

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

FILED

v.

MAY 30 2008

CRIM NO. 98-362-12

210

VICTOR RODRIGUEZ **MICHAEL E. KUNZ, Clerk**

By ~~MAC~~ **Dep. Clerk**

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY
FOR VICTOR RODRIGUEZ**

The United States of America, by its attorneys, Michael R. Stiles, United States Attorney for the Eastern District of Pennsylvania, and Thomas R. Perricone and David H. Resnicoff, Assistant United States Attorneys for the Eastern District of Pennsylvania, pursuant to 18 U.S.C. § 3593(a), hereby notifies the Court and defendant Victor Rodriguez that the Government believes the circumstances of the offenses charged in Counts 23, 24, 25, 29, and 30 of the Fifth Superseding Indictment are such that, in the event of the defendant's conviction of one or more of these offenses, a sentence of death is justified under Chapter 228 of Title 18, United States Code, Sections 3591-3598, and that the Government will seek the sentence of death for these offenses:

Count 23, murder in aid of racketeering, in violation of Title 18, United States Code, Sections 1959(a)(1) and 2, resulting in the death of Ricky Guevara-Velez;

Count 24, conspiracy to commit murder for hire, in violation of Title 18, United States Code, Section 1958, resulting in the deaths of Jorge Martinez, and Luis Garcia;

Count 25, murder for hire, in violation of Title 18, United States Code, Section 1958, resulting in the deaths of Jorge Martinez, and Luis Garcia;

Count 29, murder in aid of racketeering, in violation of Title 18, United States Code, Sections 1959(a)(1) and 2, resulting in the death of Jorge Martinez; and

Count 30, murder in aid of racketeering, in violation of Title 18, United States Code,

Sections 1959(a)(1) and 2, resulting in the death of Luis Garcia.

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

COUNT TWENTY THREE

MURDER IN AID OF RACKETEERING [18 U.S.C. §§ 1959(A)(5) and (2)]

RICKY GUEVARA-VELEZ

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

1. **Intentional Killing.** The defendant intentionally killed Ricky Guevara-Velez. Section 3591(a)(2)(A)
2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Ricky Guevara-Velez. Section 3592(a)(2)(B).
3. **Intentional Act to Take Life or Use Lethal Force.** The defendant intentionally participated 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 that Ricky Guevara-Velez died as a direct result of that act. Section 3591(a)(2)(C).
4. **Intentional Act in Reckless Disregard for Life.** The defendant 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 Ricky Guevara-Velez died as a direct result of the act. Section 3592(a)(2)(D).

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

1. **Procurement of Offense by Payment.** The defendant procured the

commission of the offense by payment and promise of payment of anything of pecuniary value. Section 3592(c)(7).

2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

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

1. **Future Dangerousness of the Defendant.** The defendant 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.

2. **Contemporaneous Convictions for Other Murders.** The defendant also participated in the murders of Jorge Martinez and Luis Garcia, and he is subject to contemporaneous convictions, as part of this case, for those killings, as charged in Counts 24, 25, 29 and 30.

3. **Victim impact.** The defendant's murder of Ricky Guevara-Velez has caused injury, harm, and loss to the victim, and to the victim's family, because of the victim's personal characteristics and potential as an individual human being and the consequent impact of the death upon the victim's family.

4. **Contemporaneous Conviction for a Serious Federal Drug Offense.** The defendant, as part of this case, is subject to a contemporaneous conviction for violating Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 for which a sentence of 5 or more years may be imposed, as charged in Count One of the Fifth Superseding Indictment.

5. **Defendant's Participation in Another Killing, Not Charged in This Case.** The defendant participated in the killing of Jose Hernandez on September 24, 1998 in Philadelphia, PA.

COUNT TWENTY FOUR

**CONSPIRACY TO COMMIT MURDER FOR HIRE (18 U.S.C. § 1958)
RESULTING IN THE DEATHS OF JORGE MARTINEZ AND LUIS GARCIA**

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

1. **Intentional Killing.** The defendant intentionally killed Jorge Martinez and Luis Garcia. Section 3591(a)(2)(A)

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Jorge Martinez and Luis Garcia. Section 3592(a)(2)(B).

3. **Intentional Act to Take Life or Use Lethal Force.** The defendant 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 that Jorge Martinez and Luis Garcia died as a direct result of that act. Section 3591(a)(2)(C).

4. **Intentional Act in Reckless Disregard for Life.** The defendant 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 Jorge Martinez and Luis Garcia died as a direct result of the act. Section 3592(a)(2)(D).

