

STATE OF NEW MEXICO
COUNTY OF LINCOLN
TWELFTH JUDICIAL DISTRICT

FILED
DISTRICT COURT OF
LINCOLN COUNTY, N.M.
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DOCKETED
SW

CAUSE NO. D-1226-CR-201700064
DIVISION III

STATE OF NEW MEXICO,
Plaintiff,

v.

ANDREW P. MAGILL,
Defendant.

CRIME(S):
STN: 140000170109

First Degree Murder (Willful and Deliberate), Assault with Intent to Commit a Violent Felony Upon a Peace Officer (Firearm Enhancement), NMSA 1978 §30-22-23, a second degree felony, *or in the alternative*, Aggravated Battery Upon a Peace Officer (Deadly Weapon)(Firearm Enhancement), NMSA 1978 §30-22-25(C), a third degree felony; Assault With Intent to Commit a Violent Felony Upon a Peace Officer, NMSA 1978 §30-22-23, a second degree felony, *or in the alternative*, Aggravated Assault Upon a Peace Officer (Deadly Weapon)(Firearm Enhancement); Possession of a Firearm or Destructive Device by a Felon, NMSA 1978 §30-07-16, a fourth degree felony.

AMENDED GRAND JURY INDICTMENT

THE GRAND JURY OF LINCOLN COUNTY, STATE OF NEW MEXICO,

CHARGES: That in Lincoln County, State of New Mexico:

Count 1: First Degree Murder (Willful and Deliberate) (0001), on or about April 01, 2017, the above-named defendant did kill Mary Ann Moorhouse, with the deliberate intention to take away the life of Mary Ann Moorhouse or any other human being, a capital offense, contrary to Section 30-2-1(A)(1), NMSA 1978.

Count 2: Assault With Intent to Commit a Violent Felony Upon a Peace Officer (0224) (Firearm Enhancement), on or between April 01, 2017 and April 02, 2017, the above-named defendant did assault or strike at Jason Green, knowing or having reason to know that Jason

Green was a peace officer in the lawful performance of his duties, and the defendant intended to kill Jason Green, a second degree felony, contrary to Section 30-22-23, NMSA 1978. When a separate finding of fact by the court or jury shows that a firearm was used in the commission of non-capital felony, the basic sentence of imprisonment shall be increased by one year as contrary to Section to NMSA 1978, 31-18-16.

or in the alternative:

Count 2: Aggravated Battery Upon a Peace Officer (Deadly Weapon) (0232) (Firearm Enhancement), on or between April 01, 2017 and April 02, 2017, the above-named defendant did touch or apply force to Jason Green, knowing or having reason to know that Jason Green was a peace officer with Lincoln County Sheriff's Office in the lawful performance of his duties, with a firearm, a deadly weapon, and the defendant intended to injure Jason Green, a third degree felony, contrary to Section 30-22-25(C), NMSA 1978. When a separate finding of fact by the court or jury shows that a firearm was used in the commission of non-capital felony, the basic sentence of imprisonment shall be increased by one year as contrary to Section to NMSA 1978, 31-18-16.

Count 3: Assault With Intent to Commit a Violent Felony Upon a Peace Officer (0224)(Firearm Enhancement), on or between April 01, 2017 and April 02, 2017, the above-named defendant did assault or strike at Bryce Bailey, knowing or having reason to know that Bryce Bailey was a peace officer in the lawful performance of his duties, and the defendant intended to kill Bryce Bailey, a second degree felony, contrary to Section 30-22-23, NMSA 1978. When a separate finding of fact by the court or jury shows that a firearm was used in the commission of non-capital felony, the basic sentence of imprisonment shall be increased by one year as contrary to Section to NMSA 1978, 31-18-16.

or in the alternative:

Count 3: Aggravated Assault Upon a Peace Officer (Deadly Weapon) (0212)(Firearm Enhancement), on or between April 01, 2017 and April 02, 2017, the above-named defendant did assault or strike at Bryce Bailey, knowing or having reason to know that Bryce Bailey was a peace officer in the lawful performance of his duties and the defendant used a firearm, a deadly weapon, could cause, a third degree felony, contrary to Section 30-22-22(A)(1), NMSA 1978. When a separate finding of fact by the court or jury shows that a firearm was used in the commission of non-capital felony, the basic sentence of imprisonment shall be increased by one year as contrary to Section to NMSA 1978, 31-18-16.

Count 4: Possession of a Firearm or Destructive Device by a Felon (1512), on or between April 01, 2017 and April 02, 2017, the above-named defendant did receive, transport or possess a firearm, and the defendant had been convicted of a felony offense within the preceding ten years, a fourth degree felony, contrary to Section 30-7-16, NMSA 1978.

The names of the witnesses upon whose testimony this indictment is based are as follows:

Matt Christian and Steven Chavez.

Approved:



John P. Sugg
District Attorney