

United States District Court

DISTRICT OF New Mexico

FILED

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

v.

CRIMINAL COMPLAINT

OCT 20 2010

Preston Yazzie
YOB: 1970
SSAN: XXX-XX-8455

MATTHEW J. DYKMAN
CLERK

CASE NUMBER: 10-MJ-2751
10-MG-042

(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 12, 2010 in San Juan county, in the

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

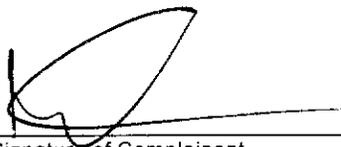
assault Irving Nez, such an assault resulting in serious bodily injury. The defendant and victim are enrolled in the Navajo Indian Census Roll and the crimes set forth below were committed within the confines of the Navajo Indian Reservation.

in violation of Title 18 United States Code, Section(s) 1153, 113(a)(6).

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 Gallup, N.M.
Date City and State

ROBERT W. JONTA USMAGistrate Judge

Name & Title of Judicial Officer



Signature of Judicial Officer

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

3
4
5 State of NEW MEXICO
6 County of SAN JUAN

10-MJ-2751
10-MG-043

7 AFFIDAVIT

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

10 1. I am a Special Agent with the United States
11 Department of Justice, Federal Bureau of Investigation (FBI)
12 and have been employed as such since 2008. I am currently
13 assigned to the Albuquerque Division of the FBI, Gallup
14 Resident Agency, and have primary investigative
15 responsibility in crimes that occur in Indian Country,
16 including violent crimes such as homicide, robbery, arson,
17 aggravated assault, and sexual assault. The information set
18 forth in this affidavit has been derived from an
19 investigation conducted by FBI Special Agent Cary Cahoon,
20 and/or communicated to me by other law enforcement officers.

21
22 2. On or around October 12, 2010, at approximately
23 6:30 p.m., Preston Yazzie, date of birth 10/22/1970, did
24 assault Irving Nez, date of birth 11/23/1966, by striking him
25 multiple times in the head and his body with two metal pipes,
26 one that was small and one that was large. As a result, Nez
27 sustained a broken left leg, a wound on the back of his head
28 requiring staples, and multiple scrapes and lacerations to

1 his face, arms and legs. Nez was transported to the San Juan
2 Regional Medical Center (SJRMC) in Farmington, New Mexico,
3 where he was admitted and treated for said injuries. As of
4 October 15, 2010, Nez was still at the SJRMC being treated
5 for the injuries he sustained on October 12, 2010. Yazzie
6 and Nez are enrolled in the Navajo Indian Census Roll and the
7 crimes set forth below were committed within the confines of
8 the Navajo Indian Reservation.

9
10 3. On October 13, 2010, Malcolm Leslie, Crownpoint
11 Criminal Investigator (CI), interviewed Irving Nez regarding
12 the assault incident involving himself and Yazzie. Nez
13 advised that on October 12, 2010, sometime during the early
14 afternoon, he, Victoria Hood (Nez's common-law wife) and Inez
15 Velarde (Hood's cousin) had a cookout at Velarde's residence
16 in Huerfano, New Mexico. While there, they talked, ate and
17 drank beer. Nez said he consumed 12 beers and Hood consumed
18 approximately six. Between 4:00 and 5:00 p.m., Yazzie and
19 his girlfriend, Erica Charles, arrived at Velarde's
20 residence. Yazzie and Hood are cousins. Yazzie had a box of
21 Natural Light beer with him. They all sat around and talked
22 and drank beer. Nez advised that Yazzie and Charles consume
23 alcohol every day, but he did not know how much Yazzie drank
24 that day. Sometime between 6:30 and 7:00 p.m., Hood wanted
25 to go home and asked Velarde for a ride. Yazzie also wanted
26 a ride home. At one point, Yazzie and Velarde began arguing.
27 Nez defended Velarde and asked Yazzie "to stop saying bad
28 things to Inez." Yazzie then became upset with Nez and threw

