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PRESS RELEASE

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**NAVAJO MAN RECEIVES 20-YEAR SENTENCE ON HOMICIDE
AND ROBBERY CONVICTIONS AFTER COMPETENCY PROCEEDINGS**

Today, after a hearing during which United States District Judge Martha Vazquez found him legally competent, **Elbert Barber, Jr.**, pleaded guilty to a homicide and two robberies under a plea agreement with the United States Attorney's Office. Immediately thereafter, Judge Vazquez sentenced Barber to a twenty-year term of imprisonment to be followed by five-years supervised release.

Barber, a 27-year old Navajo man, has been in federal custody since his arrest on September 28, 2006 on a criminal complaint charging him with robbery of two gas stations located within the Navajo Reservation in mid August 2006. Court records reflect that proceedings in the case were delayed beginning in fall 2007 when the Court granted Barber's motion for an order to undergo a psychiatric evaluation to determine Barber's competency to stand trial, and an examination to address the provision of medication in order to treat any mental disease or defect from which Barber might be suffering. Under the law, a prosecution may not proceed if the judge determines that the defendant cannot understand the nature and consequences of the proceedings against him or cannot

properly assist his attorney in his own defense. In July 2008, the Court ruled that Barber was incompetent to stand trial at that time and ordered that Barber undergo further medical evaluation and treatment to determine whether there was a reasonable probability that in the foreseeable future Barber would be able to attain the capacity to participate in legal proceedings. Before today's plea hearing and sentencing, the Court found that Barber had been restored to competency and was able to participate in legal proceedings.

Pursuant to his plea agreement, Barber admitted robbing the Navajo Country Express Gas Station at gun-point on August 12, 2010 and stealing \$203.39. Barber also admitted robbing the Citgo Gas Station in Shiprock, New Mexico at gunpoint on August 18, 2006 and stealing \$29.00. These two crimes were charged in as Counts 1 and 2 of a four-count indictment filed on October 12, 2006.

Barber also pleaded guilty to killing Frankie Burnside, a 22 year old Navajo man, with a firearm on August 21, 2006. This crime was charged in an information filed in open court during today's proceedings. According to the plea agreement, Special Agents of the Federal Bureau of Investigation (FBI) discovered Mr. Burnside's remains when they responded to a report of a suspected homicide in the vicinity of Shiprock. Mr. Burnside, who suffered multiple gunshot wounds, was sitting and belted into the driver's seat of a vehicle that apparently had stopped when it rolled into an embankment along the dirt road. The vehicle's engine was still running; the vehicles' doors were closed and its windows were rolled up; and the window of the driver's door appeared to have been fractured by projectiles. The FBI agents tracked footprints from the homicide scene to

the residence of Barber's grandmother. Subsequent investigation uncovered evidence, including the murder weapon, linking Barber to Mr. Burnside's homicide.

United States Attorney Kenneth J. Gonzales said:

Today we are able to bring closure to the family and friends of Frankie Burnside. This outcome has been a long time coming, but when a defendant faces serious consequences, it is important that we proceed deliberately to ensure that justice is achieved. In this case, Elbert Barber, Jr., was charged with the violent crimes of murder and robbery, and we could not hold Barber accountable for these serious crimes unless and until the Judge determined that Barber was legally competent. It was therefore worth the time and effort it took to go through the prolonged process of ensuring that Barber understood the nature and consequences of the charges against him. As a result, Mr. Burnside's loved ones can find solace in knowing that his death did not go unanswered.

The case was prosecuted by Assistant United States Attorney Presiliano Torrez and was investigated by the FBI.

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