury that resulted in the death of the victim Miguel Huertas. *See* 18 U.S.C. §3591(a)(2)(B). Further, that defendant **Gines Perez** 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 the victim Miguel Huertas died as a direct result of the act. *See* 18 U.S.C. §3591(a)(2)(C).

4. That defendant **Melendez Perez** 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 the victim Miguel Huertas died as a direct result of that act. *See* 18 U.S.C. §3591(a)(2)(C).

**STATUTORY AGGRAVATING FACTORS
UNDER 18 U.S.C. § 3592 (c)**

5. Defendant **Gines Perez** committed the offense in the expectation of the receipt of something of pecuniary value. *See* 18 U.S.C. §3592(c)(8).

6. Defendant **Gines Perez** committed the offense after substantial planning and premeditation to cause the death of the victim Miguel Huertas. *See* 18 U.S.C. §3592(c)(9)

7. Defendant **Melendez Perez** committed the offense in the expectation of the receipt of something of pecuniary value. *See* Title 18 U.S.C. §3592(c)(8).

8. Defendant **Melendez Perez** committed the offense after substantial planning and premeditation to cause the death of Miguel Huertas. *See* 18 U.S.C. §3592(c)(9).

NON-STATUTORY AGGRAVATING FACTORS

9. That defendant **Gines Perez** 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. *See* Simmons v. South Carolina, ___ U.S. ___, 114 S.Ct. 2187, 2193 (1994). Thus, the non-statutory factor of future dangerousness exists in his case.

10. That defendant **Gines Perez** caused injury, loss, and harm by killing the victim because of the great impact of the death on the victim's family. *See* Payne v. Tennessee, ___ U.S. ___, 111 S.Ct. 2597, 2608-09 (1991). Thus, the non-statutory factor of impact on the victim's family exists in this case.

9. That defendant **Melendez Perez** 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. *See* Simmons v. South Carolina, ___ U.S. ___, 114 S.Ct. 2187, 2193 (1994). Thus, the non-statutory factor of future dangerousness exists in his case.

10. That defendant **Melendez Perez** caused injury, loss, and harm by killing the victim because of the great impact of the death on the victim's family. *See* Payne v. Tennessee, ___ U.S. ___, 111 S.Ct. 2597, 2608-09 (1991). Thus, the non-statutory factor of impact on the victim's family exists in this case.

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___, 111 S.Ct. 2597, 2608-09 (1991). Thus, the non-statutory factor of impact on the victim's family exists in this case.

III. CONCLUSION

In accordance with 18 U.S.C. §3593(a) and in light of, *inter alia*, the above-described aggravating factors, the United States submits that a sentence of death is justified under the circumstances of the case with respect to Defendants Luis Gines Perez and Ricardo Melendez Perez. The Attorney General has authorized the death penalty be sought in this case and a copy of the authorization is attached. Accordingly, the United States herein provides notice that, following conviction of any or all of said defendants, the United States will seek the sentence of death. WHEREFORE, the United States requests that the Court and the Defendants take notice of the above and for such other and further relief as is just and proper.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 20th day of April, 1999.

GUILLERMO GIL
United States Attorney



Miguel Pereira - 206709
Assistant U.S. Attorney
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Hato Rey, Puerto Rico 00918

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on the above date a true and correct copy of the foregoing notice will be delivered to Counsel for the Defendants addressed as follows: Luis R. Rivera, Esq., Capital Center Suite 401, 3 Arterial Hostos #239, Hato Rey, PR 00918; Steven M. Potolsky, Esq., Nations Bank Tower 100 S.E. 2nd Street Suite 3550, Miami, Florida 33131; Epifanio Morales Cruz, Esq., Federal Public Defender's Office, 259 Roosevelt Avenue, 2nd Floor, Girard Building, Hato Rey, PR 00918; Jorge L. Arroyo, Esq., Suite 201 Metroparque VII Building, First Street, Metro Office Park, San Juan, PR 00968; and William D. Matthewman, Esq., Courthouse Tower Suite 1700, 44 West Flagler Street, Miami, Florida 33130.



Miguel A. Pereira
Assistant U.S. Attorney
Deputy Chief, Criminal Division



Office of the Attorney General
Washington, D.C. 20530

April 5, 1999

The Honorable Guillermo Gil
United States Attorney
District of Puerto Rico
San Juan, PR 00918

Dear Mr. Gil:

You are authorized to seek the death penalty against Luis Gines Perez and Ricardo Melendez Perez.

If a plea is entered in this case, please advise the Assistant Attorney General of the Criminal Division in writing of the plea agreement and the reasons for it, as described in the United States Attorneys' Manual, § 9-10.000(I).

Sincerely,

Janet Reno