

Affidavit in Support of Criminal Complaint

I, Katherine M. Ludewig, being duly sworn, do hereby depose and state:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and am currently assigned to the FBI's Bismarck Resident Agency. I have been employed by the FBI since July of 2014. One of my main duties is to investigate violent crimes that occur on the Standing Rock Indian reservation in North Dakota.
2. As a Special Agent with the FBI, I have authority to investigate violations of federal law. I also have authority to seek and execute federal process, to include criminal complaints. I make this affidavit in support of a criminal complaint charging Waylon Jason PumpkinSeed, a Native American male, with the offenses of Child Abuse in Indian country in violation of 18 U.S.C. § 1153 and N.D.C.C. § 14-09-22 and Assault Resulting in Serious Bodily Injury in violation of 18 U.S.C. §§ 113(a)(6) and 1153.
3. This investigation has been conducted by the Bureau of Indian Affairs (BIA), and I have assisted. The information in this affidavit is based on my personal knowledge and information provided to me by other law enforcement officers and individuals. The information in this affidavit is provided for the limited purpose of establishing probable cause for a criminal complaint. As this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation.
4. On March 1, 2015, A.I.H.P., age 4 months, was brought into the Emergency Room of the Fort Yates Hospital located in Fort Yates, North Dakota, by father Waylon Jason PumpkinSeed. A.I.H.P was brought to the Emergency Room for a cough.
5. Upon admission into the Emergency Room and examination, A.I.H.P. was determined to be in respiratory distress, with the infant needing to be transferred to a hospital in Bismarck. The infant at four months also weighed only approximately seven (7) pounds. Upon hearing of the needed transfer, Waylon requested to transport the infant himself via private vehicle, and was advised the infant was too ill to go in a private vehicle. A.I.H.P's mother, Collette Hollow PumpkinSeed, arrived and insisted on transporting their infant by private vehicle. Eventually the infant was transported to St. Alexius Hospital in Bismarck, North Dakota via ambulance with Collette riding along. Prior to leaving the Ft. Yates Hospital, X-rays were taken of A.I.H.P. Examination of those X-rays revealed multiple healed and unhealed bone fractures of the ribs. A right parietal skull fracture was also located in X-ray. Due to these injuries and the gross underweight

of the infant, staff completed a Report for suspected Child Abuse or Neglect form that was forwarded to the Standing Rock Sioux Tribe (SRST) Child Protection Services.

6. On March 2, 2015, The SRST Child Protection Services forwarded the report of suspected child abuse or neglect form to the FBI and BIA for further investigation.

7. On March 2, 2015, I and Special Agent Micah Ware of the Bureau of Indian Affairs (BIA) interviewed Waylon Jason PumpkinSeed in Bismarck, North Dakota. During the interview of Waylon, he advised he is the primary caregiver to he and Collette's two (2) children, and they are currently living in Fort Yates, North Dakota at Collette's Uncle's residence. When asked about how Waylon think A.I.H.P. received multiple rib fractures, Waylon initially stated he suffers from epilepsy, takes medication, and has seizures. Approximately three (3) weeks ago, Waylon stated he was at home alone with A.I.H.P., he suffered an episode while holding A.I.H.P, and dropped the infant on the infant's back. Waylon estimated the height of the fall was approximately three-four (3-4) feet. Waylon advised A.I.H.P was crying after being dropped, and Waylon did not tell anyone about the incident until a couple of days later when he informed Collette. When asked about the infant's weight, Waylon advised the infant was not keeping formula down and needed a specific type of formula they initially received when A.I.H.P. was born.

8. While continuing to speak with Waylon for several minutes, Waylon eventually changed his statement. Waylon stated starting from a couple of months ago up until a couple of weeks ago, Waylon can remember three (3) or four (4) instances when he caused injury to A.I.H.P. The first incident Waylon stated he squeezed A.I.H.P and "burped her hard." The second incident Waylon advised and demonstrated he squeezed A.I.H.P with both arms wrapped around the infant's body and pressed her to his chest as hard as he could. Waylon advised A.I.H.P was "getting fussy" and crying. At the third incident, Waylon stated he was getting frustrated as he was getting no sleep and A.I.H.P. was throwing up constantly on the bed. Waylon stated he picked A.I.H.P up and squeezed her on her sides as hard as he could with both of his hands, and then shook her for approximately 30-45 seconds. Waylon advised he observed A.I.H.P's eyes roll back into her skull from him shaking her, and thought she may have lost consciousness. Waylon became scared and frightened after seeing this reaction from A.I.H.P. Waylon stated he did drop A.I.H.P. once like he previously stated only his wife Collette was present when it happened.

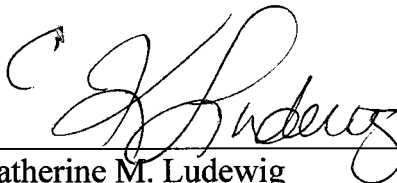
9. On March 2, 2015, I spoke with Dr. Wahab, the current doctor caring for A.I.H.P at the Children's Center at St. Alexius Hospital. Dr. Wahab cannot determine currently or based on any previous medical history for how underweight A.I.H.P is. She advised

based on A.I.H.P.'s injuries and body weight, she considers this to be a severe case of child abuse and neglect.


9. The victim A.I.H.P is an enrolled member and/or able to be enrolled in the Standing Rock Sioux Tribe, and Waylon Jason PumpkinSeed is an enrolled member of the Pine Ridge Oglala Lakota Tribe and are thus Indians as defined by federal law. This incident occurred in Fort Yates, North Dakota, within the exterior boundaries of the Standing Rock Sioux Indian Reservation.

15. Based on the above facts and circumstances, I believe there is sufficient probable cause to charge, via criminal complaint, Waylon Jason PumpkinSeed, an Indian male as defined by law, with the offenses of Child Abuse in Indian country in violation of 18 U.S.C. § 1153 and N.D.C.C. § 14-09-22 and Assault Resulting in Serious Bodily Injury in violation of 18 U.S.C. §§ 113(a)(6) and 1153.

The foregoing is true to the best of my knowledge and belief.



Katherine M. Ludewig
Special Agent
Federal Bureau of Investigation



Charles S. Miller Jr.
United States Magistrate Judge