

I, Michael J. White, being duly sworn on oath, depose and state as follows:

1. I am presently employed as a Special Agent with the Bureau of Indian Affairs and am assigned to the Fort Berthold Agency. My duties include, among other things, investigation of violent crime within Indian country. In this regard, I work with tribal police officers and tribal detectives from the Three Affiliated Tribes Police Department.
2. This affidavit is made in support of a criminal complaint charging MAX GARETT MOEDE, a non-Indian male, with the offense of Assaulting a Federal Officer in violation of Title 18, United States Code, Sections 111(a)(1) and 111(b), and is based upon information gathered by me during my investigation as well as information communicated to me by Three Affiliated Tribes ("TAT") police officers. This affidavit is submitted only to establish probable cause; therefore, not all information gathered during the course of the investigation has been included.
3. On Friday, January 6, 2017, at approximately 2:00 p.m., Three Affiliated Tribes (T.A.T.) POLICE OFFICER MARK NEW HOLY called B.I.A. SPECIAL AGENT MICHAEL J. WHITE and reported he and OFFICER ANDRES MARTINEZ had a non-Indian male identified as MAX GARRETT MOEDE detained. OFFICER NEW HOLY stated T.A.T. Police Department received a call earlier that morning reporting a trailer fire at the Four Bears Casino and Lodge R.V. Park, a location within the boundaries of the Fort Berthold Indian Reservation. Officers responded and determined the trailer belonged to a former casino employee identified as MOEDE. Officers attempted to locate MOEDE but were unable to locate him at that time. No injuries were reported at the location of

the fire and no witnesses were identified. Four Bears Casino Surveillance later reported video footage showed a person believed to be MOEDE entering the trailer and leaving the trailer, shortly after that smoke arose from the trailer and a fire started.

4. Shortly before calling AGENT WHITE, OFFICER NEW HOLY advised that T.A.T. Police Department received a report of an unknown non-Indian male entering the BERNADINE MANDAN residence in New Town without permission, a location also within the boundaries of the Fort Berthold Indian Reservation. MANDAN is an enrolled member of T.A.T. OFFICER NEW HOLY and MARTINEZ responded and detained a male identified as MOEDE. OFFICER NEW HOLY reported, no injuries were reported at the home, nor were any complaints signed by the homeowner. The homeowner only requested removal of MOEDE. When asked by officers about the trailer fire, MOEDE replied "Things didn't work out."

5. MOEDE was detained and transported to T.A.T. Police Department. AGENT WHITE called FEDERAL BUREAU OF INVESTIGATION SPECIAL AGENT MEGAN BENNETT and told AGENT BENNETT of the incident. AGENT BENNETT stopped at the Four Bears Casino R.V. Park and took photos of the trailer and met AGENT WHITE at T.A.T. Police Department.

6. At 3:28 p.m., AGENTS interviewed MOEDE concerning the fire and entering the residence in New Town, ND. MOEDE stated he bought the trailer from a former casino employee for five hundred dollars and has the title. The trailer had electricity and the only heat source was a space heater and a lit candle on a table near his bed. MOEDE stated he could feel negative energy and along with being terminated from the casino he said it was time to leave. MOEDE was vague in describing how the fire started and made several

contradictory statements and would only say he may have knocked over the candle and the candle started clothes and papers in the trailer on fire. MOEDE stated he ran from the trailer and told people by the casino to call 911. MOEDE did not return to the trailer or wait for the fire department, saying he "had no business being there." MOEDE walked to New Town and knocked on the door of a residence, he asked to come in and was told no. After sitting outside and waiting twenty minutes, MOEDE knocked on the door and again asked to come in, MOEDE stated he was invited into the home and was given an apple. MOEDE could not name any residents of the home or homeowner and did not know them before that date. MOEDE stated that two women and two males were in the home. Police arrived and brought MOEDE to the police department. Also present during the interview were OFFICER ANDRES MARTINEZ and OFFICER MARK NEW HOLY, OFFICER NEW HOLY left before the conclusion of the interview.

