

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Plaintiff,

v.

BRIANNA GARCIA,
DOB: X/XX/1998
SSN: XXX-XX-1498
ADDRESS: 108 S. 3rd St., Sayre, OK 73662
5820 Open Sky NW, Albuquerque, NM 87114

Defendant.

CLARA MORAN

ENDORSED
FILED IN MY OFFICE THIS

APR 04 2022

CLERK DISTRICT COURT

RC

No. D 0202 CR 2022 00642
NMAGO NO. 202203-00435

GRAND JURY INDICTMENT

THE GRAND JURY CHARGES:

COUNT 1: SHOPLIFTING (\$250 OR LESS) ⁴⁶¹⁴ (~~4616~~) ↙

That on or about December 11, 2021, in Bernalillo County, New Mexico, the above-named defendant did take possession of or conceal various merchandise belonging to Walmart on Juan Tabo, which had a market value of \$250 or less, and at the time the merchandise was taken, the defendant intended to take it without paying, contrary to NMSA 1978, Section 30-16-20.

COUNT 2: SHOPLIFTING (\$250 OR LESS) ⁴⁶¹⁴ (~~4616~~) ↙

That on or about January 4, 2022, in Bernalillo County, New Mexico, the above-named defendant did take possession of or conceal various merchandise belonging to Walmart on Carlisle, which had a market value of \$250 or less, and at the time the merchandise was taken, the defendant intended to take it without paying, contrary to NMSA 1978, Section 30-16-20.

COUNT 3: SHOPLIFTING (OVER \$250 BUT NOT MORE THAN \$500) (4615) T

That on or January 27, 2022, in Bernalillo County, New Mexico, the above-named defendant did take possession of or conceal various merchandise belonging to Walmart on Carlisle, which had a market value of over \$250, and at the time the merchandise was taken, the defendant intended to take it without paying, contrary to NMSA 1978, Section 30-16-20.

COUNT 4: AGGRAVATED ASSAULT (DEADLY WEAPON) (FIREARM ENHANCEMENT) (0056) T

That on or about January 27, 2022, in Bernalillo County, New Mexico, the above-named defendant did assault or strike Brandin Martinez with a firearm, a deadly weapon, contrary to NMSA 1978, Section 30-3-2(A) and Section 31-18-16.

COUNT 5: AGGRAVATED ASSAULT (DEADLY WEAPON) (FIREARM ENHANCEMENT) (0056) T

That on or about January 27, 2022, in Bernalillo County, New Mexico, the above-named defendant did assault or strike Christopher Apodaca with a firearm, a deadly weapon, contrary to NMSA 1978, Section 30-3-2(A) and Section 31-18-16.

COUNT 6: UNLAWFUL CARRYING FIREARM IN LIQUOR ESTABLISHMENT (FIREARM ENHANCEMENT) (1499) T

That on or about January 27, 2022, in Bernalillo County, New Mexico, the above-named defendant did unlawfully carry a firearm in Walmart on Carlisle, a premises licensed for the dispensing of an alcoholic beverage, contrary to NMSA 1978, Section 30-7-3 and Section 31-18-16.

COUNT 7: RECEIPT, TRANSPORTATION OR POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE BY CERTAIN PERSONS (FELON) (FIREARM ENHANCEMENT) (7556) T

That on or about January 27, 2022, in Bernalillo County, New Mexico, the above-named defendant, a felon as defined in NMSA 1978, Section 30-7-16(D)(3), did unlawfully receive, transport or possess a firearm or a destructive device as defined in NMSA 1978, Section 30-7-16(D)(1), contrary to NMSA 1978, Section 30-7-16(A) and Section 31-18-16.

COUNT 8: SHOPLIFTING (\$250 OR LESS) (4616) ⁴⁶¹⁹ T

That on or about January 27, 2022, in Bernalillo County, New Mexico, the above-named defendant did take possession of or conceal various merchandise belonging to Walmart on Coors, which had a market value of \$250 or less, and at the time the merchandise was taken, the defendant intended to take it without paying, contrary to NMSA 1978, Section 30-16-20.

