

FILED
At Albuquerque NM

APR 22 2010

United States District Court

IN THE DISTRICT OF NEW MEXICO

MATTHEW J. DYKMAN
CLERK

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

ALEXANDER FRANK TORIVIO
Year of Birth: 1986
SSN: XXX-XX-7008

CASE NUMBER: 10ms1206

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about April, 2009, and October, 2009 in Cibola county, in the District of New Mexico defendant(s) did, (Track Statutory Language of Offense)

unlawfully engage in a sexual act with Jane Doe, an enrolled member of the Navajo tribe, who had attained the age of 12 years but had not attained the age of 16 years, and who was at all times four years younger than the defendant, said incident having occurred within the confines of the exterior boundaries of the Pueblo of Laguna Indian Reservation and the Pueblo of Acoma Indian Reservation, respectively, Indian Country, the defendant also being an enrolled member of the Pueblo of Acoma.

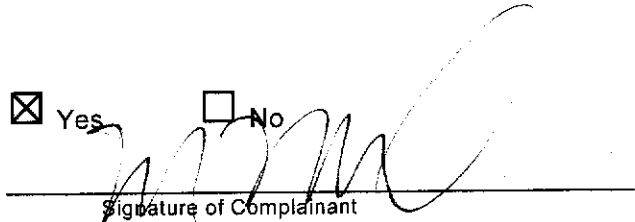
in violation of Title 18 United States Code, Section(s) 2243 (a), 2246 (2)(A), 1153.

I further state that I am a(n) Special Agent and that this complaint is based on the following facts:
Official Title

See Attached Affidavit hereby incorporated by reference as if fully restated herein.

Continued on the attached sheet and made a part hereof:

Yes No


Signature of Complainant

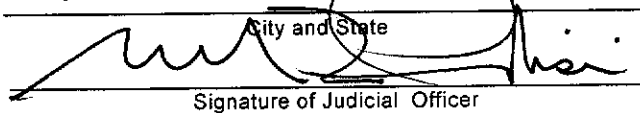
Marcus B. McCaskill
Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

23 April 2010
Date

ALBUQUERQUE, NEW MEXICO
City and State

RICHARD L. FUGLE
Name & Title of Judicial Officer
MAGISTRATE JUDGE


Signature of Judicial Officer

1 IN THE UNITED STATES DISTRICT COURT
2 DISTRICT OF NEW MEXICO

3
4
5 UNITED STATES OF AMERICA)
6 VS)
7 Alexander Frank Torivio)
8 Year of Birth: 1986)
9 SSN: XXX-XX-7008)
_____)

10 AFFIDAVIT

11 I, the undersigned, being duly sworn, hereby depose
12 and state as follows:

13
14 1. I am a Special Agent (SA) of the Federal Bureau of
15 Investigation (FBI) and have been employed in this capacity
16 for approximately eleven years and six months. I am
17 currently assigned to the Albuquerque Division, and have
18 primary investigative responsibility for crimes occurring in
19 Indian Country. The information set forth in this affidavit
20 was derived from my own investigation and/or communicated to
21 me by other sworn law enforcement officers, including
22 Sergeant Steve Chavez and Officer Greg Concho, Pueblo of
23 Laguna Police Department (LPD), and Criminal Investigator
24 (CI) Fran Flores, Pueblo of Acoma Police Department (APD).
25

26 2. Information was received from LPD that Jane Doe, an
27 enrolled member of the Pueblo of Laguna, year of birth 1996,
28

1 was the victim of an sexual abuse of a minor, in that
2 Alexander Frank Torivio, an enrolled member of the Pueblo of
3 Acoma, year of birth 1986, had sexual intercourse with Doe on
4 multiple occasions, including once in or about April, 2009,
5 and once in or about October, 2009. In April, 2009, Doe was
6 twelve (12) years old and Torivo was twenty-three (23) years
7 old. In October, 2009, Doe was thirteen (13) years old and
8 Torivio was twenty-three (23) years old.

9
10 3. Initial reports of the sexual relationship between
11 Doe and Torivio were obtained from Brain Vallo. Vallo, who
12 was in LPD custody in another matter, reported that Doe
13 disclosed to him that she was having sexual intercourse with
14 Alex (last name unknown), who was in his twenties. Vallo
15 also reported that Alex worked for the Pueblo of Laguna
16 Schools.

