

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

United States District Court
IN THE DISTRICT OF NEW MEXICO

OCT 26 2010

MATTHEW J. DYKMAN
CLERK

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

KINSLER SMITH
YOB: 1965

CASE NUMBER: *10-MJ-2794*
10-MG-045

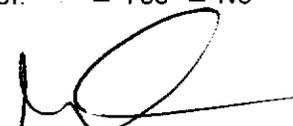
I, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about October 15, 2010, in McKinley County, in the District of New Mexico, defendant(s) did knowingly engage in Assault Resulting in Serious Bodily Injury, in violation of Title 18 United States Code, Section(s) 1153 and 113(a)(6). Kinsler Smith and Teresa Smith are each registered members of the Navajo Nation. The aforementioned criminal act occurred within the exterior boundaries of the Navajo Indian Reservation, or Indian Country.

I further state that I am a 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 - Glynette Carson-McNabb
Sworn to before me and subscribed in my presence,

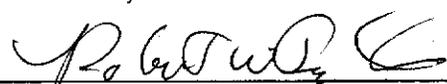


SA Matthew W. Collar
Special Agent
Federal Bureau of Investigation

10/26/10
Date

at Gallup, N. M.
City and State

Robert W. Ionta, United States Magistrate Judge
Name & Title of Judicial Officer


Signature of Judicial Officer

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA)	
)	CASE NO. <u>10-MJ-2794</u>
VS.)	<u>10-MG-045</u>
)	
KINSLIN SMITH)	AFFIDAVIT IN SUPPORT OF
YOB: 1965)	ARREST WARRANT

AFFIDAVIT

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

1. Your affiant is a Special Agent (SA) of the Federal Bureau of Investigation (FBI) and has been employed in that capacity since January of 2008. Your affiant was previously employed by the Montana Highway Patrol and Bozeman Police Department since 1998. Your affiant is currently assigned to the Albuquerque Division of the FBI, Gallup Resident Agency, and has primary investigative responsibility for crimes occurring within 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 investigation conducted by your affiant, and/or communicated to me by other sworn Law Enforcement Officers.

2. On October 20, 2010, Teresa Smith (hereafter, referred to as "Teresa") contacted your affiant at the FBI Gallup RA to report having been assaulted by her brother Kinslen Smith at the family residence in Tseyahtoh, NM on

1 October 15, 2010. Teresa provided your affiant with the
2 following statement:

3
4 (a) Teresa described having been beaten, kicked, and
5 choked by Smith following an argument over whether or not
6 Smith's girlfriend, Kristine Yazzie, should assist Teresa with
7 routine household cleaning and cooking duties.

8
9 (b) Smith reportedly grabbed Teresa by the throat,
10 threw her onto the floor of the hogan, and kicked her in the
11 face, head, and torso with his steel-toed boots. Smith choked
12 Teresa with his hands, dragged her across the floor by her hair
13 and threatened to kill her -- "I'm going to kill you, you
14 fucking bitch!"

15
16 (c) Teresa stated that daughters Audrey Benally and
17 Kellie Daniels ran into the hogan and began striking Smith with
18 a baseball bat and pieces of wood enabling her to get off the
19 floor as Smith broke a wood reclining chair over her head.

20
21 (d) Teresa indicated having received medical
22 attention at Rehoboth McKinley Christian Hospital (RMCH) on
23 October 16, 2010, and having been diagnosed with the following
24 injuries: petechia, torn ear cartilage, and severe bruising on
25 her face, torso, arms, and legs.

26
27 3. On October 21, 2010, Audrey Benally contacted
28 your affiant and participated in a recorded interview at the

1 FBI Gallup Resident Agency. Benally provided your affiant with
2 the following information:

3
4 (a) Benally observed Kinslen Smith assault her
5 mother, Teresa Smith, within his hogan at the family residence
6 in Tseyahtoh, NM on October 15, 2010. Benally described
7 Smith's girlfriend, Kristine Yazzie, running into her
8 grandmother's house and stating that Smith was assaulting
9 Teresa in his hogan.

10
11 (b) Benally ran over to the hogan and observed Smith
12 "kicking" and "stomping" Teresa in the face, head, neck, and
13 torso with his steel-toed boots. Benally heard Smith
14 threatening Teresa while grasping her throat and choking her
15 with the collar of her shirt -- "I'm going to kill you, you
16 fucking bitch."

17
18 (c) Benally attempted to loosen Smith's grip on
19 Teresa's neck with her fingers and described repeatedly
20 striking him in the back with a piece of firewood while her
21 grandmother struck Smith with her cane.

22
23 (d) Benally grabbed Teresa by the arms and pulled
24 her behind her grandmother for protection and observed Smith
25 pick up a wooden chair and strike Teresa while she was crawling
26 across the floor.

27
28 (e) Benally eventually removed Teresa from the hogan

1 and treated her injuries by washing and placing towels on her
2 bloodied face and head. Benally phoned "911" to report the
3 incident and to request medical assistance for her mother's
4 injuries.

5
6 (f) Benally spent the remainder of the evening
7 barricaded inside a shed with Teresa awaiting the arrival of
8 Law Enforcement.

9
10 4. On October 22, 2010, your affiant contacted
11 Rehoboth McKinley Christian Hospital (RMCH) Emergency Medical
12 Physician Kirstine Busse, M.D. regarding the injuries sustained
13 to Teresa Smith. Busse was provided with the statutory meaning
14 of the term "serious bodily injury" as defined within United
15 States Code Title 18 Section 1365(h)(3) and provided the
16 following assessment:

17
18 (a) Busse described the injuries inflicted upon
19 Teresa Smith as consistent with the statutory definition of
20 "serious bodily injury," and specifically identified "extreme
21 physical pain" and "protracted disfigurement" as appropriately
22 representative.

23
24 (b) Smith had represented her pain level to Busse as
25 "10 out of 10" while at RMCH, and Busse further anticipated
26 permanent disfigurement to Smith's ear due to both the nature
27 of the laceration and the degree of exposed structural
28 cartilage.

1 5. Your affiant is aware that Kinslen Smith and
2 Teresa Smith have each been identified as enrolled members of
3 the Navajo Nation, and that the location of the offense, Rural
4 Address #50A Tseyahtoh Road, Mentmore, New Mexico, has been
5 determined to be within the exterior boundaries of the Navajo
6 Indian Reservation, or Indian Country.

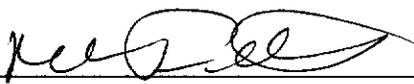
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8 6. Based on the information set forth in this
9 affidavit, your affiant submits that there is probable cause to
10 believe that Kinslen Smith did knowingly engage in Assault
11 Resulting in Serious Bodily Injury in violation of Title 18
12 United States Code Section(s): 1153 and 113(a)(6).

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14 7. I swear that this information is true and correct
15 to the best of my knowledge and belief.

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Matthew W. Collar
Special Agent
Federal Bureau of Investigation
Gallup, New Mexico

24 Subscribed and sworn to before me
25 this 26 day of October, 2010.

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Robert W. Ionta
United States Magistrate Judge