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

1. **Procurement of Offense by Payment.** The defendant procured the commission of the offense by payment and promise of payment of anything of pecuniary value.

Section 3592(c)(7).

2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. **Grave Risk of Death to Additional Persons.** The defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victims of the offense. Section 3592(c)(5).

4. **Multiple Killings.** The defendant intentionally killed more than one person in a single criminal episode. Section 3592(c)(16).

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

1. **Future Dangerousness of the Defendant.** The defendant 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.

2. **Contemporaneous Convictions for Another Killing.** The defendant also participated in the killing of Ricky Guevara-Velez, and he is subject to a contemporaneous conviction, as part of this case, for that killing, as charged in Count 23.

3. **Contemporaneous Conviction for a Serious Federal Drug Offense.** The defendant, as part of this case, is subject to a contemporaneous conviction for violating Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 for which a sentence of 5 or more years may be imposed, as charged in Count One of the Fifth Superseding Indictment.

4. **Victim Impact.** The defendant's murders of Jorge Martinez and Luis Garcia have caused injury, harm, and loss to the victims, and to the victims' families because of the victims'

personal characteristics and potential as individual human beings and the consequent impact of the deaths upon the victims' families.

5. Defendant's Participation in Another Killing, Not Charged in This Case. The defendant participated in the killing of Jose Hernandez on September 24, 1998 in Philadelphia, Pennsylvania.

COUNT TWENTY-FIVE

**MURDER FOR HIRE (18 U.S.C. § 1958)
RESULTING IN THE DEATHS OF JORGE MARTINEZ AND LUIS GARCIA**

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

1. **Intentional Killing.** The defendant intentionally killed Jorge Martinez and Luis Garcia. Section 3591(a)(2)(A)
2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Jorge Martinez and Luis Garcia. Section 3592(a)(2)(B).
3. **Intentional Act to Take Life or Use Lethal Force.** The defendant 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 that Jorge Martinez and Luis Garcia died as a direct result of that act. Section 3591(a)(2)(C).
4. **Intentional Act in Reckless Disregard for Life.** The defendant 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 Jorge Martinez and Luis Garcia died as a direct result of the act. Section 3592(a)(2)(D).

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

1. **Procurement of Offense by Payment.** The defendant procured the commission of the offense by payment and promise of payment, of anything of pecuniary value. Section 3592(c)(7).

2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. **Grave Risk of Death to Additional Persons.** The defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victims of the offense. Section 3592(c)(5).

4. **Multiple Killings.** The defendant intentionally killed more than one person in a single criminal episode. Section 3592(c)(16).

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

1. **Future Dangerousness of the Defendant.** The defendant 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.

2. **Contemporaneous Convictions for Another Killing.** The defendant also participated in the killing of Ricky Guevara-Velez, and he is subject to a contemporaneous conviction, as part of this case, for that killing, as charged in Count 23.

3. **Contemporaneous Conviction for a Serious Federal Drug Offense.** The defendant, as part of this case, is subject to a contemporaneous conviction for violating Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 for which a sentence of 5 or more years may be imposed, as charged in Count One of the Fifth Superseding Indictment.

4. **Victim Impact.** The defendant's murders of Jorge Martinez and Luis Garcia have caused injury, harm, and loss to the victims, and to the victims' families because of the victims' personal characteristics and potential as individual human beings and the consequent impact of the

deaths upon the victims' families.

5. **Defendant's Participation in Another Killing, Not Charged in This Case.** The defendant participated in the killing of Jose Hernandez on September 24, 1998 in Philadelphia, Pennsylvania.

COUNT TWENTY NINE

MURDER IN AID OF RACKETEERING [18 U.S.C. §§ 1959(a)(5) and 2]

JORGE MARTINEZ

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

1. **Intentional Killing.** The defendant intentionally killed Jorge Martinez . Section 3591(a)(2)(A)
2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Jorge Martinez. Section 3592(a)(2)(B).
3. **Intentional Act to Take Life or Use Lethal Force.** The defendant 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 that Jorge Martinez died as a direct result of that act. Section 3591(a)(2)(C).
4. **Intentional Act in Reckless Disregard for Life.** The defendant 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 Jorge Martinez died as a direct result of the act. Section 3592(a)(2)(D).

