

**IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLORADO**

Criminal Case No. 00CR-531-D

**UNITED STATES OF AMERICA,**  
Plaintiff,

v.

**RUDY CABRERA SABLAN,**  
Defendant.

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**NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

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The United States of America, by Richard T. Spriggs, United States Attorney for the District of Colorado, and through Alvin J. LaCabe and Brenda Taylor, Assistant United States Attorneys, pursuant to 18 U.S.C. § 3593(a), hereby notifies the Court and defendant Rudy Cabrera Sablan that the Government believes the circumstances of the offense charged in the one count Indictment are such that, in the event of the defendant's conviction of this offense, a sentence of death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 of the United States Code, and that the Government will seek the sentence of death for the offense of: Count One, the first degree murder of Joey Jesus Estrella in violation of 18 U.S.C. §§1111 and 2

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

**COUNT ONE**

**FIRST DEGREE MURDER OF JOEY JESUS ESTRELLA**

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

1. **Intentional Killing.**

The defendant intentionally killed and aided and abetted the killing of Joey Jesus Estrella.

Section 3591(a)(2)(A).

**2. Intentional Infliction of Serious Bodily Injury.**

The defendant intentionally inflicted and aided and abetted the infliction of serious bodily injury that resulted in the death of Joey Jesus Estrella. Section 3591(a)(2)(B).

**3. Intentional Acts 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 Joey Jesus Estrella died as a direct result of the act. Section 3591(a)(2)(C).

**4. Intentional Acts 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 Joey Jesus Estrella died as a direct result of the act. Section 3591(a)(2)(D).

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

**1. Previous Conviction of Other Serious Offenses.**

The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person. Section 3592(c)(4). These prior convictions are described as follows:

a) **Criminal Case No. 67F-87 (Aggravated Assault):** On April 16, 1987, Rudy Cabrera Sablan was indicted in the Superior Court of Guam for the commission of Aggravated

Assault, a second degree felony, for recklessly causing serious bodily injury to Jose C. Camacho on December 4, 1986, in “circumstances manifesting extreme indifference to the value of human life.” He pled guilty to this charge on April 12, 1988. Court records reflect the defendant admitted hitting the victim with a buckle belt and with a rock. The victim suffered head and facial injuries.

b) **Criminal Case No. 1:96-CR364-CC (Assault with a Deadly Weapon):** On February 7, 1997, Rudy Cabrera Sablan was found guilty of Assault with a Deadly Weapon, a violation of 18 U.S.C., Sections 7 & 113(a)(3), in the United States District Court for the Northern District of Georgia. This was an assault committed on or about February 15, 1996, at the U.S. Penitentiary, Atlanta, Georgia, against another inmate; Sablan repeatedly stabbed the victim with an ice-pick type weapon in the head and neck. Two of the stab wounds punctured the victim’s carotid artery. The weapon appeared to have been fashioned from a mop wringer and was six to seven inches long. On April 18, 1997, Sablan was sentenced to 110 months incarceration. This incident is reported to have been connected with the defendant’s involvement with a prison gang known as the Asian Family; the victim was attacked shortly after he refused the defendant’s request that the victim join the organization.

### **3. Heinous or Depraved Manner of Committing Offense.**

The defendant committed the offense in an especially heinous or depraved manner in that it involved serious physical abuse to the victim. Section 3592(c)(6). The victim was strangled with a ligature and then his throat was slashed. In addition, his abdomen was cut open and internal organs removed and displayed; this conduct constitutes the intentional infliction of senseless and gratuitous violence upon a helpless victim within the meaning of “especially

heinous.” The defendant’s enjoyment of the killing, evidenced by celebratory shouts, offers of body parts of the victim to other inmates, and appearing to bite one of the removed organs constitutes relishing the crime within the meaning of “especially depraved.” *See, e.g., United States v. Jones*, 132 F.3d 232, 250 (5<sup>th</sup> Cir. 1998), *aff’d on other grounds*, 527 U.S. 373 (1999); *accord United States v. Hall*, 152 F.3d 381, 414-15 (5<sup>th</sup> Cir. 1998), *cert. denied*, 526 U.S. 1117 (1999).

Significant injury and damage was inflicted upon the victim’s body above and beyond what was necessary to commit the murder thereby constituting “serious physical abuse” of the victim. Serious physical abuse may be inflicted either before or after death and does not require that the victim be conscious of the abuse at the time it was inflicted. *See Richmond v. Lewis*, 506 U.S. 40, 51 (1992); *Lewis v. Jeffers*, 497 U.S. 764, 766-67 (1990).

