

1 ALEX TSE (CABN 152348)
United States Attorney

2 BARBARA J. VALLIERE (DCBN 439353)
3 Chief, Criminal Division

4 STEPHEN MEYER (CABN 263954)
CHRISTIAAN HIGHSMITH (CA 296282)
5 KIMBERLY HOPKINS (MABN 668608)
Assistant United States Attorneys

6 450 Golden Gate Avenue, Box 36055
7 San Francisco, California 94102-3495
Telephone: (415) 436-7200
8 Fax: (415) 436-7234
Stephen.Meyer@usdoj.gov
9 Christiaan.highsmith@usdoj.gov
Kimberly.Hopkins@usdoj.gov

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11 Attorneys for United States of America

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION

15 UNITED STATES OF AMERICA,) CASE NO. CR 15-0285 LHK
16 Plaintiff,)
17 v.) NOTICE OF INTENT TO SEEK A SENTENCE
18 VICTOR SKATES,) OF DEATH
19 Defendant.)
20)
21)

22 Pursuant to the requirements of 18 U.S.C. § 3593(a), the United States hereby notifies the Court,
23 defendant Victor Skates, and his counsel, Richard Mazer and William Osterhoudt, that the Government
24 believes the circumstances of the offenses charged in Counts Eight, Nine, Eleven, Twelve, Thirteen,
25 Fifteen, Sixteen, Twenty-One, Twenty-Two, Twenty-Nine, Thirty, Thirty-Two, Thirty-Three, Forty-Six,
26 Forty-Seven, Forty-Nine, and Fifty of the Superseding Indictment are such that, in the event of the
27 conviction of any of these offenses, a sentence of death is justified under Chapter 228 (Sections 3591
28 through 3598), of Title 18 of the United States Code, and that the United States will seek the death

1 penalty. Specifically, the United States will seek the sentence of death for Murder in Aid of
 2 Racketeering, in violation 18 U.S.C. § 1959(a)(1), as charged in Counts Eight, Eleven, Twelve, Fifteen,
 3 Twenty-One, Twenty-Nine, Thirty-Two, Forty-Six and Forty-Nine; and Use of a Firearm During a
 4 Crime of Violence Resulting in Murder, in violation of 18 U.S.C. § 924(j), as charged in Counts Nine,
 5 Thirteen, Sixteen, Twenty-Two, Thirty, Thirty-Three, Forty-Seven, and Fifty, all of which carry a
 6 possible sentence of death.

7 **A. Statutory Threshold Findings Enumerated in 18 U.S.C. § 3591(a)(1) and**
 8 **(2)(A)(B)(C) & (D).**

9 The government will seek to prove the following threshold findings as the basis for the
 10 imposition of the death penalty in relation to Counts Eight, Nine, Eleven, Twelve, Thirteen, Fifteen,
 11 Sixteen, Twenty-One, Twenty-Two, Twenty-Nine, Thirty, Thirty-Two, Thirty-Three, Forty-Six, Forty-
 12 Seven, Forty-Nine, and Fifty of the Superseding Indictment:

13 1. The defendant, Victor Skates, was eighteen (18) years of age or older at the time
 14 of the offense. 18 U.S.C. § 3591(a).

15 2. The defendant, Victor Skates, intentionally killed Victim 1 (“G.A.”), Victim 2
 16 (“J.A.”), Victim 3 (“A.A.”), Victim 4 (“E.G.”), Victim 6 (“S.A.”), Victim 8 (“U.J.”), Victim 9
 17 (“J.D.C.”), Victim 14 (“J.V.C.”), and Victim 15 (“F.B.”). 18 U.S.C. § 3591(a)(2)(A).¹

18 3. The defendant, Victor Skates, intentionally inflicted serious bodily injury that
 19 resulted in the death of victims G.A., J.A., A.A., E.G., S.A., U.J., J.D.C., J.V.C., and F.B. 18 U.S.C. §
 20 3591(a)(2)(B).

21 4. The defendant, Victor Skates, intentionally participated in acts, contemplating that
 22 the life of a person would be taken or intending that lethal force would be used in connection with a
 23 person, other than a participant in the offense, and the victims G.A., J.A., A.A., E.G., S.A., U.J., J.D.C.,
 24 J.V.C., and F.B., died as a direct result of the acts. 18 U.S.C. § 3591(a)(2)(C).

25 5. The defendant, Victor Skates, intentionally and specifically engaged in acts of
 26

27
 28 ¹ Because this Notice is a publicly filed document, the United States has identified the victims by
 their initials due to privacy and security concerns for the victims’ family members. However, the United
 States previously disclosed the full names of the victims to the defendant.

1 violence, knowing that the acts created a grave risk of death to a person, other than a participant in the
2 offense, such that participation in such acts constituted a reckless disregard for human life, and the
3 victims G.A., J.A., A.A., E.G., S.A., U.J., J.D.C., J.V.C., and F.B., died as a direct result of the acts. 18
4 U.S.C. § 3591(a)(2)(D).

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

6 The government will seek to prove the following statutory aggravating factors as the basis for the
7 imposition of the death penalty in relation to Counts Eight, Nine, Eleven, Twelve, Thirteen, Fifteen,
8 Sixteen, Twenty-One, Twenty-Two, Twenty-Nine, Thirty, Thirty-Two, Thirty-Three, Forty-Six, Forty-
9 Seven, Forty-Nine, and Fifty of the Superseding Indictment:

10 1. **Previous conviction of violent felony involving a firearm.** The defendant,
11 Victor Skates, has previously been convicted of a Federal or State offense punishable by a term of
12 imprisonment of more than 1 year, involving the use or attempted use or threatened use of a firearm (as
13 defined in section 921) against another person. 18 U.S.C. § 3592(c)(2).