6. AGENTS completed the interview and advised MOEDE he was free to leave. MOEDE said he had no place to go. AGENT BENNETT located MOEDE'S mother and contact number and gave it to MOEDE and left the police department. AGENT WHITE contacted Mountrail County Social Services in an attempt to find MOEDE a place to stay. MOEDE refused and did not want his mother contacted. AGENT WHITE told MOEDE he would stop helping MOEDE if he did not want help. MOEDE became agitated and asked AGENT WHITE if he was endangering his life and to do something about it. AGENT WHITE told MOEDE if he did deal with him he would be arrested federally and to think about it and to leave. MOEDE stood and appeared he may fight with the officers. Officers reasoned with MOEDE and assured him he could wait in the lobby area until he

provided a name and number of a person who the police department can contact for him to help him. At this time, AGENT WHITE stopped his audio recording device, time was 5:25 p.m. MOEDE did leave the interview area and again became belligerent and uncooperative at the south doorway of the lobby/dispatch area. Officers continued to reason with MOEDE until he did leave and entered the front/west entrance of the lobby/dispatch area.

7. At this time, a Native American male entered the police department lobby/dispatch area for a separate matter concerning a young girl found walking alone in cold weather and brought to the police department by two bystanders. The male was identified as the father of the young girl and placed under arrest for a tribal arrest warrant by a T.A.T. Detective. The male was surprised and wanted to know more information about the warrant as the Detective grabbed the male and placed him against the lobby/dispatch desk. At this time, the young girl was also present and began to cry when the Detective arrested and grabbed her father. AGENT WHITE began reasoning with the father in an attempt to keep him calm and cooperative while he was told more about the warrant. At this time, AGENT WHITE heard a "popping" sound, similar to someone being struck by a hand or fist. AGENT WHITE saw OFFICER MARTINEZ and other officers taking MOEDE to the ground in the entrance area. AGENT WHITE attempted to assist as MOEDE continued to resist arrest, MOEDE eventually became compliant and was placed into handcuffs. AGENT WHITE asked OFFICER MARTINEZ what happened and was told by OFFICER MARTINEZ MOEDE hit him. MOEDE was placed under arrest by AGENT WHITE, MOEDE remained compliant and officers escorted and placed him into OFFICER MARTINEZ'S patrol unit. MOEDE struck OFFICER MARTINEZ on the right

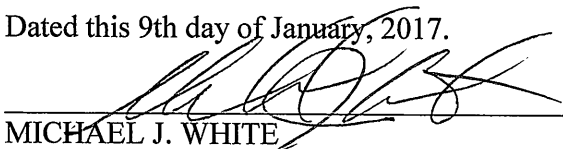
ear area with his fist causing bodily injury. AGENT WHITE noted that MARTINEZ' ear cartilage was visibly bleeding.

8. AGENT WHITE asked all of the officers if they were all right and if anyone else had been struck by MOEDE. No other officers had been assaulted. AGENT WHITE took pictures of MARTINEZ' injury with his work cell phone for documentation purposes and told T.A.T. Dispatch to request ambulance staff to examine OFFICER MARTINEZ. New Town Ambulance staff arrived a short time later and treated and released OFFICER MARTINEZ for minor injury to his right ear. MOEDE was transported to McLean County Sheriff's Office by OFFICER MARTINEZ and AGENT WHITE. MOEDE was booked and lodged without further incident.

9. OFFICER MARTINEZ is presently employed as a T.A.T. police officer and is a federal officer by virtue of a contract between the Bureau of Indian Affairs and the Three Affiliated Tribes pursuant to Title 25, United States Code, Section 2804. Additionally, OFFICER MARTINEZ was in the performance of his official duties as a T.A.T. Police Officer when MOEDE inflicted bodily injury to OFFICER MARTINEZ. All events described in this affidavit occurred in the District of North Dakota on the Fort Berthold Indian Reservation.

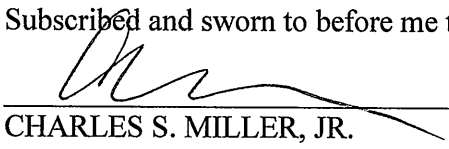
The foregoing is true to the best of my knowledge and belief.

Dated this 9th day of January, 2017.



MICHAEL J. WHITE
Special Agent, Bureau of Indian Affairs

Subscribed and sworn to before me this 9th day of January, 2017, in Bismarck, North Dakota.



CHARLES S. MILLER, JR.
United States Magistrate Judge