

**FILED**

AO 91 (Rev. 5/85) Criminal Complaint

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

**United States District Court** FEB 09 2010

DISTRICT OF New Mexico

UNITED STATES OF AMERICA

**MATTHEW J. DYKMAN**

CLERK

**CRIMINAL COMPLAINT**

v.

**Darnell Begay**

CASE NUMBER: 1011J338

(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 February 05, 2010 in San Juan county, in the State                      District of New Mexico defendant(s) did, (Track Statutory Language of Offense)

commit an offense against the United States and aided, commanded, and induced its commission and unlawfully killed a human being with malice aforethought. This occurred on the Navajo Indian Reservation

in violation of Title 18 United

States Code, Section(s) 1153.1111(a), 2.

I further state that I am a(n) Special Agent - FBI 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

*William A. Hall, II*

Signature of Complainant

**William A. Hall, II**

**Special Agent**

**Federal Bureau of Investigation**

**ALBUQUERQUE, NEW MEXICO**

AUSA -  
Sworn to before me and subscribed in my presence,

**FEB - 9 2010**

Date LORENZO F. GARCIA  
United States Magistrate Judge

at

City and State

*Lorenzo F. Garcia*

Name & Title of Judicial Officer

Signature of Judicial Officer

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KN/AUSA

NEW MEXICO

ALBUQUERQUE, NEW MEXICO

United States of America )

vs )

Darnell Begay )

DATE OF BIRTH: 1974 )

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AFFIDAVIT

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

1. I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI) and have been employed in that capacity for approximately twelve years. I am currently assigned to the Albuquerque Division of the FBI, and have primary investigative responsibility in crimes which occur in Indian Country including violent crimes such as as robbery, aggravated assaults, and homicide.

2. The information set forth in this affidavit has been derived from an investigation conducted by the Navajo Nation Criminal Investigation Services (NNCIS) by Criminal Investigator (CI) Jefferson Joe of the Shiprock District, and Special Agent William Hall of the FBI, Farmington Resident Agency (FRA), as well as other law enforcement officers of the Navajo Nation Department Of Public Safety.

3. On February 06, 2010 at approximately 12:15 P.M., the FRA was notified by Criminal Investigator Jefferson Joe of the NNCIS that a man's body had been found approximately one mile north of the Burnham Chapter House, Burnham, New Mexico (NM) and it appeared to be a homicide. The body was within fifty yards of a home, later identified as the residence of Darnell Begay. The incident location is within the exterior boundaries of the Navajo Indian Reservation.

4. SA Hall and CI Joe responded to the scene and observed a body, later identified as

1 Peyton Hogue, laying on his back against an outcropping of rock. The victim had extensive  
2 trauma to his face and neck with small puncture wounds in his abdominal area. CI Joe  
3 interviewed a security guard who works at the Chapter House. The guard advised he  
4 usually sees a black Chevrolet pickup at the residence. The guard advised the truck was  
5 driven by Tyrus Begaye, a former employee at the chapter house, who had lived at the  
6 aforementioned residence while employed at the chapter house.. The guard further advised  
7 he had seen the truck near the chapter house at approximately 5:00 PM on 02/05/2010.

8 5. On 02/07/2010, CI Joe received a telephone call from Wayne Barnett, the  
9 stepfather of Darnell Begay. Barnett advised that Tyrus had come to his home yesterday  
10 and was very distraught. Barnett stated Tyrus asked his wife for money to hire an attorney.  
11 Barnett then suggested to Tyrus that both he and Darnell turn themselves in to the  
12 authorities.

13 6. On 02/08/2010, both Tyrus Begaye and Darnell Begay walked into the Navajo  
14 Criminal Investigator's office in Shiprock, New Mexico. SA Hall and CI Joe interviewed  
15 both Tyrus and Darnell. Tyrus stated that on 02/05/2010 he had purchased some beer at the  
16 Wal mart in Farmington, NM. After purchasing the beer he called his cousin Darnell  
17 Begay, to see if he wanted to do some drinking and hang out at Darnell's home, which is  
18 located just north of the Burnham Chapter house. Darnell agreed and Tyrus then drove to  
19 Darnell's mother's home and picked him up. They then drove to Darnell's home, built a fire  
20 and began drinking. Tyrus stated that around 12:00 AM on 02/06/2010 he went outside to  
21 use the out house, which is approximately 20 yards west of the home. When he went  
22 outside, he advised he heard voices yelling, "fuck you". Tyrus stated he could see a  
23 shadow, took his glasses off and advanced on the shadow. Tyrus stated he felt he had to  
24 rush the shadow and that he began hitting him, over and over. Tyrus stated he thought he  
25 saw something in his hand and grabbed his arm, all the while hitting him with his fist. (  
26 Investigators found no weapons at the crime scene.)

