

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

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UNITED STATES OF AMERICA, Plaintiff, v. EDWIN ROSARIO-RODRIGUEZ, Defendant.

U.S. DISTRICT COURT SAN JUAN, P.R. Crim. No. 95-029 (JAF)

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States of America, pursuant to 21 U.S.C. § 848(h)(1) (A) and (B), by and through its undersigned counsel, and notifies the Court and the defendant in the above-captioned case that in the event of the defendant's conviction for the intentional killing of Richard Munoz-Candelaria, as charged in Count Fifty-Two of the Third Superseding Indictment, the Government will seek the sentence of death.

The Government will seek to prove the following aggravating factors as the basis for imposition of the death penalty.

A. Statutory Aggravating Factor Enumerated under 21 U.S.C.

§ 848(n) (1) (A) through (D):

1. Intentional Acts to Take Life or Use Lethal Force.

The defendant intentionally engaged in conduct intending that the victim be killed and that lethal force be employed against the victim, which resulted in the death of the victim. Section

848(n) (1) (C).

Statutory Aggravating Factors Enumerated under 21 U.S.C.

§ 848(n) (2) through (12):

1. Distribution to Persons under 21. The defendant committed the offense in relation to another offense involving

See ruling at margin of 1860

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the distribution of controlled substances to persons under 21.
Section 848(n)(11).

2. **Heinous, Cruel, or Depraved.** The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. Section 848(n)(12).

C. Other, Non-Statutory, Aggravating Factor Identified under 21 U.S.C. § 848 (h)(1)(B) and § 848(k):


1. **Future Dangerousness of the Defendant.** The probability that the defendant would commit criminal acts of violence in the future which would be a continuing and serious threat to society. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994).

Respectfully submitted,

JOHN C. KEENEY
Acting Assistant Attorney General
Criminal Division
United States Department of Justice

THERESA M.B. VAN VLIET
Chief
Narcotic and Dangerous Drug Section
Criminal Division
United States Department of Justice

By:



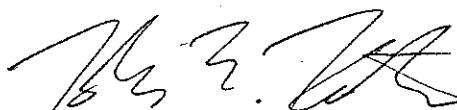
JOHN M. KATKO
(Trial Attorney
Narcotic and Dangerous Drug Section
Criminal Division
United States Department of Justice

Dated: 11/7 __, 1997

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of November, 1997, a true and correct copy of the foregoing notice of intent to seek the death penalty was delivered by hand or mailed via first class mail, postage prepaid thereon, to the following attorney of record:

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