

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

Criminal Action No. 1:10-cr-00164-REB

UNITED STATES OF AMERICA,

Plaintiff,

v.

**1. RICHARD SANTIAGO,
AKA Chuco**

Defendant.

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY
PURSUANT TO TITLE 18 UNITED STATES CODE SECTION 3593**

United States of America, by John F. Walsh, United States Attorney for the District of Colorado, and Robert E. Mydans and M.J. Menendez, Assistant United States Attorneys, and Jeffrey B. Kahan, Trial Attorney, United States Department of Justice, notifies this Court and defendant, Richard Santiago, that the government believes that the circumstances of the offense charged in Counts One and Two of the Indictment are such that, in the event that the defendant Richard Santiago is convicted of these offenses, a sentence of death is justified, and that the government will seek the sentence of death for the offenses of Murder by a Life Prisoner in violation of Title 18, United States Code, Section 1118, and Murder in the First Degree in violation of Title 18, United States Code, Section 1111, in the killing of Manuel Torrez.

A. The government will prove the following intent factors in justifying a sentence of death:

The defendant, Richard Santiago,

1. intentionally killed Manuel Torrez, Title 18, United States Code, Section 3591(a)(2)(A);
2. intentionally inflicted serious bodily injury which resulted in the death of Manuel Torrez, Title 18, United States Code, Section 3591(a)(2)(B);
3. 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 Manuel Torrez died as a direct result of the act, Title 18, United States Code, Section 3591(a)(2)(C); and
4. 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 Manuel Torrez died as a direct result of the act, Title 18, United States Code, Section 3591(a)(2)(D).

B. The government will prove the following statutory aggravating factors in justifying a sentence of death:

The defendant, Richard Santiago,

1. has previously been convicted of a State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm (as defined in Title 18, United States Code, Section 921) against another person, Title 18, United States Code, Section 3592(c)(2);

2. has previously been convicted of a State offense resulting in the death of a person, for which a sentence of life imprisonment was authorized by statute, Title 18, United States Code, Section 3592(c)(3);
3. has previously been convicted of 2 or more State offenses, 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, Title 18, United States Code, Section 3592(c)(4);
4. committed the offense in an especially heinous, cruel, or depraved manner in that it involved serious physical abuse to the victim, Title 18, United States Code, Section 3592(c)(6);
5. committed the offense after substantial planning and premeditation to cause the death of Manuel Torrez, Title 18, United States Code, Section 3592(c)(9); and
6. committed the offense against a victim who was particularly vulnerable due to old age, or infirmity, Title 18, United States Code, Section 3592(c)(11).

C. Pursuant to Title 18, United States Code, Section 3593(a), the government will prove the following other aggravating factors in justifying a sentence of death:

1. Future Dangerousness of the Defendant. The defendant represents a continuing danger to the lives and safety of other persons. The defendant

is likely to commit criminal acts of violence in the future that would constitute a continuing and serious threat to the lives and safety of others, as evidenced by, at least, one or more of the following:

a. **Low Rehabilitative Potential.** The defendant demonstrated a low potential for rehabilitation as evidenced by a long disciplinary record while in the custody of the Federal Bureau of Prisons and the California Department of Corrections.

b. **Other Acts of Violence.** The defendant has participated in other acts of violence, including a previous first degree murder while in federal custody and a previous assault while in custody at the Fresno County Jail, Fresno, California.

c. **Lack of Remorse.** The defendant has demonstrated a lack of remorse for his acts of violence and attempted violence by, at least, making oral and written statements concerning his sentiments.

d. **Claimed Gang Membership.** The defendant has claimed membership in the Mexican Mafia, an organization falling within the definition of criminal street gangs set forth in 18 U.S.C. § 521(c).

2. The Government further gives notice that in support of imposition of the death penalty on Counts One and Two, it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offenses of conviction described in the Indictment as they relate to the

background and character of the defendant, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

CONCLUSION

Based on all of the available information regarding the defendant's prior criminal history and criminal behavior, the government believes that the above-listed intent and aggravating factors apply to defendant Richard Santiago. Should additional information become available which is applicable to these factors or should additional information become available that supports additional factors, the government will seek to amend this Notice at a reasonable time prior to trial.

Respectfully submitted, March 11, 2011.

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CERTIFICATE OF SERVICE

I certify that on March 11, 2011, I electronically filed the foregoing **NOTICE OF INTENT TO SEEK THE DEATH PENALTY PURSUANT TO TITLE 18 UNITED STATES CODE SECTION 3593** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following e-mail address:

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