17
18 4. Doe was interviewed by Sergeant Chavez and Officer
19 Concho on March 18, 2010, and by SA McCaskill and Officer
20 Concho on April 8, 2010. Doe identified Alex as Alexander
21 Torivio. Doe met Torivio through Project Venture, a field-
22 based science instruction program which employs Torivio. Doe
23 disclosed that she and Torivio began having sexual
24 intercourse after both went on a snow-boarding trip with
25 Project Venture in February, 2009. During both interviews,
26 Doe disclosed that Torivio had sexual intercourse with her on
27 multiple occasions sometime between February, 2009 and
28 November, 2009.

1 5. Doe disclosed that, in or about February, 2009,
2 possibly a couple of months after the snow-boarding trip in
3 February, 2009, she sneaked out of her home and Torivio
4 picked her up in his vehicle, which she described as a blue
5 sedan. Torivio drove to an unidentified location on Old
6 Seama Road, near her home, which is located at Unit #111, 20
7 South View Loop, Pueblo of Laguna, New Mexico. Torivio parked
8 the vehicle and had sexual intercourse with her in the
9 vehicle. Doe indicated that the two had sex with each other
10 with their pants pulled down. This location is in Cibola
11 County and is within the exterior boundaries of the Pueblo of
12 Laguna Indian Reservation.

13
14 6. Doe disclosed that, in or about November, 2009, she
15 sneaked out of her home and Torivio picked her up in his
16 vehicle, which she described as a blue sedan. Torivio drove
17 to an uninhabited home near his home. Torivio took her
18 inside the uninhabited home and had sexual intercourse with
19 her on a bed in the building. Doe indicated that the two had
20 sex with each other with their pants pulled down. Doe later
21 identified an uninhabited home located at #9 Haaku Road,
22 Pueblo of Acoma, New Mexico, a the home to which Torivio took
23 her that night. The uninhabited home is owned by Jackie
24 Torivio and is located next door to Torivio's residence, #7
25 Haaku Road, Pueblo of Acoma, New Mexico. This location is in
26 Cibola County and is within the exterior boundaries of the
27 Pueblo of Acoma Indian Reservation.

28

1 7. On April 16, 2010, Torivio presented himself at the
2 Laguna Middle School (LMS) for an interview. Torivio arrived
3 in a blue Kia, four-door sedan. New Mexico Department of
4 Motor Vehicle records indicate that a 2004 blue, 4-door Kia,
5 New Mexico license plate HAAKU, VIN KNAFE121345064305, is
6 registered to Torivio at #7 Haaku Road, Pueblo of Acoma, New
7 Mexico, 87034.

8
9 8. On April 8, 2010, SA McCaskill interviewed Mary
10 Evon Mooney, mother of Doe. Mooney indicated that, about one
11 year ago, she found her daughter missing from her room.
12 Mooney went to check on her daughter at about 3:00 am because
13 there was cold air coming from her room. Mooney found Doe's
14 door locked. Mooney, who had a key to the room, opened the
15 door and found Doe missing from the room and the window open.
16 Doe did not return to the home until about 7:00 am.

17
18 9. SA McCaskill also interviewed Michael James Gavlak,
19 a 6th Grade teacher at the LMS. Gavlak is the LMS site
20 representative for Project Venture and works closely with
21 Torivio in managing and administering the program. Gavlak
22 travels with LMS students on all trips hosted by Project
23 Venture. Gavlak reported noticing that, especially on
24 overnight trips, Torivio singled out Doe and spent a great
25 deal of time with her alone. Gavlak talked to Torivio,
26 suggesting that Torivio not spend time alone with any of the
27 students, especially females. Gavlak encouraged Torivio to
28 work with the students in groups and always have another

1 adult present. Torivio told Gavlak that he didn't see a
2 problem spending time alone with Doe or any other students.
3 Torivio told Gavlak that Doe was only a few years younger
4 than him and that he felt it completely appropriate to spend
5 time with her alone.

6
7 10. On April 23, 2010, Torivio was interviewed at his
8 home, located at #7 Haaku Road, Pueblo of Acoma, New Mexico,
9 87034, by SA McCaskill and Officer Concho. The interview was
10 arranged at Torivio's request. The interview was conducted
11 in the dining area of Torivio's home, with Torivio's mother,
12 Jackie Torivio, listening in. Torivio was verbally advised
13 of his Miranda rights and provided an FD-395, Advice of
14 Rights Form, which he reviewed and executed, agreeing to
15 answer questions. The interview was digitally recorded.