27 7. Tyrus stated that while he was hitting the unknown man, Darnell ran up to help  
28 subdue the victim. Tyrus stated he held one arm and Darnell held the other, while they were

1 yelling and asking who he was. Tyrus advised when he wouldn't answer them, they hit him  
2 more. Tyrus stated that Darnell kicked the victim a couple of times and that during the  
3 beating the man finally said he was Peyton. Tyrus stated the victim's face was painted white  
4 and that he kept growling while they beat him. Tyrus then said they continued to beat him  
5 into confessing he was a witch, but he never did. After they beat him they told him to go  
6 away and they walked back to Tyrus' truck. They then drove to where the victim was and  
7 observed he was sitting upright, coughing up blood. They told him to get out of there and  
8 they left.

9 8. Afraid they had hurt the victim, they then drove to Tyrus' aunt's home and she  
10 prayed for them. After that, he drove Darnell to his ex-wife's home and dropped him off.  
11 Tyrus advised they had initially been told by a medicine man to destroy all the clothes they  
12 had on the night before, because they had witches's blood on them, but later recanted and  
13 stated friends had told them. On 02/07/2010, they then went to a Navajo medicine man,  
14 who prayed over them and told them to turn themselves in. Tyrus stated we were was just  
15 defending "our space", because someone had invaded it. Tyrus stated that even though he  
16 initially attacked the victim, he felt it was in self defense, "it was his life or mine".  
17 Tyrus showed investigators his swollen left hand, bruised right elbow, and said his right  
18 knee hurt from kneeling the victim; and, no other apparent injuries.

19 9. Darnell was then interviewed and he stated that the he lives part time in the house  
20 north of the Burnham Chapter House. Darnell stated the home belongs to Benjamin Hogue,  
21 the uncle of the deceased victim. He advised that on 02/05/2010, he and Tyrus decided to  
22 do some drinking and watch a movie at the house. Darnell stated Tyrus came and picked  
23 him up and they drove to his home near Burnham. They built a fire and began drinking,  
24 when Tyrus decided to go outside to use the bathroom in the outhouse. Darnell stated Tyrus  
25 yelled that someone was outside, yelling at him. Darnell went outside and at first did not  
26 hear anything, then heard someone yell, "fuck you". Darnell advised he could not see who  
27 it was, but told them to go away. Darnell stated he then saw someone else and chased after  
28 them. Darnell then heard Tyrus yelling and he went to help him. When he got there, the

1 victim was already on the ground and Tyrus was hitting him. Darnell advised he then held  
2 the victim down while Tyrus beat him, trying to get the victim to say his name and what he  
3 wanted. Darnell advised the victim had a white face and dark eyes and that he thought he  
4 might be a shape shifter. Darnell advised that once the victim said his name was Peyton, he  
5 pulled Tyrus off the victim, because he knew him and that he lived nearby. Darnell advised  
6 he had to pull Tyrus off of the victim at least three times and that Tyrus had kicked him a  
7 couple times in the head. Darnell advised he only hit the victim a couple times with his fist.  
8 After they had finished beating the victim Darnell advised they walked back to Tyrus' truck.  
9 Darnell advised they decided to go back and check on the victim, because they were afraid  
10 they had killed him. When they drove back they saw him sitting up, coughing up blood.  
11 They told him to leave and they then drove away.

12 10. The next morning, Darnell stated they told his mother, Alice Begay, about the  
13 fight. Alice routinely goes to the house on Saturday's to get Darnell's girl's clothing. When  
14 she drove to the house, she discovered the body and subsequently reported it to the police.  
15 She then called Darnell and told him the victim was dead. Darnell stated a relative told him  
16 and Tyrus to destroy the clothes they wore because they had the blood of a skin walker on  
17 them. Darnell stated they burned the clothes in stove in the house. This is inconsistent, as  
18 they would have to have burned them the night of 02/05/2010, but were supposedly told to  
19 burn them during the day of 02/06/2010.

20 11. Darnell stated they went and saw a medicine man on 02/07/2010, who prayed  
21 over them and told them to turn themselves in. Darnell had no apparent injuries and  
22 admitted he was never hit by the victim. Darnell estimated the beating to have lasted three  
23 to five minutes.

24 12. Begaye is listed on the Navajo Census roll and is an enrolled member of the  
25 Navajo Indian tribe.

26 13. Based on the information provided, there is probable cause to believe that on or  
27 about February 05, 2010, Darnell Begay, an enrolled member of the Navajo Indian Tribe,  
28 was within the territorial jurisdiction of the Navajo Indian Reservation when he unlawfully

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killed Peyton Hogue with malice aforethought and committed an offense against the United States and aided, commanded and induced its commission, in violation of Title 18, United States Code, Sections 1153, 1111(a), and 2.

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

Affiant William J. Hall, II  
Special Agent  
Federal Bureau of Investigation  
Farmington, New Mexico

Subscribed and sworn before me  
on this 9<sup>th</sup> day of February, 2010.

Lawrence S. Garcia  
United States Magistrate Judge