

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

United States District Court
IN THE DISTRICT OF NEW MEXICO

JAN - 3 2011

MJ

MATTHEW J. DYKMAN
CLERK

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

DERRICK FRANK
YOB: 1989

CASE NUMBER:

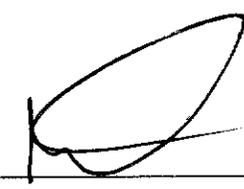
11-MF001
11-MJ-014

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 December 31, 2010, within McKinley County, in the District of New Mexico, defendant did engage in the unlawful killing of a human being with malice aforethought, in violation of Title 18 United States Code, Sections 1153 and 1111. Derrick Frank and Ty Smith have each been identified as 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

1/3/11 at _____
Date

Gallup, N.M.
City and State

Robert W. Ionta
Name & Title of Judicial Officer

US Magistrate - Jose 
Signature of Judicial Officer

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA)

VS.)

DERRICK FRANK)
YOB: 1989)

CASE NO.

11-MG-001
11-MJ-014

AFFIDAVIT IN SUPPORT OF
ARREST

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. Your affiant is aware that on December 31, 2010,
Navajo Nation Window Rock Police Department (WRPD) responded to
report of a stabbing that had previously occurred within a

1 Navajo Housing Authority (NHA) residence located at #105
2 Mahogany Circle, Navajo, New Mexico.

3

4 (a) Navajo Nation Emergency Medical Services
5 responded to the residence and transported stabbing victim Ty
6 Smith to Fort Defiance Indian Medical Center (FDIMC) for
7 emergency medical treatment.

8

9 (b) FDIMC Emergency Room Physician Robert Mitchum
10 identified numerous sharp-force injuries on Smith including;
11 penetrating wounds to the right side of his chest, upper back,
12 and to the base of his neck.

13

14 (c) Smith was pronounced dead at FDIMC as a result
15 of his injuries.

16

17 3. On December 31, 2010, your affiant responded to
18 NHA #105 Mahogany Circle, Navajo, New Mexico and identified Lee
19 Litson as the owner of the residence. Litson agreed to
20 participate in a recorded interview and provided your affiant
21 with the following information:

22

23 (a) Litson observed Derrick Frank stab Ty Smith with
24 a paring knife twice in the ribs and once in the back of the
25 neck during a physical altercation within the livingroom of his
26 residence on December 31, 2010.

27

28 (b) Litson identified Derrick Frank, Amanda Smith,

1 and Vernon Jones as also present during the assault and having
2 fled prior to notification or arrival of Law Enforcement or
3 Emergency Medical Services.

4
5 (c) Litson provided your affiant with written and
6 verbal consent to search his residence resulting in the
7 identification and seizure of numerous evidentiary items and
8 biological samples.

9
10 4. Your affiant is aware that on December 31, 2010,
11 Navajo Window Rock Police Department located and arrested
12 Derrick Frank, Amanda Smith, and Vernon Jones at various
13 residential locations throughout Navajo, New Mexico.

14
15 (a) Derrick Frank, Amanda Smith, and Vernon Jones
16 were each transported to Fort Defiance Detention Center (FDDC)
17 and charged with various violations of Navajo Nation Tribal
18 Code, including Aggravated Assault and Disorderly Conduct.

19
20 5. On December 31, 2010, your affiant contacted
21 Derrick Frank within the Fort Defiance Detention Center. Frank
22 was advised of his rights per *Miranda* and agreed to participate
23 in a recorded interview without the presence of legal
24 representation. Frank provided the following information:

25
26 (a) Frank described "shanking" Ty Smith with a
27 small, black-handled knife recovered from a kitchen shelf
28 during a physical altercation at Lee Litson's Navajo, New

1 Mexico residence on December 31, 2010.

2
3 (b) Frank described falling onto the floor with
4 Smith while fighting in the livingroom, and girlfriend Amanda
5 Smith climbing onto him while Smith proceeded to kick him in
6 the legs and head.

