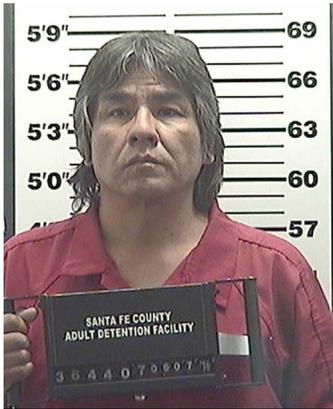


Federal jury convicts Gallup man of first degree murder, witness tampering

Written by Staff Reports
Friday, 06 October 2017 09:45



ALBUQUERQUE – A federal jury sitting in Santa Fe, N.M., returned a verdict on Sept. 30, finding Brian Tony guilty on first-degree murder and witness tampering charges after a five-day trial, announced Acting U.S. Attorney James D. Tierney, Special Agent in Charge Terry Wade of the FBI's Albuquerque Division, and Director Jesse Delmar of the Navajo Nation Division of Public Safety.

Tony, 46, an enrolled member of the Navajo Nation who resides in Gallup, N.M., was arrested on June 3, 2016, on a criminal complaint charging him with killing a man by stabbing him in the head and neck and hitting him with a hammer. According to the criminal complaint, Tony committed the murder on the Navajo Indian Reservation in McKinley County, N.M., on May 9, 2016. At the time, Tony was on supervised release for a prior conviction on a federal assault charge.

In June 2016, a federal grand jury indicted Tony on a second-degree murder charge. The indictment was superseded on Aug. 8. The superseding indictment charged Tony with first-degree murder and two counts of witness tampering.

The superseding indictment charged Tony with murdering the victim deliberately and with premeditation by beating him with a hammer and rock and stabbing him with a knife on May 9, 2016, in McKinley County. It also charged Tony with engaging in witness tampering between May 2016 and August 2017, in Santa Fe County, N.M.

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Trial on the superseding indictment commenced on Sept. 25, and concluded the afternoon of Sept. 30, when the jury returned a guilty verdict on all three counts in the superseding indictment. The evidence at trial established that on the evening of May 8, 2016, Tony, who was accompanied by his brother and his girlfriend, drove to a residence in Gallup, and picked up the victim and the victim's friend. While at the residence, Tony retrieved a hammer and placed it in his vehicle.

The victim's friend testified that Tony drove the victim and the three others to a location called "Superman Canyon," where Tony directed the victim to get out of the car and follow him to an area beyond the sight of those in the vehicle.

Thereafter, the victim's friend attempted to get out of the vehicle after hearing the victim yell, but Tony's brother prevented him from doing so by threatening him with violence. The victim's friend testified that Tony later returned to the vehicle covered in blood, without the victim, and with the victim's knife sticking through his forearm.

While Tony and the victim were off on their own and out of the sight of the other three, the victim called "911," and requested assistance. The jury heard the victim's nearly ten minute call to "911," during which the victim said that he was on foot in a ditch and was bleeding as the result of having been hit in the head with a hammer. The victim identified Tony as the person who hit him and described the vehicle in which they had traveled. The call ended with the victim saying, "Hurry, here he comes now! Hurry!"

The following day, law enforcement authorities found the victim's body in a ravine located by Rock Flats Road near Church Rock. A hammer was located in the ravine near the victim's body and a large rock with bloodstains was next to the victim's body. The victim was wearing an empty knife sheath on his belt. An autopsy revealed that the victim had been stabbed repeatedly in the head and neck and had blunt-force trauma wounds on his head.

The evidence at trial established that, following Tony's arrest in June 2016, he was detained at the Santa Fe County Detention Center from which he placed more than 1,000 calls to friends and relatives. During these calls, which were recorded, Tony implored his friends and relatives to convince the victim's friend to leave town and to prevent him from testifying.

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The jury heard a number of these calls and heard Tony as he attempted to intimidate, threaten and persuade his girlfriend from cooperating with law enforcement authorities.

Tony testified in his own defense and claimed that he acted in self-defense when he killed the victim.

The jury deliberated approximately 10 hours before returning the guilty verdict.

Tony has been in federal custody since his arrest and remains detained pending his sentencing hearing, which has yet to be scheduled. At sentencing, Tony faces a statutory mandatory sentence of life imprisonment.

This case was investigated by the Albuquerque and Gallup offices of the FBI and the Navajo Nation Division of Public Safety.

Assistant U.S. Attorney's Joseph M. Spindle and Nicholas J. Marshall are prosecuting the case under a federal anti-violence initiative that targets "the worst of the worst" offenders for federal prosecution.

Under this initiative, the U.S. Attorney's Office and federal law enforcement agencies work with New Mexico's District Attorneys and state, local and tribal law enforcement agencies to target violent or repeat offenders primarily based on their prior criminal convictions for federal prosecution with the goal of removing repeat offenders from communities in New Mexico for as long as possible.