



U.S. Department of Justice

Kenneth J. Gonzales

United States Attorney

District of New Mexico

201 3rd Street NW

Albuquerque, New Mexico 87103

CONTACT: *Elizabeth M. Martinez, Executive Assistant U.S. Attorney, Public Affairs Officer*
elizabeth.martinez@usdoj.gov – 505-224-1469

NEWS ADVISORY

For Immediate Release
December 9, 2010

U.S. ATTORNEY’S STATEMENT ON DECISION NOT TO SEEK
DEATH PENALTY IN DENNY’S HOMICIDE CASE

On October 8, 2009, a federal grand jury returned an indictment against Marvin Antonio Lopez-Aguilar, Pablo De Leon Ortiz and Francisco Melgar-Cabrera charging them with the violation of numerous offenses, including the felony murder of Stephanie Anderson, based on a June 20, 2009 incident occurring at a Denny’s Restaurant in Albuquerque, New Mexico. In a superseding indictment that was filed on April 14, 2010, Jose “Tito” Humberto Melgar-Cabrera was added as a defendant in this case. A second superceding indictment filed on October 10, 2010 added new charges against Aguilar-Lopez, De Leon Ortiz and Malgar-Cabrera based on a June 13, 2009 incident occurring at a Lone Star Steakhouse & Saloon in Albuquerque, New Mexico.

The charges against Lopez-Aguilar, De Leon Ortiz and Malgar-Cabrera included offenses punishable by a maximum sentence of death or life in prison. In the federal system, the decision whether to seek the death penalty is made by the United States

Attorney General based on the recommendation of the U.S. Attorney and after carefully considering each defendant's background and the circumstances of the crime.

On February 3, 2010, the United States Attorney's Office notified United States District Judge William P. Johnson and defense counsel that it would not be seeking the death penalty with respect to Lopez-Aguilar and DeLeon Ortiz. At that time, the United States Attorney's Office reserved decision with respect to Melgar-Cabrera because he was, and remains, a fugitive.

#