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

1. **Procurement of Offense by Payment.** The defendant procured the commission of the offense by payment and promise of payment of anything of pecuniary value. Section 3592(c)(7).
2. **Substantial Planning and Premeditation.** The defendant committed the

offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. **Grave Risk of Death to Additional Persons.** The defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victims of the offense. Section 3592(c)(5).

4. **Multiple Killings.** The defendant intentionally killed more than one person in a single criminal episode. Section 3592(c)(16).

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

1. **Future Dangerousness of the Defendant.** The defendant 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.

2. **Contemporaneous Convictions for Another Killing.** The defendant also participated in the killing of Ricky Guevara-Velez, and he is subject to a contemporaneous conviction, as part of this case, for that killing, as charged in Count 23.

3. **Contemporaneous Conviction for a Serious Federal Drug Offense.** The defendant, as part of this case, is subject to a contemporaneous conviction for violating Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 for which a sentence of 5 or more years may be imposed, as charged in Count One of the Fifth Superseding Indictment.

4. **Victim Impact.** The defendant's murder of Jorge Martinez has caused injury, harm, and loss to the victim, and to the victim's family because of the victim's personal characteristics and potential as an individual human being and the consequent impact of the death upon the victim's family.

5. **Defendant's Participation in Another Killing, Not Charged in This Case.** The defendant participated in the killing of Jose Hernandez on September 24, 1998 in Philadelphia, Pennsylvania.

COUNT THIRTY

MURDER IN AID OF RACKETEERING (18 U.S.C. §§ 1959(a)(5) and (2))

LUIS GARCIA

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

1. **Intentional Killing.** The defendant intentionally killed Luis Garcia . Section 3591(a)(2)(A)
2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Luis Garcia. Section 3592(a)(2)(B).
3. **Intentional Act to Take Life or Use Lethal Force.** The defendant 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 that Luis Garcia died as a direct result of that act. Section 3591(a)(2)(C).
4. **Intentional Act in Reckless Disregard for Life.** The defendant 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 Luis Garcia died as a direct result of the act. Section 3592(a)(2)(D).

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

1. **Procurement of Offense by Payment.** The defendant procured the commission of the offense by payment and promise of payment of anything of pecuniary value. Section 3592(c)(7).
2. **Substantial Planning and Premeditation.** The defendant committed the

offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

3. **Grave Risk of Death to Additional Persons.** The defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victims of the offense. Section 3592(c)(5).

4. **Multiple Killings.** The defendant intentionally killed more than one person in a single criminal episode. Section 3592(c)(16).

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

1. **Future Dangerousness of the Defendant.** The defendant 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.

2. **Contemporaneous Convictions for Another Killing.** The defendant also participated in the killing of Ricky Guevara-Velez, and he is subject to a contemporaneous conviction, as part of this case, for that killing, as charged in Count 23.

3. **Contemporaneous Conviction for a Serious Federal Drug Offense.** The defendant, as part of this case, is subject to a contemporaneous conviction for violating Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 for which a sentence of 5 or more years may be imposed, as charged in Count One of the Fifth Superseding Indictment.

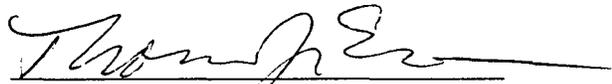
4. **Victim Impact.** The defendant's murder of Luis Garcia has caused injury, harm, and loss to the victim, and to the victim's family because of the victim's personal characteristics and potential as an individual human being and the consequent impact of the death upon the victim's family.

5. **Defendant's Participation in Another Killing, Not Charged in This Case.** The defendant participated in the killing of Jose Hernandez on September 24, 1998 in Philadelphia, Pennsylvania.

Respectfully submitted,



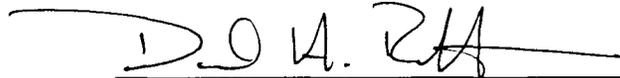
MICHAEL R. STILES
United States Attorney



THOMAS J. EICHER
Chief, Narcotics



THOMAS R. PERRICONE
Assistant United States Attorney



DAVID H. RESNICOFF
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2000, a true and correct copy of the foregoing Notice of Intent to Seek the Death Penalty For Victor Rodriguez, the original of which was filed with the Court this day, was delivered by First Class Mail, postage prepaid, to the following attorney of record:

FILED
MAY 30 2000
MICHAEL E. KUNZ, Clerk
By MEK Dep. Clerk

Gerald A. Stein, P.C.
2727 Centre Square West
1500 Market Street
Philadelphia, PA 19102



THOMAS R. PERRICONE
Assistant United States Attorney