United States District Court FEB - 2 2010

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CALBERT HENDERSON CASE NUMBER: 10 M.J. 2717 10 · M.G. · DOLo (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 January 31, 2010 in McKinter county, in the District of New Mexico defendant(s) did, (track Sandary Language of Orthocol Assault with a dangerous weapon, with Intent to do bodily harm, resulting in serious bodily injury. Anthony Ray Miller and Simone Smith, members of the Navajo Nation Tribe. This occurred on the Navajo Nation Indian Reservation, Indian Country, in violation of Title 18 United States Code, Section(s) 1153, 113(a)(3), 113(a)(6). If further state that I am a(n) Special Agent - FBI Oxidation 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 VSA - Chuck Barth Sworn to before me and subscribed in my presence, Federal Bureau of Investigation Case NUMBER: 10 · M.J. 2717 10 · M.G. 2017 Remove June 10 · McKinter Country, in the defendant(s) did, (track Sandary Language of Orthocol Particles) Continued on the attached sheet and made a part hereof: Yes Signatury of Complainant John Fortinato Signatury of Complainant John Fortinato Special Agent Federal Bureau of Investigation Capital Satins Capi	LINITED STATES OF AMEDICA	MATTHEW J. DYKMAN
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CB/AUSA 1 NEW MEXICO 2 ALBUQUERQUE, NEW MEXICO 3 United States of America 4 vs 5 10.MJ.277 10.MG.006 6 CALBERT HENDERSON 7 YEAR OF BIRTH: 1982 8 9 **AFFIDAVIT** 10 I, the undersigned, being duly sworn, hereby, depose 11 and state as follows: 12 13 I am a Special Agent (SA) of the Federal Bureau of 14 Investigation (FBI) and have been employed in that capacity 15 for approximately six years. I am currently assigned to 16 the Albuquerque Division of the FBI, and have primary 17 investigative responsibility in crimes which occur in 18 Indian Country including violent crimes such as robbery, 19 aggravated assaults, and involuntary manslaughter. 20 21 The information set forth in this affidavit has 22 23 been derived from an investigation conducted by the Navajo Nation Police Department, Criminal Investigator Malcolm 24 Leslie (hereinafter referred to as CI Leslie), and Special 25 Agent John Fortunato (hereinafter referred to as SA 26 Fortunato), Gallup Resident Agency, as well as other law 27

enforcement officers of the Navajo Nation Police Department

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and communicated to the affiant by the above.

3. On January 31, 2010, Anthony Ray Miller (hereinafter referred to as Miller) and Simone Smith (hereinafter referred to as Smith) were admitted into the Gallup Indian Medical Center (hereinafter referred to as GIMC) in Gallup, New Mexico, to receive treatment for injuries resulting from gunshot wounds. Miller was shot in the groin area causing trauma to his upper left thigh, the projectile remaining inside the leg. Miller has not been released as of the date of this affidavit. Smith was shot through the base of her right thumb with the projectile passing through (not recovered). Smith was treated at GIMC and released later that morning.

22.

4. On January 31, 2010, SA Fortunato and CI Leslie interviewed Perris Arthur and Nathan Davis who both stated they were driving with Calvert Henderson (hereinafter referred to as Henderson) in a White Ford Mustang belonging to Henderson. During the early morning hours of January 31, 2010, the group drove to the Smith residence (identified as 301 C Jones Ranch Road, Jones Ranch, New Mexico) because they observed a group of people and vehicles in front of the house. As they drove up the driveway, a vehicle, reversing down the driveway, collided with the Henderson's vehicle. An individual by the name of Anthony (identified as Anthony Miller) walked to Henderson's car and an altercation ensued between Henderson

and Miller, mostly Miller pushing and yelling at Henderson. Henderson attempted to drive away. Miller began to hit Henderson's vehicle with his fists and run beside Henderson's driver's side door. Henderson grabbed a .22 caliber revolver that had in the vehicle and fired one shot in the air and then several shots at Miller. Henderson, Perris Arthur, and Nathan Davis then left the scene and drove back to Henderson's mother's house (identified as 531 Jones Ranch Road, Jones Ranch, New Mexico).

5. On February 1, 2010, Henderson signed an advice of rights and agreed to be interviewed by SA Fortunato and CI Leslie. Henderson's stated that during the early morning hours of January 31, 2010, he traveled to the Smith residence, got into an altercation with Miller and fired a .22 caliber revolver several times at Miller as he drove away.

6. Based on the information provided, there is probable cause to believe that on or about January 31, 2010, Anthony Ray Miller and Simone Smith, enrolled members of the Navajo Nation Indian Tribe, were within the territorial jurisdiction of the Navajo Nation Indian Reservation, Indian Country, and were assaulted with a firearm by Calbert Henderson, also an enrolled member of the Navajo Nation Indian Tribe, in violation of Title 18, United States Code, Section 1153, Section 113 (a)(3), 113(a)(6),: assault with a dangerous weapon, with intent to

Case 1:10-cr-02291-MV Document 3 Filed 02/02/10 Page 5 of 5

do bodily harm, and assault resulting in serious bodily injury, which occurred on the Navajo Nation Indian Reservation, Indian Country. I swear that this information is true and correct to the best of my knowledge and belief. Affiant Special Agent Federal Bureau of Investigation Gallup, New Mexico and sworn before me , 2010. Subscribed on this United States Magistrate Judge