C. Other, 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. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994). In addition to the capital offense charged in the Indictment and the statutory aggravating factors alleged in this Notice, the defendant has engaged in a continuing pattern of violent conduct in and out of an institutional setting, has threatened others with violence, has demonstrated low rehabilitative potential, and/or has demonstrated lack of remorse, including, but not limited to, one or more of the following:

**Non-Institutional Setting**

a) **Criminal Case No. 92-74 (Assault and Battery):** On August 12, 1992, Rudy

Cabrera Sablan was sentenced to 1 year imprisonment with 9 months suspended for the crime of Assault and Battery in Saipan, Commonwealth of the Northern Mariana Islands. The assault occurred on January 5, 1992, and involved Rudy Sablan kicking and punching the victim, causing a fractured rib.

**b) Criminal Case No. CR-92-00124 (Felon in Possession of Firearm):** On June 2, 1993, in United States District Court, District of Guam, Rudy Cabrera Sablan pled guilty to a charge of felon in possession of a firearm, specifically three shotguns and ammunition, and was sentenced on October 1, 1993, to 21 months imprisonment. The plea agreement set out the following stipulated facts: On September 24, 1990, the defendant was an inmate at the Guam Department of Corrections. He had a prior Guam felony conviction for aggravated assault, a felony, in Guam Case No. 67F-87. On September 24, 1990, the defendant and four other inmates escaped from prison, burglarized a house, and stole shotguns and ammunition. Defendant and the others carried the guns and ammunition to another house where they were apprehended on September 25, 1990. The defendant was indicted on this charge on October 15, 1992.

**c) Criminal Case No. CR-93-00074 (Felon in Possession of Firearm):** On August 6, 1993, in United States District Court, District of Guam, Rudy Cabrera Sablan pled guilty to a second Felon in Possession of a Firearm charge. This case involved the defendant's possession of a rifle and ammunition on January 2, 1993, when officers executed the arrest warrant issued on Case No. CR-92-00124, referenced above. He had previously been convicted of aggravated assault, a felony, in Guam Case No. 67F-87. On January 2, 1993, the defendant was a fugitive, having escaped from the Guam Territorial Detention Center and traveled to Saipan, Commonwealth of the Northern Mariana Islands. The defendant indicated that he had had the

rifle since September, 1992.

On October 1, 1993, he received a sentence of 71 months to be served consecutively with his sentence in Case No. CR-92-00124, referenced above.

### **Institutional Setting**

a) **Incident Report No. 511205 (Serious Assault):** On or about June 9, 1997, at the USP, Florence, Colorado, inmate Rudy Cabrera Sablan was found to have committed a serious assault on another inmate. The hearing officer found that the defendant was one of three inmates involved in the assault. The victim was forced to the floor of his cell and stabbed in the ear with a knife. He was then stomped and kicked as he lay on the floor. The hearing officer concluded that the location of the injury reflected an intent to cause serious bodily injury or death.

b) **Incident Report No. 544140 (Possession of Weapon):** On or about December 3, 1997, at the USP, Florence, Colorado, inmate Rudy Cabrera Sablan was in possession of a weapon in his cell. Officers found a 13 inch by 2 inch wide piece of metal hidden in the light fixture of the cell. The metal had been cut down on one side and fashioned into an edge. The defendant admitted that the weapon was his, stating that he was going to fix it up and hold on to it.

c) **Incident Report No. 600457 (Serious Assault):** On or about June 13, 1998, at the USP, Florence, Colorado, Rudy Cabrera Sablan was found to have committed a serious assault on another inmate. The defendant admitted assaulting the inmate with his hands and feet and then tying him up. The victim inmate suffered serious head and body injuries.

d) **Incident Report No. 654106 (Fighting):** On or about January 29, 1999, at the USP, Florence, Colorado, Rudy Cabrera Sablan was involved in a fight with another inmate. An

officer observed the defendant try to break up a fight between two other inmates. When one of these inmates hit the defendant, the defendant then punched, kicked, and stomped the victim, stopping only when physically separated by staff.

e) On or about February 9, 2001, at the Special Housing Unit (SHU) at the Federal Correctional Institution in Englewood, Colorado, (FCI-Englewood) Rudy Cabrera Sablan became upset with staff for searching his cell while he was in court. He confronted the officer, saying "Look man, I am usually quiet in here, but I will fucking hurt you if I have to."

### CONCLUSION

Based on all of the information regarding the defendant's prior criminal history and assaultive behavior available from Guam, the Commonwealth of the Northern Mariana Islands, and the Bureau of Prisons at this time, the Government believes that the above-listed statutory and non-statutory aggravating factors apply to defendant Rudy Cabrera Sablan. Should additional information become available which is applicable to these factors, the Government will seek to amend this Notice at a reasonable time prior to trial.

Respectfully submitted this 1<sup>st</sup> day of May, 2001,

  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 1<sup>st</sup> day of May, 2001, a true and correct copy of the foregoing **NOTICE OF INTENT TO SEEK DEATH PENALTY** regarding defendant Rudy Cabrera Sablan was delivered by hand to the following:

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