COUNT 9: AGGRAVATED ASSAULT (DEADLY WEAPON) (FIREARM ENHANCEMENT) (0056) T

That on or about January 27, 2022, in Bernalillo County, New Mexico, the above-named defendant did assault or strike Christopher Levato with a firearm, a deadly weapon, contrary to NMSA 1978, Section 30-3-2(A) and Section 31-18-16.

COUNT 10: AGGRAVATED ASSAULT (DEADLY WEAPON) (FIREARM ENHANCEMENT) (0056) T

That on or about January 27, 2022, in Bernalillo County, New Mexico, the above-named defendant did assault or strike Felicia Romero with a firearm, a deadly weapon, contrary to NMSA 1978, Section 30-3-2(A) and Section 31-18-16.

COUNT 11: UNLAWFUL CARRYING FIREARM IN LIQUOR ESTABLISHMENT (FIREARM ENHANCEMENT) (1499) T

That on or about January 27, 2022, in Bernalillo County, New Mexico, the above-named defendant did unlawfully carry a firearm in Walmart on Coors, a premises licensed for the dispensing of an alcoholic beverage, contrary to NMSA 1978, Section 30-7-3 and Section 31-18-16.

COUNT 12: NEGLIGENT USE OF A DEADLY WEAPON (NEAR DWELLING OR BUILDING) (4151) T

That on or about January 27, 2022, in Bernalillo County, New Mexico, the above-named defendant did discharge a firearm within one-hundred and fifty yards of an occupied building or dwelling without receiving the permission of the owner or occupant, contrary to NMSA 1978, Section 30-7-4(A)(4).

COUNT 13: RECEIPT, TRANSPORTATION OR POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE BY CERTAIN PERSONS (FELON) (FIREARM ENHANCEMENT) (7556) 7599 T

That on or about January 27, 2022, in Bernalillo County, New Mexico, the above-named defendant, a felon as defined in NMSA 1978, Section 30-7-16(D)(3), did unlawfully receive, transport or possess a firearm or a destructive device as defined in NMSA 1978, Section 30-7-16(D)(1), contrary to NMSA 1978, Section 30-7-16(A) and Section 31-18-16.

COUNT 14: SHOPLIFTING (OVER \$250 BUT NOT MORE THAN \$500) (4615) T

That on or about January 31, 2022, in Bernalillo County, New Mexico, the above-named defendant did take possession of or conceal various merchandise belonging to Target on Paseo Del Norte, which had a market value of over \$250, and at the time the merchandise was taken, the defendant intended to take it without paying, contrary to NMSA 1978, Section 30-16-20.

COUNT 15: AGGRAVATED BATTERY UPON PEACE OFFICER (DEADLY WEAPON) (0232) T

That on or about January 31, 2022, in Bernalillo County, New Mexico, the above-named defendant touched or applied force to Dylan DeFrates with an instrument or object which, when used as a weapon, could cause death or great bodily harm, to wit, a motor vehicle, knowing that he was a peace officer performing the duties of a peace officer, the defendant intended to injure Dylan DeFrates and the defendant's conduct caused injury to him and/or threatened his safety and/or challenged his authority, contrary to NMSA 1978, Section 30-22-25.

OR IN THE ALTERNATIVE TO COUNT 15: AGGRAVATED BATTERY UPON PEACE OFFICER (GREAT BODILY HARM) (0233) T

That on or about January 31, 2022, in Bernalillo County, New Mexico, the above-named defendant touched or applied force to Dylan DeFrates, knowing that he was a peace officer performing the duties of a peace officer, the defendant intended to injure Dylan DeFrates and the defendant's conduct caused injury to him and/or threatened his safety and/or challenged his authority and the defendant acted in a way that would likely result in death or great bodily harm to Dylan DeFrates, contrary to NMSA 1978, Section 30-22-25.