1 a food tray/cart at him. Nez retaliated by trying to hit
2 Yazzie with his fist. Yazzie grabbed a metal pipe and began
3 swinging it at Nez's head. Nez tried to block the pipe with
4 his arms, which he did several times, but Yazzie was
5 successful in hitting Nez in the head. Nez continued to
6 fight and swing at Yazzie. At one point, Yazzie grabbed a
7 larger metal pipe and hit Nez's lower left leg with the pipe.
8 When Nez went down and could not stand up, Yazzie began
9 pulling Nez's hair and hitting him in the head with his fist.
10 Soon thereafter, Yazzie stopped, said some things to Nez, and
11 then departed on foot with his girlfriend.

12
13 4. On October 13, 2010, CI Leslie interviewed
14 Victoria Hood. While at Velarde's residence on October 12,
15 2010, Hood observed Yazzie hitting Nez in the head at least
16 three times with the smaller metal pipe. When Hood observed
17 Nez bleeding from the back of his head, she told Yazzie to
18 stop and tried to intervene as did Velarde, but Yazzie pushed
19 them both down.

20
21 5. On October 13, 2010, CI Leslie interviewed Inez
22 Velarde, Yazzie's sister. Velarde advised that she, Nez, and
23 Hood were having a cookout at her house, when Yazzie and
24 Charles walked up holding half of a 30-pack of 12-ounce
25 Natural Light beer under his arm. When Yazzie came to the
26 house, Velarde went inside to watch TV and take a nap because
27 she does not like to be around Yazzie when he drinks because
28 he is mean. Velarde provided several examples. On one

1 occasion he threatened all of her brothers. Another time he
2 broke all of the windows at her residence. Once while she
3 was at another brother's house, Yazzie threatened to kill her
4 and the rest of the family. Yazzie has wanted to hit Velarde
5 before, but he ends up pushing her instead. Velarde said she
6 is afraid of Yazzie. After her nap, Velarde went outside to
7 wake up Nez. As she was waking Nez, Yazzie "started to say
8 things to her." Nez told Yazzie to leave Velarde alone.
9 Yazzie then started to say things to Nez and then Velarde
10 observed Yazzie pushing Nez down to the ground. Nez said
11 some things to Yazzie and then Yazzie grabbed a metal pipe
12 from the ground and hit Nez in the head with it. Velarde
13 observed Yazzie hit Nez in the head 2-3 times with the
14 smaller pipe. She attempted to intervene and stop Yazzie but
15 he pushed her down. Velarde did not observe Yazzie hitting
16 Nez with the larger pipe, but she did see Yazzie hitting Nez
17 in the head multiple times with his fist. At some point,
18 Velarde contacted the police.

19
20 6. Nez was subsequently transported to the SJRMC,
21 admitted and treated for his injuries. Nez's doctor, Dr.
22 Dwayne Gibbs, advised SA Cahoon on October 19, 2010, that
23 Nez's injuries constituted "serious bodily injury" as defined
24 in Title 18, United States Code, Section 1365(h)(3).

25
26 7. Based upon the information provided in this
27 affidavit your affiant believes there is probable cause to
28 believe that Preston Yazzie did assault Irvin Nez, such an

1 assault resulting in serious bodily injury, and that said
2 crime was committed within the confines of the Navajo Indian
3 Reservation in violation of Title 18, United States Code,
4 Sections 1153 (Criminal Offense committed within Indian
5 Country) and 113(a)(6) (Assault resulting in serious bodily
6 injury). Both Yazzie and Nez are enrolled members of the
7 Navajo Indian Census Roll. I swear this information to be
8 true and correct to the best of my knowledge and belief.

9
10 

11 Matthew Collar
12 Special Agent
13 Federal Bureau of Investigation
14 Gallup, New Mexico

15 Subscribed and sworn to before me this 20 day of Oct
16 2010.

17
18 
19 U.S. Magistrate Judge