16
17 11. Torivio admitted having sexual intercourse,
18 specifically placing his penis in Doe's vagina, on three
19 occasions, once in or about April, 2009, once in late
20 October, 2009, and once at an undetermined time between
21 April, 2009, and October, 2009.

22
23 12. In or about April, 2009, Torivio arranged to pick
24 Doe up along Old Seama Road after she sneaked out of her
25 house sometime after midnight. After picking Doe up, Torivio
26 parked his car somewhere along Old Seama Road. Torivio had
27 sexual intercourse with Doe, both of them in the passenger
28 seat, pants pulled down, facing each other.

1 13. In or about October, 2009, late in the month,
2 Torivio again, arranged to pick Doe up along Old Seama Road
3 after she sneaked out of her house sometime after midnight.
4 After picking Doe up, drove to an uninhabited home near his
5 home. Torivio took her inside the uninhabited home and had
6 sexual intercourse with her on a bed in the building. Again,
7 the two had sexual intercourse facing one another with their
8 pants pulled down. Doe later identified an uninhabited home
9 located at #9 Haaku Road, Pueblo of Acoma, New Mexico, a the
10 home to which Torivio took her that night. The uninhabited
11 home is owned by Jackie Torivio and is located next door to
12 Torivio's residence, #7 Haaku Road, Pueblo of Acoma, New
13 Mexico.

14
15 10. Based on the training and experience of the
16 affiant, DNA, hairs, fibers, fingerprints, blood, and semen
17 can often be left behind on the surfaces where such sexual
18 activity takes place, including in a vehicle. DNA evidence,
19 in particular, can be located a long time, sometimes years,
20 after the activity which produced the evidence.

21
22 11. The affiant therefore respectfully requests that a
23 warrant be issued for a search of the body of Alexander Frank
24 Torivio, an enrolled Pueblo of Acoma Indian, born in 1986,
25 five (5) feet and three (3) inches tall, weighing
26 approximately 150 pounds, with black hair and brown eyes, to
27 take samples of his blood for DNA testing that can be used to
28 corroborate or refute Doe's account of the sexual activity

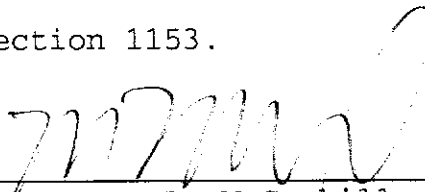
1 between the two. Samples recovered as evidence from the
2 uninhabited home, which is located at #9 Haaku Road, Pueblo
3 of Acoma, New Mexico, and from the 2004 blue, 4-door Kia, New
4 Mexico license plate HAAKU, VIN KNAFE121345064305, is
5 registered to Torivio at #7 Haaku Road, Pueblo of Acoma, New
6 Mexico, 87034, can be compared to DNA developed from the
7 blood obtained from Torivio.

8
9 12. In view of the facts presented in this affidavit,
10 the affiant believes there is probable cause to believe that
11 in or about April, 2009, Torivio an enrolled member of the
12 Pueblo of Acoma, unlawfully engaged in a sexual act with Jane
13 Doe, an enrolled member of the Pueblo of Laguna, within the
14 District of New Mexico, within the exterior boundaries of the
15 Pueblo of Laguna, within Indian Country, in violation of
16 Title 18, United States Code, Sections 2243 (a), 2246 (2)(A),
17 a crime in Indian Country, Title 18, United States Code,
18 Section 1153.

19
20 13. In view of the facts presented in this affidavit,
21 the affiant also believes that there is probable cause to
22 believe that in or about October, 2009, Torivio an enrolled
23 member of the Pueblo of Acoma, unlawfully engaged in a sexual
24 act with Jane Doe, an enrolled member of the Pueblo of
25 Laguna, within the District of New Mexico, within the
26 exterior boundaries of the Pueblo of Acoma, within Indian
27 Country, in violation of Title 18, United States Code,
28 Sections 2243 (a), 2246 (2)(A), a crime in Indian Country,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Title 18, United States Code, Section 1153.


SA Marcus B. McCaskill
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me this 23rd day of April,
2010.


The Honorable Robert W. Ionta
U.S. Magistrate

RICHARD L. PUGLISI
U.S. MAGISTRATE JUDGE

EST