

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

United States District Court

OCT 20 2010

DISTRICT OF New Mexico

UNITED STATES OF AMERICA

MATTHEW J. DYKMAN

CLERK

v.

CRIMINAL COMPLAINT

Richaline J. Atole
YOB: 1980
SSAN: XXX-XX-9206

CASE NUMBER: 10-MJ-2750
10-MG-043

(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 October 16, 2010 in Rio Arriba county, in the

State and District of New Mexico defendant(s) did, (Track Statutory Language of Offense)

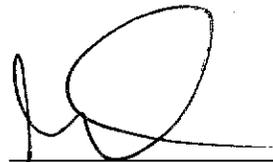
unlawfully kill Andy Talamante while in the commission of an unlawful act not amounting to a felony, that is while operating a motor vehicle while under the influence of alcohol and reckless driving, in that the defendant operated a motor vehicle without due caution and circumspection of a lawful act that might produce death. The defendant is enrolled in the Jicarilla Apache Indian Census Roll and the crime was committed within the confines of the Jicarilla Apache Indian Reservation.

in violation of Title 18 United States Code, Section(s) 1153 and 1112.

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

See Attached Affidavit.

Continued on the attached sheet and made a part hereof: Yes No



Signature of Complainant
Matthew Collar
Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

10/20/10 at _____
Date

Robert W. JONTA
Name & Title of Judicial Officer

GALLUP, N.M.
City and State
Robert W. JONTA
Signature of Judicial Officer

Name & Title of Judicial Officer

Signature of Judicial Officer

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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

10-MJ-2750
10-MG-043

State of NEW MEXICO
County of SAN JUAN

AFFIDAVIT

I, Matthew Collar, being duly sworn, hereby depose
and say:

1. I am a Special Agent with the United States
Department of Justice, Federal Bureau of Investigation (FBI)
and have been employed as such since 2008. I am currently
assigned to the Albuquerque Division of the FBI, Gallup
Resident Agency, and 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 in this affidavit has been derived from an
investigation conducted by FBI Special Agent (SA) Cary Cahoon
(Farmington Resident Agency), and/or communicated to me by
other law enforcement officers.

2. On or around October 16, 2010, at approximately
7:15 p.m., Richaline Atole, date of birth 08/21/1980, was
driving a red, 2005 Mazda 4-door, bearing New Mexico License
Plate HFG784, along Jicarilla Road 8 (J-8) near Dulce, New
Mexico. Riding in the vehicle with Atole was her boyfriend,
Wilfred Bia, date of birth 11/24/1984, and Andy Talamante,

1 date of birth 07/23/1969. Bia was in the front passenger
2 seat and Talamante was sitting in the back seat.

3
4 3. While Atole was driving along J-8,
5 approximately two miles from the overlook by Mundo Lake,
6 Talamante kept telling her that he was in a hurry to get
7 home. Atole assured Talamante that she would get him home
8 and not to worry. As Atole pulled up behind a slower vehicle
9 traveling in the same direction, Talamante insisted that she
10 pass it. When Atole attempted to pass the slower vehicle,
11 she swerved, lost control and went off the side of the road
12 and into an arroyo. Witnesses who observed the accident
13 stated that Atole's vehicle went airborne and flipped four or
14 five times.

15
16 4. Owen Phone, a Conservation Officer with the
17 Jicarilla Apache Game and Fish Department, was at the
18 accident scene prior to the arrival of the police, fire and
19 Emergency Medical Services (E.M.S.) personnel. When Officer
20 Trista Sandoval, Jicarilla Apache Police Department, arrived
21 on scene, Phone informed her that an unknown male laying on
22 the ground was dead on arrival. This individual was later
23 identified as Andy Talamante. OMI (Office of the Medical
24 Investigator) Field Investigator, Rose Rascon, pronounced
25 Talamante dead at 9:01 p.m.

26
27 5. Shortly after the accident, both Atole and Bia
28 were conscious and appeared to have only minor injuries. Bia

1 was laying on the ground and Atole was sitting next to him.
2 While speaking with Atole, Officer Donna Caramillo, Jicarilla
3 Apache Police Department, smelled a strong odor of some type
4 of alcoholic beverage emitting from Atole when she spoke.
5 Caramillo asked Atole where she was sitting in the vehicle.
6 Atole said she was the driver.

7
8 6. EMS personnel secured Bia on a "backboard," as
9 was Atole after she complained of chest pains. Both Bia and
10 Atole were subsequently transported to the San Juan Regional
11 Medical Center (SJRMC) in Farmington, New Mexico, where they
12 were treated for minor injuries, primarily cuts, bruises and
13 lacerations.

