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10 UNITED STATES OF AMERICA.

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,) No. CR 02-938-RGK
14)
Plaintiff,) GOVERNMENT'S AMENDED NOTICE OF
15) INTENT TO SEEK THE DEATH
v.) PENALTY AGAINST DEFENDANT
16) TERFLINGER
RICHARD LLOYD TERFLINGER,)
17)
18 Defendant.)

19 NOTICE OF INTENT TO SEEK THE DEATH PENALTY

20 The United States of America, pursuant to 18 U.S.C.
21 § 3593(a), notifies the Court and defendant RICHARD LLOYD
22 TERFLINGER ("defendant") that the Government believes the
23 circumstances of the offenses charged in Counts Four and Five of
24 the First Superseding Indictment are such that, in the event of a
25 conviction, a sentence of death is justified under Chapter 228
26 (Sections 3591 through 3598) of Title 18 of the United States
27 Code, and that the Government will seek the sentence of death for
28 the following offenses: (1) commission of a violent crime in aid

1 of racketeering activity, to wit, the murder of Arthur Ruffo in
2 violation of Title 18, United States Code, Section 1959(a)(1)
3 [Count Four]; and (2) commission of a violent crime in aid of
4 racketeering activity, to wit, the murder of Aaron Marsh, in
5 violation of Title 18, United States Code, Section 1959(a)(1)
6 [Count Five], each of which carries a possible sentence of death.

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

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

11 The following statutory proportionality factor applies to
12 each of Counts Four and Five.

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

14 The defendant intentionally participated in an act, contemplating
15 that the life of a person would be taken or intending that lethal
16 force would be used in connection with a person, other than one
17 of the participants in the offense, and Arthur Ruffo [Count
18 Four], and Aaron Marsh [Count Five] died as a direct result of
19 the act. 18 U.S.C. § 3591(a)(2)(C).

20 2. Intentional Acts of Violence Creating Grave Risk of
21 Death

22 The defendant intentionally and specifically engaged in an act of
23 violence knowing that the act created a grave risk of death to a
24 person, other than one of the participants in the offense, such
25 that participation in the act constituted a reckless disregard
26 for human life, and Arthur Ruffo [Count Four], and Aaron Marsh
27

1 [Count Five] died as a direct result of the act. 18 U.S.C. §
2 3591(a)(2)(D).

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

5 The following statutory aggravating factors apply to each of
6 Counts Four and Five.

7 1. Previous Conviction of Violent Felony Involving
8 Firearm

9 The defendant committed the offenses charged after having been
10 previously convicted of a Federal or State offense punishable by
11 a term of imprisonment of more than one year, involving the use
12 or attempted or threatened use of a firearm (as defined in 18
13 U.S.C. § 921) against another person, to wit, conviction for
14 first degree murder in Los Angeles County Superior Court on
15 November 18, 1968, in Case No. A003462. 18 U.S.C. § 3592(c)(2).

16 2. Previous conviction of offense for which a
17 sentence of death or life imprisonment was authorized.

18 The defendant has previously been convicted of another Federal or
19 State offense resulting in the death of a person, for which a
20 sentence of life imprisonment or death was authorized by statute,
21 to wit, conviction for first degree murder in Los Angeles County
22 Superior Court on November 18, 1968, in Case No. A003462. 18
23 U.S.C. § 3592(c)(3).

24 3. Previous conviction of other serious offenses

25 The defendant has previously been convicted of two or more
26 Federal or State offenses, each punishable by a term of
27 imprisonment of more than one year, committed on different

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1 occasions, involving the infliction of, or attempted infliction
2 of, serious bodily injury or death upon another person, to wit,
3 conviction for first degree murder in Los Angeles County Superior
4 Court on November 18, 1968, in Case No. A003462, and conviction
5 of assault by means of force likely to produce great bodily
6 injury by a prisoner in San Bernardino County Superior Court on
7 November 3, 1982, in Case No. P-0019296. 18 U.S.C. § 3592(c)(4).

8 4. Substantial Planning and Premeditation

9 The defendant committed the offenses charged in Counts Four and
10 Five after substantial planning and premeditation to cause the
11 death of a person. 18 U.S.C. § 3592(c)(9).

12 C. Other, Non-Statutory, Aggravating Factors Identified
13 under 18 U.S.C. § 3593(a)(2)

14 The following non-statutory, aggravating factors apply to
15 each of Counts Four and Five.

16 1. Future Dangerousness of the Defendant

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

21 a. Continuing Pattern of Violence

22 The defendant has engaged in a continuing pattern of violence,
23 attempted violence, and threatened violence, including, at least,
24 the crimes alleged against defendant in the First Superseding
25 Indictment, and the crimes of which the defendant was previously
26 convicted, as described in ¶¶ B.1., B.2., and B.3. of this
27 Notice.

1 b. Escape Risk and Institutional Misconduct

2 The defendant poses a future danger to the lives and safety of
3 other persons, as demonstrated by his escape risk and
4 institutional misconduct, including, at least, defendant's
5 attempted escape from prison in 1977, for which he was convicted
6 of attempted escape in San Bernardino County Superior Court on
7 March 16, 1977, in Case No. CRW-5082, and repeated acts of
8 institutional misconduct while in the custody of the California
9 Department of Corrections and Los Angeles County Sheriff's
10 Department.

11 2. Contemporaneous Convictions

12 Defendant faces contemporaneous convictions for multiple murders,
13 attempted murders, and other serious acts of violence.

14 The Government further gives notice that in support of
15 imposition of the death penalty it intends to rely upon all the
16 evidence admitted by the Court at the guilt phase of the trial
17 and the offenses of conviction as described in the First
18 Superseding Indictment as they relate to the background and
19 character of the defendant, RICHARD LLOYD TERFLINGER, his moral
20 culpability, and the nature and circumstances of the offenses.

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1 charged in the First Superseding Indictment.

2 DATE: August 11, 2005 Respectfully submitted,

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