

KTC:LJF/MJF
P. #2003R01251

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

NOTICE OF INTENT TO
SEEK A SENTENCE OF DEATH

HUMBERTO PEPIN TAVERAS,
also known as "Tony" and
"Luis Rosario,"

04 CR 156 (S-2) (JBW)

Defendant.

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Pursuant to the requirements of Title 21, United States Code, Section 848(h), the United States hereby gives notice that it believes that the circumstances of this case are such that, in the event that the defendant HUMBERTO PEPIN TAVERAS, also known as "Tony" and "Luis Rosario," is convicted of either (a) the capital offense relating to the death of victim Jose Rosario, also known as "Barrigita," or (b) the capital offenses relating to the death of victim Carlos Madrid, a sentence of death is justified and that the United States will seek the death penalty. Specifically, the United States will seek a sentence of death for Counts One and Two of the Indictment, each of which charge the defendant with murder while engaging in a narcotics offense in violation of Title 21, United States Code, Section 848(e)(1)(A).

Murder of Jose Rosario
(Count One)

A. Preliminary Factors

Pursuant to Title 21, United States Code, Sections 848(h) and 848(n)(1), the United States will rely on the following preliminary factors to establish the defendant HUMBERTO PEPIN TAVERAS's eligibility for the death penalty as to Count One:

1. The defendant HUMBERTO PEPIN TAVERAS intentionally killed Jose Rosario. (21 U.S.C. § 848(n)(1)(A)).

2. The defendant HUMBERTO PEPIN TAVERAS intentionally inflicted serious bodily injury which resulted in the death of Jose Rosario. (21 U.S.C. § 848(n)(1)(B)).

3. The defendant HUMBERTO PEPIN TAVERAS intentionally engaged in conduct intending that Jose Rosario be killed or that lethal force be employed against Rosario, which resulted in the death of Rosario. (21 U.S.C. § 848(n)(1)(C)).

B. Statutory Aggravating Factors

Pursuant to Title 21, United States Code, Sections 848(h) and 848(n)(1), the United States will rely on the following statutory aggravating factors as justifying a sentence of death as to Count One:

1. The defendant HUMBERTO PEPIN TAVERAS has previously been convicted of two or more State and Federal offenses punishable by a term of imprisonment of more than one

year, committed on different occasions, involving the distribution of a controlled substance. (21 U.S.C. § 848(n)(4)).

2. The defendant HUBERTO PEPIN TAVERAS committed the offense after substantial planning and premeditation (21 U.S.C. § 848(n)(8)).

3. The defendant HUBERTO PEPIN TAVERAS has previously been convicted of violating Title 21, United States Code, Sections 841(a) and 846, for which a sentence of five or more years may be imposed. (21 U.S.C. § 848(n)(10)).

C. Non-Statutory Aggravating Factors

In addition to the statutory aggravating factors set forth above, the United States will rely on the following non-statutory aggravating factors to justify a sentence of death as to Count One of the Indictment, pursuant to Title 21, United States Code, Sections 848(h) and 848(n)(1):

1. Future Dangerousness

The defendant HUBERTO PEPIN TAVERAS 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. Continuing Pattern of Violence

The defendant HUBERTO PEPIN TAVERAS has engaged in a continuing pattern of violence, attempted violence, and

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threatened violence, including, at least, (a) the crimes charged in the Indictment, (b) the crimes for which the defendant has been previously convicted, (c) child abuse, (d) domestic abuse and (e) threatening and attempting to kill John Doe, a witness against the defendant.

b. Institutional Misconduct

The defendant HUMBERTO PEPIN TAVERAS poses a future danger to the lives and safety of other persons, as demonstrated by institutional misconduct, including, at least, possession of weapons and fighting at FCI Otisville. In addition, while imprisoned at FCI Otisville, the defendant threatened and attempted to have killed John Doe, a witness against the defendant.

c. Lack of Remorse

The defendant HUMBERTO PEPIN TAVERAS has demonstrated a lack of remorse for the capital offenses charged in the Indictment as demonstrated by his statements during the course of and following the offenses, and his actions during the course of and following the offenses.

2. Contemporaneous Convictions

The defendant HUMBERTO PEPIN TAVERAS faces contemporaneous convictions for multiple murders and other serious acts of violence.

3. Obstruction of Justice

The defendant HUMBERTO PEPIN TAVERAS intimidated, threatened and harmed others to prevent them from being witnesses against him.

4. Victim Impact Evidence

The defendant HUMBERTO PEPIN TAVERAS caused loss, injury and harm to the family and friends of Jose Rosario as evidenced by Rosario's personal characteristics as a human being and the impact of his death on his family and friends.