7
8 (c) Frank described becoming angry, getting off the
9 ground, and walking into the kitchen to grab a knife to "scare"
10 and "shut [Smith] up." Frank proceeded to "accidentally"
11 stabbed Smith an unknown number of times in various unknown
12 locations.

13
14 (d) Frank described stabbing Smith with the blade
15 facing upward utilizing his right hand while Smith was facing
16 him; however, Frank was unable to account for the posterior
17 location of two of the three inflicted stab wounds.

18
19 (e) Frank provided a hand-drawn sketch of the black-
20 handled knife used to stab Smith, and identified for photograph
21 evidence a swollen eyebrow as the only visible injury sustained
22 during the fight.

23
24 6. Your affiant is aware that on December 31, 2010,
25 Fort Defiance Detention Center (FDDC) staff reported having not
26 observed any additional injuries to Derrick Frank during the
27 prisoner intake process.

28

1 7. On December 31, 2010, your affiant contacted
2 Amanda Smith (hereafter, referred to as "Amanda") within the
3 Fort Defiance Detention Center. Amanda was advised of her
4 rights per *Miranda* and agreed to participate in a recorded
5 interview without the presence of legal representation. Amanda
6 provided the following information:

7
8 (a) Amanda observed boyfriend Derrick Frank stab
9 brother Ty Smith with a knife during a physical altercation at
10 the Navajo, New Mexico residence of Lee Litson on December 31,
11 2010.

12
13 (b) Amanda attributed the motivation for the fight
14 to her previous disclosure to Smith that Frank had become
15 increasingly physically abusive in their relationship.

16
17 (c) Amanda described falling onto the floor and
18 "accidentally" being struck by Smith while trying to protect
19 Frank. Amanda also received a laceration to her hand while
20 attempting to take the knife from Frank in the kitchen.

21
22 (d) Amanda confirmed the fight involved only Frank
23 and Smith, and further identified the location of Vernon Jones
24 as asleep in a back bedroom of the residence prior to the
25 stabbing.

26
27 8. On December 31, 2010, your affiant contacted
28 Vernon Jones within the Fort Defiance Detention Center. Jones

1 agreed to participate in a recorded interview and provided the
2 following information:

3
4 (a) Jones described observing Derrick Frank stab Ty
5 Smith with a kitchen knife while "wrestling" on the livingroom
6 floor of Lee Litson's Navajo, New Mexico residence on December
7 31, 2010.

8
9 (b) Jones was asleep in the rear of the residence
10 prior to hearing a commotion and Litson yelling for his
11 assistance. Jones emerged from the bedroom and observed Smith
12 and Frank engaged in a fight on the living room floor.

13
14 (c) Jones described observing Frank move his arm in
15 a "stabbing" motion while on the floor; however, did not recall
16 identifying a knife in his hand prior to "chasing" him out of
17 the residence.

18
19 (d) Jones remained unaware Smith had actually been
20 stabbed with a knife until after assisting him onto the couch
21 and observing Smith's shirt become increasingly saturated with
22 blood stains.

23
24 (e) Jones described leaving the residence only after
25 Smith began to lose consciousness in an effort to contact
26 Navajo Law Enforcement and Emergency Medical Services.

27
28 9. Your affiant is aware that Derrick Frank and Ty

1 Smith have each been identified as enrolled members of the
2 Navajo Nation, and the location of the offense, NHA #105
3 Mahogany Circle, Navajo, New Mexico, has been has been
4 determined to be within the exterior boundaries of the Navajo
5 Indian Reservation, or Indian Country.

6
7 10. Based on the information set forth in this
8 affidavit, your affiant submits that there is probable cause to
9 believe that Derrick Frank did engage in the unlawful killing
10 of a human being with malice aforethought, in violation of
11 Title 18 United States Code Sections 1153 and 1111.

12
13 11. I swear that this information is true and
14 correct to the best of my knowledge and belief.

15
16
17
18 

19 _____
20 Matthew W. Collar
21 Special Agent
22 Federal Bureau of Investigation
23 Gallup, New Mexico

24 Subscribed and sworn to before me
25 this 3 day of January, 2011.

26 
27 _____
28 United States Magistrate Judge