

**LORI HARPER SUEK
JOSEPH E. THAGGARD
JOHN D. SULLIVAN**
Assistant U.S. Attorneys
U.S. Attorney's Office
James F. Battin U.S. Courthouse
2601 Second Ave. North, Suite 3200
Billings, MT 59101
Phone: (406) 657-6101
FAX: (406) 657-6989
E-Mail: Lori.Suek@usdoj.gov
Joseph.Thaggard@usdoj.gov
John.Sullivan2@usdoj.gov

**ATTORNEYS FOR PLAINTIFF
UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA, Plaintiff, vs. JESUS YEIZON DENIZ MENDOZA, Defendant.	CR 15-93-BLG-SPW OFFER OF PROOF
--	--

The United States of America, represented by Lori Harper Suek, Assistant United States Attorney for the District of Montana, files its offer of proof.

THE CHARGE

The defendant, Jesus Yeizon Deniz Mendoza, is charged by superseding information with second degree murder, in violation of 18 U.S.C. §§ 1152 and 1111(a)—counts I and III; use of a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A) and (j)(1)—counts II, IV, and VI; assault with intent to commit murder, in violation of 18 U.S.C. §§ 1152 and 113(a)(3)—count V; and assault with a dangerous weapon—count VII, in violation of 18 U.S.C. §§ 1152 and 113(a)(3).

PLEA AGREEMENT

Deniz Mendoza will plead guilty to the superseding information. The United States presented all formal plea offers to Deniz Mendoza in writing. The plea agreement entered into by the parties and filed with the Court represents, in the government's view, the most favorable offer extended to Deniz Mendoza. *See Missouri v. Frye*, 566 U.S. 133 (2012).

ELEMENTS OF THE CHARGES

In order for Deniz Mendoza to be found guilty of the charge of second degree murder, as charged in counts I and III of the superseding information, the United States must prove each of the following elements beyond a reasonable doubt:

Second Degree Murder:

First, the victims are Indian persons;

Second, the crimes occurred in Indian Country; and

Third, the defendant unlawfully killed the victims with malice aforethought.

In order for Deniz Mendoza to be found guilty of the charge of use of a firearm during and in relation to a crime of violence as charged in counts II, IV, and VI of the superseding information, the United States must prove each of the following elements beyond a reasonable doubt:

Use of a Firearm During and in Relation to a Crime of Violence:

First, the crimes of violence charged in counts I, III, and V, second degree murder and assault with intent to commit murder were committed;

Second, the defendant knowingly used a firearm; and

Third, the defendant used and the firearm during and in relation to the violent crimes charged in counts I, III, and V.

Additionally, while not a formal element of the offense charged in count II, the government would have to prove beyond a reasonable doubt that the defendant

discharged the firearm in that count in order to subject the defendant to a statutory mandatory minimum term of ten years of imprisonment.

In order for Deniz Mendoza to be found guilty of the charge of assault with intent to commit murder as charged in count V of the superseding information, the United States must prove each of the following elements beyond a reasonable doubt:

Assault with Intent to Commit Murder:

First, the victim is an Indian person;

Second, the crime occurred in Indian Country;

Third, the defendant intentionally wounded the victim; and

Fourth, the defendant acted with the specific intent to murder the victim.

In order for Deniz Mendoza to be found guilty of the charge of assault with a dangerous weapon as charged in count VII of the superseding information, the United States must prove each of the following elements beyond a reasonable doubt:

Assault with a Dangerous Weapon:

First, the victims are Indian persons;

Second, the crime occurred in Indian Country;

Third, the defendant used a display of force that reasonably caused the victims to fear immediate bodily harm;

Fourth, the defendant acted with the specific intent to cause bodily harm to the victims; and

Fifth, the defendant used a dangerous weapon.

PENALTIES

The crime of second degree murder, charged in counts I and III, carries a penalty of life imprisonment, a \$250,000 fine, five years of supervised release, and a \$100 special assessment per count.

The crime of assault with intent to commit murder, charged in count V, carries a maximum penalty of twenty years of imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

The crime of use of a firearm during a crime of violence, charged in counts II, IV, and VI, carries a mandatory minimum penalty of ten years of imprisonment and a maximum of life imprisonment for the first offense, and a mandatory minimum of 25 years of imprisonment and a maximum of life imprisonment for the second or subsequent conviction. Any sentences for Counts II, IV, and VI must be served consecutive to one another and any other sentence the defendant serves. In addition, counts II, IV, and VI each carry a penalty of a \$250,000 fine, five years of supervised release, and a \$100 special assessment.

The crime of assault with a dangerous weapon, charged in count VII, carries a maximum penalty of ten years of imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

Restitution to the victims named in counts I, III, V, and VII is mandatory.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

On July 29, 2015, at approximately 10:11 a.m., Crow Agency dispatch received a call about a shooting on Pryor Gap Road in Pryor, Montana, between the St. Charles Mission School and Plenty Coups Park. The first law enforcement officers on the scene saw a deceased male and a deceased female lying in the road, face down. Also observed at the scene was a 1990 Ford Taurus, green, bearing Wyoming license plate number 20-2934, registered to the mother of Deniz Mendoza.

The daughter of the deceased male and female was with her parents when they were shot. She was interviewed by law enforcement and stated that her mother came to her house and told her that there was a guy that needed assistance. The three took the daughter's car and drove past the St. Charles Mission School on Pryor Gap Road, where they met up with Deniz Mendoza who was in a green

vehicle that was parked on the side of the road. When they approached Deniz Mendoza, he stepped out of his vehicle, pointed a gun at them, and told them to get out of the car. They complied and got out of their car. Deniz Mendoza told them to stand behind the car and asked them for money. They told him that they did not have any money. Deniz Mendoza then told them to start walking away from their car. As they were walking, the daughter heard a gunshot. When she turned around, she saw her father lying on the road. She started running. As she was running, she heard her mother scream, but she did not turn around because she was scared. She kept running and, as she did, she felt blood running down her face, which was later determined to be the result of a bullet wound. She heard another gunshot and felt a bullet hit her in the back. She then turned around and saw Deniz Mendoza get into her car and drive off.

The daughter was able to yell for help, and she caught the attention of some individuals at the St. Charles Mission School. A car drove to her location, and she told the female driver that she had been hurt. The female driver got out of the car and walked towards the daughter's parents lying in the road. Fearing that the unknown male would come back, the daughter got into the female driver's car. When the daughter saw her car coming back toward her, she got behind the wheel of the female driver's car and drove away.

Two males drove from the St. Charles Mission School to the scene after someone had informed them that gunshots were fired nearby. They were at the scene when Deniz Mendoza returned to the scene in the daughter's car, got out of the car, and started shooting. Because the female driver was outside of her car (the daughter had driven her car away), the males pushed the female driver into a ditch and told her to play dead. Both males confirmed that Deniz Mendoza shot at the female driver and pointed the gun at all of them.

As a result of a law enforcement bulletin, the daughter's vehicle was located near Meeteetse, Wyoming by a Park County Wyoming Sheriff's Deputy. Deniz Mendoza was driving the vehicle.

On July 29, 2015, law enforcement conducted a recorded interview of Deniz Mendoza. During the interview, Deniz Mendoza admitted to shooting three people with a .22 caliber rifle and then driving away from the scene in the victims' vehicle. Deniz Mendoza also described the rifle that he used, and he told the interviewing agents that the rifle was still in the vehicle that he was driving when he was arrested.

DATED this 3rd day of March, 2017.

MICHAEL W. COTTER
United States Attorney

/s/ Lori Harper Suek
LORI HARPER SUEK
Assistant U.S. Attorney