

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

United States District Court

SEP 29 2009

IN THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

MATTHEW J. DYKMAN

v.

CLERK
CRIMINAL COMPLAINT

IRVIN BITSILLY
YOB: 1937

CASE NUMBER: 09.MJ.2838
09.MG.086

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 July 1, 2009, in McKinley county, in the District of New Mexico, the defendant, a registered member of the Navajo Indian Tribe, within the exterior boundaries of the Navajo Reservation in Indian Country, did knowingly commit the unlawful sexual abuse of a minor,

in violation of Title 18 United States Code, Section(s) 1153, 2241(c), 2243(a), 2246 (2)(A)(C)(D) (3).


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

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

Continued on the attached sheet and made a part hereof:

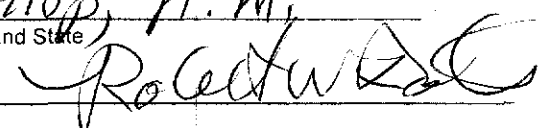
Yes No

AUSA - GCM Signature of Complainant
Sworn to before me and subscribed in my presence,


SA John J. Fortunato
Special Agent
Federal Bureau of Investigation

Date 9/29/09 at Gallup, N. M.
City and State

Robert W. JONTA US Magistrate
Name & Title of Judicial Officer
Signature of Judicial Officer



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IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA)
)
vs.)
)
IRVIN BITSILLY)
1937)

09.MJ.2838
09.MG.086

AFFIDAVIT

The undersigned being duly sworn, deposes and says:

1) I, John J. Fortunato, am a Special Agent of the Federal Bureau of Investigation (FBI), currently assigned to the Albuquerque Division, Gallup Resident Agency. I have been so employed since July 2003. I have approximately six (6) years of federal law enforcement experience. I have primary investigative responsibility in crimes that occur in Indian Country including violent crimes such as homicide, robbery, arson, aggravated assault, and sexual assault. The information set forth is known to me as a result of my own investigation or has been communicated to me by other law enforcement officers:

2) This affidavit has been made in support of an application for an arrest warrant for Irvin Bitsilly, a registered member of the Navajo Indian Tribe. This arrest warrant is to be conducted in connection with the investigation of the aggravated sexual abuse, and sexual abuse of minors, in violation of Title 18, United States Code

1 1153, 2241(c), 2243(a), 2246 (2)(A)(C)(D) (3), sexual abuse
2 occurring within the exterior boundaries of the Navajo
3 Reservation in Indian Country.

4
5 3) On July 1, 2009, Jane Doe 1 (a juvenile female,
6 YOB 2003) disclosed to her mother and an adult aunt that her
7 step-grandfather touched her genital area. The child was
8 examined at Tohatchi, Clinic.

9
10 4) On July 7, 2009, Jane Doe 1 was forensically
11 interviewed. During the interview, Jane Doe 1 disclosed that
12 her step-grandfather, Irvin Bitsilly, removed her pants and
13 underwear and penetrated her vagina with his two fingers.

14
15 5) On July 13, 2009, the mother of Jane Doe 1,
16 hereinafter called, Jane Doe 2 (an adult female), was
17 forensically interviewed. Jane Doe 2 is intellectually
18 disabled. Jane Doe 2 disclosed that Irvin Bitsilly sexually
19 abused her as a child and then as a teenager. When Jane Doe 2
20 was sixteen (16) years old, she gave birth to Jane Doe 1.
21 Jane Doe 2 stated that Irvin Bitsilly had sex with her and is
22 the biological father of Jane Doe 1. Jane Doe 2 would have
23 been fifteen years old at time of conception.

24
25 6) On September 10, 2009, Irvin Bitsilly was
26 interviewed and admitted to penetrating Jane Doe 1's vagina
27 with his forefinger and middlefinger, while she was laying in
28 her makeshift bed on a recliner in his bedroom on, or about

1 July 1, 2009. Bitsilly stated that he pulled down Jane Doe
2 1's underwear and penetrated her vagina with his forefinger
3 and middlefinger.

4
5 7) Bitsilly further stated that he had sex with his
6 step-daughter, Jane Doe 2, when she was fifteen (15) or
7 sixteen (16) years old on at least three occasions. Bitsilly
8 stated that he may be the father of Jane Doe 1.

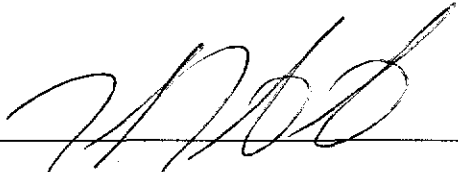
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10 8) The Navajo Nation advised that Irvin Bitsilly is
11 an enrolled member of the Navajo Tribe, and according to
12 Tribal authorities, his residence located at Mile Marker 22,
13 West of Route 491, Tohatchi, New Mexico, is within the
14 exterior boundaries of the Navajo Reservation in Indian
15 Country.

16
17 9) Jane Doe 1 and Jane Doe 2 are registered members
18 of the Navajo Tribe. The foregoing incidents described by
19 Jane Doe 1 and Jane Doe 2 all occurred within the exterior
20 boundaries of the Navajo Reservation in Indian Country.

21
22 10) Based on the training, experience of the
23 affiant, and information set forth in this affidavit, your
24 affiant submits that there is probable cause to believe that
25 Irvin Bitsilly, a registered member of the Navajo Indian
26 Tribe within the exterior boundaries of the Navajo
27 Reservation in Indian Country, in the county of McKinley, in
28 the State and District of New Mexico, on multiple occasions,

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did knowingly commit the unlawful sexual abuse of a minor, in violation of Title 18, United States Code 1153, 2241(c), 2243(a), 2246 (2)(A)(C)(D)(3).



John J. Fortunato

Special Agent

Federal Bureau of Investigation

Gallup, New Mexico

Subscribed and sworn to before me this 29 day of Sept,
2009.



U.S. Magistrate Judge Robert W. Ionta