The government further gives notice that in support of imposition of the death penalty it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offenses of conviction as described in the Indictment as they relate to the background and character of the defendant HUMBERTO PEPIN TAVERAS, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Murder of Carlos Madrid
(Count Two)

A. Preliminary Factors

Pursuant to Title 21, United States Code, Sections 848(h) and 848(n)(1), the United States will rely on the following preliminary factors to establish the defendant HUMBERTO PEPIN TAVERAS's eligibility for the death penalty as to Count Two:

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1. The defendant HUMBERTO PEPIN TAVERAS intentionally killed Carlos Madrid. (21 U.S.C. § 848(n)(1)(A)).

2. The defendant HUMBERTO PEPIN TAVERAS intentionally inflicted serious bodily injury which resulted in the death of Carlos Madrid. (21 U.S.C. § 848(n)(1)(B)).

3. The defendant HUMBERTO PEPIN TAVERAS intentionally engaged in conduct intending that Carlos Madrid be killed or that lethal force be employed against Madrid, which resulted in the death of Madrid. (21 U.S.C. § 848(n)(1)(C)).

B. Statutory Aggravating Factors

Pursuant to Title 21, United States Code, Sections 848(h) and 848(n)(1), the United States will rely on the following statutory aggravating factors as justifying a sentence of death as to Count Two:

1. The defendant HUMBERTO PEPIN TAVERAS has previously been convicted of two or more State and Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance. (21 U.S.C. § 848(n)(4)).

2. The defendant HUMBERTO PEPIN TAVERAS committed the offense in the expectation of the receipt of something of pecuniary value. (21 U.S.C. § 848(n)(7)).

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3. The defendant HUMBERTO PEPIN TAVERAS committed the offense after substantial planning and premeditation. (21 U.S.C. § 848(n)(8)).

4. The defendant HUMBERTO PEPIN TAVERAS has previously been convicted of violating Title 21, United States Code, Sections 841(a) and 846, for which a sentence of five or more years may be imposed. (21 U.S.C. § 848(n)(10)).

C. Non-Statutory Aggravating Factors

In addition to the statutory aggravating factors set forth above, the United States will rely on the following non-statutory aggravating factors to justify a sentence of death as to Count Two of the Indictment, pursuant to Title 21, United States Code, Sections 848(h) and 848(n)(1):

1. Future Dangerousness

The defendant HUMBERTO PEPIN TAVERAS 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. Continuing Pattern of Violence

The defendant HUMBERTO PEPIN TAVERAS has engaged in a continuing pattern of violence, attempted violence, and threatened violence, including, at least, (a) the crimes charged in the Indictment, (b) the crimes for which the defendant has

been previously convicted, (c) child abuse, (d) domestic abuse and (e) threatening and attempting to kill John Doe, a witness against the defendant.

b. Institutional Misconduct

The defendant HUMBERTO PEPIN TAVERAS poses a future danger to the lives and safety of other persons, as demonstrated by institutional misconduct, including, at least, possession of weapons and fighting at FCI Otisville. In addition, while imprisoned at FCI Otisville, the defendant threatened and attempted to have killed John Doe, a witness against the defendant.

c. Lack of Remorse

The defendant HUMBERTO PEPIN TAVERAS has demonstrated a lack of remorse for the capital offenses charged in the Indictment as demonstrated by his statements during the course of and following the offenses, and his actions during the course of and following the offenses.

2. Contemporaneous Convictions

The defendant HUMBERTO PEPIN TAVERAS faces contemporaneous convictions for multiple murders and other serious acts of violence.

3. Obstruction of Justice

The defendant HUMBERTO PEPIN TAVERAS intimidated, threatened and harmed others to prevent them from being witnesses against him.

4. Victim Impact Evidence

The defendant HUMBERTO PEPIN TAVERAS caused loss, injury, and harm to the family, friends and co-workers of Carlos Madrid as evidenced by Madrid's personal characteristics as a human being and the impact of his death on his family and friends.

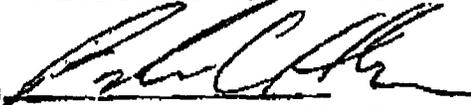
The government further gives notice that in support of imposition of the death penalty it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offenses of conviction as described in the Indictment as they relate to the background and character of the defendant HUMBERTO PEPIN TAVERAS, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Dated: *March 1, 2005*
Brooklyn, New York

Respectfully submitted,

ROSLYNN R. MAUSKOPF
United States Attorney
Eastern District of New York

cc: Louis Freeman, Esq.
Clerk of Court (JBW) (by ECF)

BY: 
ACTING UNITED STATES ATTORNEY
PURSUANT TO 28 C.F.R. 0.139