4614

COUNT 16: SHOPLIFTING (\$250 OR LESS) (~~4616~~) †

That on or about February 1, 2022, in Bernalillo County, New Mexico, the above-named defendant did take possession of or conceal various merchandise belonging to Walmart on Cutler, which had a market value of \$250 or less, and at the time the merchandise was taken, the defendant intended to take it without paying, contrary to NMSA 1978, Section 30-16-20.

COUNT 17: AGGRAVATED ASSAULT (DEADLY WEAPON) (FIREARM ENHANCEMENT) (0056) †

That on or about February 1, 2022, in Bernalillo County, New Mexico, the above-named defendant did assault or strike Eric Kershaw with a firearm, a deadly weapon, contrary to NMSA 1978, Section 30-3-2(A) and Section 31-18-16.

COUNT 18: AGGRAVATED ASSAULT (DEADLY WEAPON) (FIREARM ENHANCEMENT) (0056) †

That on or about February 1, 2022, in Bernalillo County, New Mexico, the above-named defendant did assault or strike Debbie Sanchez with a firearm, a deadly weapon, contrary to NMSA 1978, Section 30-3-2(A) and Section 31-18-16.

COUNT 19: SHOOTING AT OR FROM A MOTOR VEHICLE (NO DEATH OR GREAT BODILY HARM) (0084) †

That on or about February 1, 2022, in Bernalillo County, New Mexico, the above-named defendant did willfully and unlawfully discharge a firearm at/from a motor vehicle with reckless disregard for the safety of any other person, contrary to NMSA 1978, Section 30-3-8(B).

COUNT 20: RECEIPT, TRANSPORTATION OR POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE BY CERTAIN PERSONS (FELON) (FIREARM ENHANCEMENT) (~~7556~~) †

7579

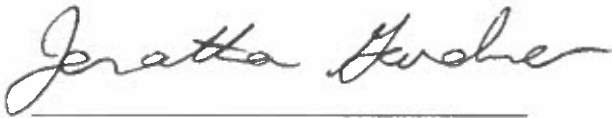
That on or about February 1, 2022, in Bernalillo County, New Mexico, the above-named defendant, a felon as defined in NMSA 1978, Section 30-7-16(D)(3), did unlawfully receive, transport or possess a firearm or a destructive device as defined in NMSA 1978, Section 30-7-16(D)(1), contrary to NMSA 1978, Section 30-7-16(A) and Section 31-18-16.

The name of the witness upon whose testimony this Indictment is based is as follows:

SPECIAL AGENT CHRISTOPHER KOHLER
NEW MEXICO OFFICE OF THE ATTORNEY GENERAL

I hereby certify that the foregoing Indictment is a True Bill.

APPROVED:



Jonathan Gardner
Assistant Attorney General



Foreman

4.1.2022
Date

4/1/22
Date

CASE INFORMATION

NMAGO FILE#: 202203-00435

MET.CT. #: T-4-FR-2022-000470

LEA/RPT#: APD 220007115; APD 220007154; APD 220008146; APD 220008248;

AAG: Jonathan Gardner

Def. DOB: [REDACTED] 1998

Def. SS#: [REDACTED] 1498

Def. 108 S. 3rd St., Sayre, OK 73662
5820 Open Sky NW, Albuquerque, NM 87114

BOOKING/ARREST DATE:

BOOKING/ARREST#:

STN:

DEF. ATTY: LOPD

PENALTIES

- COUNT 1: Shoplifting (\$250 Or Less) (~~4615~~⁴⁶¹⁴): petty misdemeanor
- COUNT 2: Shoplifting (\$250 Or Less) (~~4616~~⁴⁶¹⁴): petty misdemeanor
- COUNT 3: Shoplifting (Over \$250 But Not More Than \$500) (4615): misdemeanor
- COUNT 4: Aggravated Assault (Deadly Weapon) (Firearm Enhancement) (0056): a fourth degree felony, subject to a three (3) year enhancement for brandishing a firearm under Section 31-18-16
- COUNT 5: Aggravated Assault (Deadly Weapon) (Firearm Enhancement) (0056): a fourth degree felony, subject to a three (3) year enhancement for brandishing a firearm under Section 31-18-16
- COUNT 6: Unlawful Carrying Firearm In Liquor Establishment (Firearm Enhancement) (1499): fourth degree felony, subject to a three (3) year enhancement for brandishing a firearm under Section 31-18-16
- COUNT 7: Receipt, Transportation Or Possession Of A Firearm Or Destructive Device By Certain Persons (Felon) (Firearm Enhancement) (~~7556~~⁷³³⁷): third degree felony, subject to a three (3) year enhancement for brandishing a firearm under Section 31-18-16
- COUNT 8: Shoplifting (\$250 Or Less) (~~4616~~⁴⁶¹⁴): petty misdemeanor
- COUNT 9: Aggravated Assault (Deadly Weapon) (Firearm Enhancement) (0056): fourth degree felony, subject to a three (3) year enhancement for brandishing a firearm under Section 31-18-16
- COUNT 10: Aggravated Assault (Deadly Weapon) (Firearm Enhancement) (0056): fourth degree felony, subject to a three (3) year enhancement for brandishing a firearm under Section 31-18-16
- COUNT 11: Unlawful Carrying Firearm In Liquor Establishment (Firearm Enhancement) (1499): fourth degree felony, subject to a three (3) year enhancement for brandishing a firearm under Section 31-18-16
- COUNT 12: Negligent Use Of A Deadly Weapon (Near Dwelling Or Building) (4151): petty misdemeanor
- COUNT 13: Receipt, Transportation Or Possession Of A Firearm Or Destructive Device By Certain Persons (Felon) (Firearm Enhancement) (~~7556~~⁷³³⁷): third degree felony subject to a three (3) year enhancement for brandishing a firearm under Section 31-18-16
- COUNT 14: Shoplifting (Over \$250 But Not More Than \$500) (4615): misdemeanor
- COUNT 15: Aggravated Battery Upon Peace Officer (Deadly Weapon) (0232): third degree felony
- ALTERNATIVE TO COUNT 15: Aggravated Battery Upon Peace Officer (Great Bodily Harm) (0233): third degree felony
- COUNT 16: Shoplifting (\$250 Or Less) (~~4616~~⁴⁶¹⁴): petty misdemeanor
- COUNT 17: Aggravated Assault (Deadly Weapon) (Firearm Enhancement) (0056): fourth degree felony, subject to a three (3) year enhancement for brandishing a firearm under Section 31-18-16
- COUNT 18: Aggravated Assault (Deadly Weapon) (Firearm Enhancement) (0056): fourth degree felony, subject to a three (3) year enhancement for brandishing a firearm under Section 31-18-16
- COUNT 19: Shooting At Or From A Motor Vehicle (No Death Or Great Bodily Harm) (0084): fourth degree felony
- COUNT 20: Receipt, Transportation Or Possession Of A Firearm Or Destructive Device By Certain Persons (Felon) (Firearm Enhancement) (~~7556~~⁷³³⁷): a third degree felony subject to a three (3) year enhancement for brandishing a firearm under Section 31-18-16

4th Degree Felony: Basic sentence of 18 months and not more than \$5,000 fine.

3rd Degree Felony: Basic sentence of 3 years and not more than \$5,000 fine.

2nd Degree Felony: Basic sentence of 9 years and not more than \$10,000 fine.

1st Degree Felony: Basic sentence of 18 years and not more than \$15,000 fine.

Firearm Enhancement: Basic sentence is enhanced by 3 years when a separate finding of fact shows a firearm was brandished in the commission of the felony

Misdemeanor: Less than 1 year in the County Jail and/or not more than \$1,000 fine.

Petty Misdemeanor: Not more than 6 months in the County Jail and/or not more than \$500 fine.