14 2. **Grave risk of death to additional persons.** The defendant, Victor Skates, in the
15 commission of the offense, knowingly created a grave risk of death to one or more persons in addition to
16 the victim of the offense. 18 U.S.C. § 3592(c)(5).

17 3. **Substantial planning and premeditation.** The defendant, Victor Skates,
18 committed the offense after substantial planning and premeditation to cause the death of G.A., J.A.,
19 A.A., E.G., S.A., U.J., J.D.C., J.V.C., and F.B. 18 U.S.C. § 3592(c)(9).

20 4. **Vulnerability of victim.** The defendant, Victor Skates, committed the offense
21 against victim J.V.C., who was particularly vulnerable due to infirmity. 18 U.S.C. § 3592(c)(11).

22 5. **Multiple killings or attempted killings.** The defendant, Victor Skates,
23 intentionally killed or attempted to kill more than one person in a single criminal episode. In relation to
24 the murder of victim G.A., the defendant also shot the victim's sister and shot at other family members
25 in the area. In relation to the double murder of victims J.A. and A.A, the defendant also shot a third
26 person. In relation to the murder of victim E.G., the defendant opened fire on a group of teenagers. In
27 relation to the murder of victim F.B., the defendant shot at three individuals seated inside of a garage,
28 killing F.B. and wounding a second person. Thereafter, as the pair fled into an occupied dwelling, the

1 defendant continued firing at them. 18 U.S.C. § 3592(c)(16).

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

3 The government will seek to prove the following non-statutory aggravating factors as the basis
4 for the imposition of the death penalty in relation to Counts Eight, Nine, Eleven, Twelve, Thirteen,
5 Fifteen, Sixteen, Twenty-One, Twenty-Two, Twenty-Nine, Thirty, Thirty-Two, Thirty-Three, Forty-Six,
6 Forty-Seven, Forty-Nine, and Fifty of the Superseding Indictment:

7 1. **Future dangerousness.** The defendant, Victor Skates, poses a continuing danger
8 to others in that he is likely to commit criminal acts of violence in the future that would constitute a
9 continuing and serious threat to the lives and safety of others, as evidenced by at least one of more of the
10 following:

11 a. **Continuing pattern of violence.** The defendant has engaged in a
12 continuing pattern of violence, attempted violence, and threatened violence, including, but not limited to
13 the crimes alleged against the defendant in the Superseding Indictment.

14 b. **Low rehabilitative potential.** The defendant has demonstrated a low
15 potential for rehabilitation as demonstrated by, but not limited to the following: the defendant has
16 committed numerous disciplinary infractions while incarcerated and prior to being brought into federal
17 custody on the current charges.

18 c. **Lack of remorse.** The defendant, Victor Skates, has demonstrated a lack
19 of remorse by bragging about many of the murders he committed.

20 d. **Gang Membership.** The defendant, Victor Skates, has demonstrated an
21 allegiance to, and active membership in, the Salinas Norteno gang, a violent criminal enterprise.

22 *See Simmons v. South Carolina*, 512 U.S. 154, 162-164 (1994).

23 2. **Obstruction of justice.** The defendant, Victor Skates, attempted to locate a
24 potential witness in an apparent effort to make him/her unavailable or unwilling to testify. The witness
25 was relocated for his/her protection.

26 3. **Victim impact evidence.** The defendant, Victor Skates, caused injury, harm, and
27 loss to the families of G.A., J.A., A.A., E.G., S.A., U.J., J.D.C., J.V.C., and F.B., as evidenced by the
28 victims' personal characteristics as individual human beings and the impact of their death upon the

1 victims and the victims’ families and friends. 18 U.S.C. § 3593(a). *See Payne v. Tennessee*, 502 U.S.
2 808, 825-826 (1991).

3 4. **Continuous course of criminal conduct.** The defendant, Victor Skates, has
4 engaged in a continuous course of criminal conduct charged and uncharged, including, but not limited
5 to, at least 18 additional robberies, three attempted murders, and previous convictions for burglary,
6 weapons possession, and armed robbery.

7 5. **Gang motivated killing.** The defendant killed victims G.A., J.A., A.A., E.G.,
8 S.A., U.J., J.D.C., J.V.C., and F.B., to protect and maintain the name and reputation for the Salinas
9 Norteno criminal enterprise, and to advance his position and reputation within the criminal enterprise.

10 The United States further gives notice that, in support of the imposition of the death penalty, in
11 addition to evidence of the above-listed aggravating factors, it intends to rely upon all the evidence
12 admitted by the Court at the guilt phase of the trial and the offenses of conviction as alleged in the
13 Superseding Indictment as they relate to the background and character of the defendant, Victor Skates,
14 his moral culpability, and the nature and circumstances of the offenses charged in the Superseding
15 Indictment.

16 DATED: September 18, 2018

Respectfully Submitted,

ALEX G. TSE
United States Attorney

_____/s/_____
STEPHEN MEYER
CHRISTIAAN HIGHSMITH
KIMBERLY HOPKINS
Assistant United States Attorneys