14
15 7. Tayna Benally, Officer with the New Mexico
16 State Police, was at the SJRMC when SA Cahoon arrived on
17 instant date, at approximately 10:30 p.m. Benally stated
18 that Atole, under the New Mexico Implied Consent Act,
19 consented to having her blood drawn for the purpose of
20 identifying her blood alcohol content. Benally witnessed
21 medical personnel draw Atole's blood and then they provided
22 it to Benally. Benally advised that the blood would be sent
23 to the New Mexico Department of Public Safety Laboratory in
24 Sante Fe, New Mexico. To date, the results from the
25 laboratory are unknown.

26
27 8. Dr. Brad Campbell, Emergency Room Physician at
28 SJRMC overseeing Atole's medical care, advised SA Cahoon on

1 instant date, at approximately 11:45 p.m., that it is
2 standard protocol at SJRMC to identify a patient's blood
3 alcohol content if they're involved in a car accident. This
4 is done for medical purposes. In the case of Atole,
5 Dr. Campbell told SA Cahoon that Atole's blood alcohol
6 content was .231.

7
8 9. On instant date, at approximately 11:00 p.m.,
9 SA Cahoon interviewed Bia at the SJRMC. He was conscious and
10 alert during the interview. Bia told SA Cahoon that he,
11 Atole and Talamante were driving around the Dulce, New Mexico
12 area drinking Natural Light beer that Talamante brought for
13 everyone to drink. Bia said that Talamante was already
14 "drunk" when they left to go drive around. Bia believes
15 Atole had two beers (Coors Light) prior to driving around.
16 Bia did not remember how much Atole drank while they were
17 driving around. Bia stated that at the time of the accident,
18 Atole was driving, he was in the front passenger seat and
19 Talamante was in the back seat. Bia did not recall anything
20 about the accident, but said that prior to the accident,
21 Talamante kept telling Atole to "hurry up." Bia did not know
22 why Talamante was in such a hurry.

23
24 10. On October 17, 2010, at approximately
25 12:05 a.m., Officer Darrell Betoni and Officer Lorenzo
26 Tsosie, Jicarilla Apache Police Department, transported Atole
27 from the SJRMC to the Jicarilla Apache Correctional facility
28 in Dulce, New Mexico. Upon their arrival, Sergeant Kendall

1 Vicenti, Jicarilla Apache Police Department, advised Atole
2 she was under arrest for Driving Under the Influence of
3 Alcohol and Reckless Driving. Sergeant Vicenti explained the
4 New Mexico Implied Consent law to Atole and asked her if she
5 would consent to a breath test. She consented and the first
6 test result read .09 and the second was .08. Vicenti read
7 Atole her Miranda Rights and she agreed to waive her rights
8 and speak with Vicenti about what happened.

9
10 11. Atole told Vicenti that she was the driver of
11 the vehicle involved in the accident. Atole said she lost
12 control as she tried to pass a vehicle. Atole thought she
13 was going 40 to 45 miles per hour when she passed. Atole
14 said all of them were drinking alcohol before the accident.
15 Atole told Vicenti she drank a six-pack of beer. Atole was
16 wearing her seat belt but did not know if the other two did.

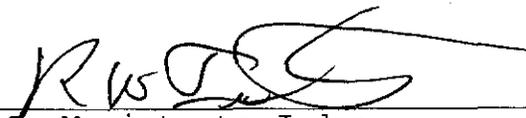
17
18 12. Based upon the information provided in this
19 affidavit your affiant believes there is probable cause to
20 believe that Atole, who is an enrolled member of the
21 Jicarilla Apache Census Roll, did unlawfully kill Andy
22 Talamante while in the commission of an unlawful act not
23 amounting to a felony, that is while operating a motor
24 vehicle while under the influence of alcohol and reckless
25 driving, in that Atole operated a vehicle without due caution
26 and circumspection of a lawful act that might produce death,
27 and that said crime occurred within the confines of the
28 Jicarilla Apache Indian Reservation in violation of Title 18,

1 United States Code, Sections 1153 (Criminal Offense committed
2 within Indian Country) and 1112 (Involuntary Manslaughter).
3 I swear this information to be true and correct to the best
4 of my knowledge and belief.

5 

6 _____
7 Matthew Collar
8 Special Agent
9 Federal Bureau of Investigation
10 Gallup, New Mexico

11 Subscribed and sworn to before me this 20 day of October
12 2010, _____.

13 
14 _____
15 U.S. Magistrate Judge

16
17
18
19
20
21
22
23
24
25
26
27
28