

AO 91 (Rev. 5/85) Criminal Complaint

FILED

United States District Court

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

IN THE DISTRICT OF NEW MEXICO

SEP 28 2006

UNITED STATES OF AMERICA

v.

MATTHEW L. DYKMAN
CRIMINAL COMPLAINT
CLERK

ELBERT BARBER JR.
DOB: XX/XX/1983
Navajo Tribal Enrollment: XXX,429

CASE NUMBER: **06 M 489**

(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 August 12, 2006 and August 18, 2006 in San Juan county, in the _____ District of New Mexico defendant(s) did, (Track Statutory

Language. commit Robbery of both the Navajo Country Express Gas Station and the Citgo Gas Station in Shiprock, New Mexico, by knowingly using force and violence, or by intimidation, (by brandishing a firearm) did take or attempted to take from the person or presence of another anything of value. The acts occurred in Indian Country. Elbert Barber Jr. is an enrolled member of the Navajo Indian Tribe. in violation of Tit 18 United States Code, Section(s) 1153, 2111, 924(c)(A)ii.

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

[Handwritten Signature]

Signature of Complainant

SA Kenneth W. Bryan
Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

ALBUQUERQUE, NEW MEXICO

September 28, 2006
Date

City and State

[Handwritten Signature]

Signature of Judicial Officer

ROBERT HAYES SCOTT
Name & Title of Judicial Officer
UNITED STATES MAGISTRATE JUDGE

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

3
4
5 State of NEW MEXICO

6 County of SAN JUAN

7 AFFIDAVIT

8 I, Kenneth W. Bryan, being duly sworn, hereby
9 depose and say:

10 1. I am a Special Agent with the United States
11 Department of Justice, Federal Bureau of Investigation
12 (FBI) and have been employed as such since 2005. I am
13 currently assigned to the Albuquerque Division of the FBI,
14 Farmington 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
18 set forth in this affidavit has been derived from an
19 investigation conducted by SA Kenneth W. Bryan and/or
20 communicated to me by other law enforcement officers.

21
22 2. On August 12, 2006 at approximately 10:00
23 p.m. an armed robbery occurred at the Navajo Country
24 Express Gas Station, which is within the confines of the
25 Navajo Nation in the State of New Mexico. Based upon
26 statements provided by store employees Deanna Johnson and
27 Jacinta Blackwater, it was learned that a man wearing a
28 hooded sweatshirt, with the hood up, entered the store.

1 The man then placed a white paper bag on the counter,
2 pulled a hand-gun from under his sweatshirt, pulled the
3 slide to the rear arming the weapon, and demanded money
4 from Johnson and Blackwater. The subject stole
5 approximately \$203.39.

6
7 3. Johnson and Blackwater also reported having
8 heard that witnesses at McDonald's Restaurant next to
9 Navajo Country Express saw an individual they believed to
10 be the subject enter into an older model blue Camaro with a
11 prime colored hood.

12
13 4. At the same time the armed robberies were
14 being investigated, a separate investigation had identified
15 an Elbert Barber Jr. having in his possession an older
16 model dark colored Camaro with a gray primer colored hood.

17
18 5. Based on the information developed regarding
19 Elbert Barber Jr.'s. possession of a dark colored Camaro a
20 photographic line-up was presented to Jacinta Blackwater.
21 Blackwater identified Elbert Barber Jr. as the man who
22 robbed the Navajo Country Express Gas Station on August 12,
23 2006.

24
25 6. On August 18, 2006 at approximately 10:30
26 p.m. an armed robbery of the Citgo Gas Station in Shiprock,
27 New Mexico occurred. The Citgo Gas Station is within the
28 confines of the Navajo Nation in the State of New Mexico.

1 A man wearing a hooded sweatshirt, with the hood up,
2 entered the store and pointed a gun at Kathy Holgate
3 telling her to go to the other side of the counter. The
4 subject pointed his weapon at Holgate and the other cashier
5 and when asked if he was for real, the subject "showed them
6 the clip." The subject placed a white plastic bag on the
7 counter and while pointing the gun at them told the Citgo
8 employees to put the money in the plastic bag. The man
9 then exited the store, got into a Chevrolet pick-up truck
10 and drove off. Holgate had just conducted a money drop
11 therefore the subject was only able to get away with
12 approximately \$29.00.

