

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHEASTERN DIVISION

UNITED STATES OF AMERICA,)
)
) Plaintiff,) Criminal No. C2-04-55
)
) -vs-)
)
ALFONSO RODRIGUEZ, JR.,)
)
) Defendant.)

NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH

The United States of America hereby notifies the Court, and the defendant Alfonso Rodriguez, Jr., and his counsel, that in the event of the defendant's conviction on the single-count Indictment, wherein the defendant is charged with Kidnapping Resulting in Death, in violation of Title 18, United States Code, Section 1201(a)(1), the government will seek the sentence of death, in that the circumstances of the offense are such that a penalty of death is justified.

I. Statutory Threshold Findings Enumerated in 18 U.S.C. § 3591(a)(2)(A) through (D)

The government will seek to prove the following threshold findings as the basis for imposition of the death penalty:

- (a) Alfonso Rodriguez, Jr., was 18 years of age or older at the time of the offense (18 U.S.C. § 3591(a));
- (b) Alfonso Rodriguez Jr. intentionally killed Dru Katrina Sjodin (18 U.S.C. § 3591(a)(2)(A));

- (c) Alfonso Rodriguez Jr. intentionally inflicted serious bodily injury that resulted in the death of Dru Katrina Sjodin (18 U.S.C. § 3591(a)(2)(B));
- (d) Alfonso Rodriguez Jr. 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 a participant in the offense, and Dru Katrina Sjodin died as a direct result of such act or acts (18 U.S.C. § 3591(a)(2)(C));
- (e) Alfonso Rodriguez Jr. intentionally and specifically engaged in one or more acts of violence, knowing that the act or acts created a grave risk of death to a person, other than a participant in the offense, such that participation in such act or acts constituted a reckless disregard for human life, and Dru Katrina Sjodin died as a direct result of such act or acts.
(18 U.S.C. § 3591(a)(2)(D))

II. Statutory Aggravating Factors Enumerated Under 18 U.S.C. § 3592(c)(1) and (4), (6), and (9)

The government will seek to prove the following statutory aggravating factors as the basis for imposition of the death penalty in relation to the Indictment:

- (a) Alfonso Rodriguez Jr. caused the death of Dru Katrina Sjodin during the commission of a violation of 18 U.S.C. § 1201 (kidnapping)
(18 U.S.C. § 3592(c)(1));

(b) Alfonso Rodriguez Jr. has previously been convicted of two or more federal or state offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, and attempted infliction of, serious bodily injury or death upon another person, to wit:

- (1) On April 3, 1975, Aggravated Rape, Polk County, Minnesota, District Court, Case No. 5447;
- (2) On April 3, 1975, Attempted Aggravated Rape, Polk County, Minnesota, District Court, Case No. 5438; and
- (3) On June 24, 1980, Attempted Kidnapping and Assault in the 1st Degree, Polk County, Minnesota, District Court, Case No. 6192.

(18 U.S.C. § 3592(c)(4))

(c) Alfonso Rodriguez Jr. killed Dru Katrina Sjodin in an especially heinous, cruel, and depraved manner, in that it involved torture and serious physical abuse to Dru Katrina Sjodin (18 U.S.C. § 3592(c)(6)); and

(d) Alfonso Rodriguez Jr. killed Dru Katrina Sjodin after substantial planning and premeditation to cause the death of Dru Katrina Sjodin.

(18 U.S.C. § 3592(c)(9))

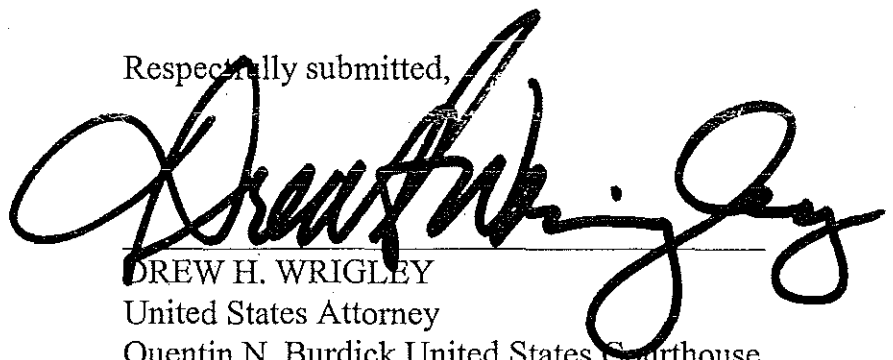
III. Other Non-Statutory Aggravating Factors Identified Under 18 U.S.C. § 3593(a) and (c)

The government will seek to prove the following non-statutory aggravating factors as the basis for imposition of the death penalty in relation to the Indictment:

- (a) Participation in additional charged and uncharged serious acts of violence:
The defendant participated in additional charged and uncharged serious acts of violence.
- (b) Future dangerousness of the defendant: The defendant represents a continuing danger to the lives and safety of other persons.
- (c) Victim impact evidence: As reflected by the victim's personal characteristics as an individual human being and the impact of the offense on the victim and the victim's family, the defendant caused loss, injury, and harm to the victim and the victim's family (see Payne v. Tennessee, 501 U.S. 808, 825-27 (1991)).
- (d) Defendant's failure to avail himself of treatment for his sexual-predator proclivities: The defendant failed to avail himself of treatment for his sexual-predator proclivities.

Dated October 28, 2004.

Respectfully submitted,



DREW H. WRIGLEY
United States Attorney
Quentin N. Burdick United States Courthouse
655 First Avenue North - Suite 250
Fargo, ND 58102-4932
(701) 297-7400
N.D. Bar Board ID No. 05156
Attorney for United States

CERTIFICATE OF SERVICE


I certify that on October 28, 2004, a true and correct copy of the attached **Notice of Intent to Seek a Sentence of Death** was served upon counsel of record by fax and first-class mail, postage prepaid, to:

Mr. Robert G. Hoy
OHNSTAD TWICHELL PC
P. O. Box 458
West Fargo, ND 58078-0458

(701) 282-0825 fax

Mr. Richard Ney
Attorney at Law
200 North Broadway, Ste. 300
Wichita, KS 67202

(316) 264-1771



Office of the United States Attorney