

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	
	§	CRIMINAL NO. H-10-459-SS
EFRAIN RODRIGUEZ-MENDOZA	§	
aka "Chino," aka "Chenton," aka	§	
"Chente," aka "Vicente Garduno"	§	

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW, the United States of America, by and through the United States Attorney for the Southern District of Texas, Kenneth Magidson, Jill Jenkins Stotts, Assistant United States Attorney, and James B. Nelson, Department of Justice Trial Attorney, pursuant to Title 18, United States Code, Section 3593(a), and files this Notice of Intent to Seek the Death Penalty, notifying the Court and the Defendant, **EFRAIN RODRIGUEZ-MENDOZA**, that in the event Defendant is convicted of Counts 2 or 3, relating to harboring illegal aliens resulting in death, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iii) and 1324(a)(1)(B)(iv), Counts 4 or 5, relating to kidnapping resulting in death, in violation of Title 18, United States Code, Section 1201(a)(1) and Title 18, United States Code, Section 2, or Counts 6 or 7, relating to hostage taking resulting in death, in violation of Title 18, United States Code, Section 1203 and Title 18,

United States Code, Section 2, the Government believes a sentence of death is justified, and the Government will seek a sentence of death.

The Government intends to prove the following statutory factors pursuant to Title 18, United States Code, Sections 3591(a)(2) and 3592(c) as charged in the Second Superseding Indictment Notice of Special Findings, hereby incorporated by reference, and non-statutory factors pursuant to Title 18, United States Code, Section 3593(a)(2), as justifying a sentence of death.

A. Statutory Factors Enumerated Pursuant to Title 18, United States Code, Section 3591(a)(2)

The Government will seek to prove the following threshold findings as the basis for imposition of the death penalty in relation to Counts 2, 3, 4, 5, 6, and 7 of the Second Superseding Indictment:

1. **EFRAIN RODRIGUEZ-MENDOZA** was 18 years of age or older at the time of the offense(s) (18 U.S.C. § 3591(a));
2. **EFRAIN RODRIGUEZ-MENDOZA** intentionally inflicted serious bodily injury that resulted in the death of Abelardo Sagastume (18 U.S.C. § 3591(a)(2)(B));
3. **EFRAIN RODRIGUEZ-MENDOZA** intentionally inflicted serious bodily injury that resulted in the death of Hector LNU (18 U.S.C. § 3591(a)(2)(B));

4. **EFRAIN RODRIGUEZ-MENDOZA** intentionally participated in one or more acts, 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 Abelardo Sagastume died as a direct result of such act or acts (18 U.S.C. § 3591(a)(2)(C));
5. **EFRAIN RODRIGUEZ-MENDOZA** intentionally participated in one or more acts, 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 Hector LNU died as a direct result of such act or acts (18 U.S.C. § 3591(a)(2)(C));
6. **EFRAIN RODRIGUEZ-MENDOZA** 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 the victim, Abelardo Sagastume, died as a direct result of the act (18 U.S.C. § 3591(a)(2)(D)); and
7. **EFRAIN RODRIGUEZ-MENDOZA** 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 the victim, Hector LNU, 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, Section 3592(c)

The Government will seek to prove the following statutory aggravating factors as the basis for imposition of the death penalty in relation to Counts 2, 3, 4, 5, 6, and 7 of the Second Superseding Indictment:

1. **EFRAIN RODRIGUEZ-MENDOZA** committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victims, Abelardo Sagastume and Hector LNU (18 U.S.C. § 3592(c)(6));
2. In the commission of the offense, **EFRAIN RODRIGUEZ-MENDOZA** knowingly created a grave risk of death to one or more persons in addition to the victims of the offense, Abelardo Sagastume and Hector LNU (18 U.S.C. § 3592(c)(5));
3. **EFRAIN RODRIGUEZ-MENDOZA** intentionally killed or attempted to kill more than one person in a single criminal episode (18 U.S.C. § 3592(c)(16)).

4. **EFRAIN RODRIGUEZ-MENDOZA** committed the offense after substantial planning and premeditation to cause the death of a person (18 U.S.C. § 3592(c)(9)).
 5. The victims Abelardo Sagastume and Hector LNU were particularly vulnerable due to infirmity (18 U.S.C. § 3592(c)(11)).
 6. **EFRAIN RODRIGUEZ-MENDOZA** committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value (18 U.S.C. § 3592(c)(8)).
 7. The deaths, or injuries resulting in death, of Abelardo Sagastume and Hector LNU occurred during the commission or attempted commission of an offense under 18 U.S.C. § 1203, hostage taking, and 18 U.S.C. § 1201, kidnapping (Title 18, United States Code, Section 3592(c)(1)).
- C. Non-statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Section 3593(a)

The Government will seek to prove the following non-statutory aggravating factors as the basis for imposition of the death penalty in relation to Counts 2, 3, 4, 5, 6, and 7 of the Second Superseding Indictment:

1. LACK OF REMORSE

During and after commission of the offenses charged in the Second Superseding Indictment, **EFRAIN RODRIGUEZ-MENDOZA**, through his actions and statements, demonstrated a lack of remorse.

2. VICTIM IMPACT

EFRAIN RODRIGUEZ-MENDOZA caused injury, harm and loss to Abelardo Sagustume (Counts 2, 4, and 6); and Hector LNU (Counts 3, 5, and 7). The injury, harm and loss caused by **EFRAIN RODRIGUEZ-MENDOZA**, with respect to each victim is evidenced by the victim's personal characteristics and by the impact of the victim's death upon his or her family and friends.

3. VULNERABLE VICTIM

The victims were particularly vulnerable as a consequence of being held against their wills by **EFRAIN RODRIGUEZ-MENDOZA** in a warehouse from which they could not escape.

The Government further gives notice that in support of imposition of the death penalty it intends to rely upon all evidence admitted by the Court at the guilt phase of the trial and the offense of conviction as described in the Second Superseding Indictment as they relate to the background and character of the defendant, **EFRAIN**

RODRIGUEZ-MENDOZA, his moral culpability, and the nature and circumstances of the offenses charged in the Second Superseding Indictment.

Respectfully submitted,
KENNETH MAGIDSON
United States Attorney

By: /s/ _____
JILL JENKINS STOTTS
Assistant United States Attorney

By: /s/ _____
JAMES B. NELSON
Trial Attorney
United States Department of Justice

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been furnished to Edward Mallett, Attorney for Defendant EFRAIN RODRIGUEZ-MENDOZA, via electronic transmission on this the 10th day of February, 2017.

/s/ _____
JILL JENKINS STOTTS
Assistant United States Attorney