13
14 7. A check of the name "Elbert Barber Jr."
15 revealed that a blue Chevrolet pick-up truck was registered
16 to Elbert Barber Sr. Angelita Benally , aunt of Elbert
17 Barber Jr., stated that she saw Elbert driving a pick-up
18 truck on August 18, 2006.

19
20 8. On September 12, 2006, Kathy Holgate, a Native
21 American, was presented with a photographic line-up of six
22 individuals and identified Elbert Barber Jr. as the
23 individual that robbed the Citgo Gas Station on August 18,
24 2006.

25
26 9. On August 19, 2006 at approximately 11:40
27 a.m. an armed robbery occurred at the Red Mesa Trading Post
28 Gas Station. The Red Mesa Trading Post is within the

1 confines of the Navajo Nation in the State of Arizona.
2 Based upon an interview with store employee, Rovina Mcroy,
3 it was learned that a man wearing a hooded sweatshirt, with
4 the hood up, entered the store laid a white plastic bag on
5 the counter, pointed a gun at her, and stated "give me the
6 money." Mcroy, opened the cash register and put five and
7 ten dollar bills in the bag. The man then reached across
8 the counter and emptied the rest of the cash register into
9 the bag. The man ordered Mcroy to lay on the ground.
10 Mcroy stated "I didn't want to lay down because I thought
11 he would shoot me." After Mcroy complied with the subjects
12 demands, the man exited the store, got into a Chevrolet
13 pick-up and drove off. The man stole approximately
14 \$406.00.

15
16 10. On September 20, 2006, Rovina Mcroy, a
17 Native American, was presented with a photographic line-up
18 and identified Elbert Barber Jr. as the individual that
19 robbed the Red Mesa Trading Post on August 19, 2006.

20
21 11. During the course of investigating Elbert
22 Barber Jr's activities at the time of the robberies the
23 following facts were learned:

24 a. On August 10, 2006, two days prior
25 to the armed robberies beginning, Elbert Barber Jr.
26 purchase a Czech CZ52 pistol, 7.62X25 caliber from Bond's
27 True Value Hardware in Shiprock, New Mexico.

28 b. Elbert Barber Sr. reported Elbert

1 Barber Jr. was unemployed and looking for work during this
2 time period. Elbert Barber Sr. had given Elbert Barber Jr.
3 \$20.00 on either Friday August 18th or Saturday August 19th
4 2006 (day of the last armed robbery).

5 c. On August 21, 2006, Elbert Barber
6 Jr. paid approximately \$500.00 in cash for a Glock 10mm
7 pistol. It is noted that Elbert Barber Jr., who was
8 reportedly unemployed, would have profited approximately
9 \$638.39 from the armed robberies, which would have provided
10 him sufficient funds to purchase the Glock 10mm pistol.

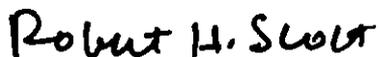
11 d. On August 22, 2006, a Federal
12 search warrant was executed at the residence of Elbert
13 Barber Jr. At this time both previously mentioned pistols
14 were seized. Elbert Barber Jr. has also been in custody
15 since August 22, 2006. No additional armed robberies have
16 been reported since Elbert Barber Jr's incarceration.

17
18 12. I, Special Agent Kenneth W. Bryan, being
19 duly sworn believe the aforementioned to be true and
20 correct to the best of my knowledge and belief. On or
21 August 12 and August 18, 2006 in San Juan County, in the
22 District of New Mexico Elbert Barber Jr. did commit robbery
23 of both the Navajo Country Express Gas Station and the
24 Citgo Gas Station in Shiprock, New Mexico. Elbert Barber
25 Jr. did knowingly use force and violence, or intimidation
26 (by brandishing a firearm), did take or attempted to take
27 from the person or presence of another take anything of
28 value. The acts occurred in Indian Country and Elbert

1 Barber Jr. is an enrolled member of the Navajo Indian
2 Tribe. Your complainant believes there is probable cause
3 to believe that there has been a violation of Title 18
4 United States Code, Sections 1153,2111,924(c)(A)ii and that
5 there is probable cause to believe that Elbert Barber Jr.
6 violated Title 18 United States Code, Sections
7 1153,2111,924(c)(A)ii.

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10 
11 Kenneth W. Bryan
12 Special Agent
13 Federal Bureau of Investigation
14 Albuquerque, New Mexico

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Subscribed and sworn to before me this 28 day
of September, 2006.


U.S. Magistrate