

ENDORSED
First Judicial District Court

MAR 24 2022

Santa Fe, Rio Arriba &
Los Alamos Counties
PO Box 2288
Santa Fe, NM 87504-2288

STATE OF NEW MEXICO
COUNTY OF RIO ARRIBA
IN THE FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO,

Plaintiff,

v.

No. D-117-CR-2022-00036

JASON LIDYARD

VALDEZ, DAVID GILBERT

DOB: 12/7/1968

SOC: [REDACTED] 7811

ADDRESS: 1413 ANDRE PL.
COLORADO CITY, CO 81019

Defendant.

CRIMINAL COMPLAINT

CRIMES:

1. Larceny (\$2,500 - \$20,000), a 3rd degree felony pursuant to § 30-16-1(E) (1031)
2. Misuse and deposit of public money, a special-penalty felony pursuant to N.M. Const. Art. VIII, § 4 (7500)

The undersigned, under penalty of perjury, complains and says that on or about April 12, 2019, in the County of Rio Arriba, State of New Mexico, the above-named defendant did commit the above-listed crimes. In support of these allegations, undersigned Special Agent affirms:

BACKGROUND OF THIS INVESTIGATION

Initial Investigation

On May 22, 2019, the New Mexico Office of the Attorney General (OAG) was made aware of an investigation into a bag of cash and checks for deposit allegedly missing from the vault at Española City Hall located at 405 North Paseo De Onate. The investigation was initiated by the Española Police Department, which requested the OAG's assistance due to a potential conflict of interest.

On May 24, 2019, OAG investigators met with Española Police Department Detective Brandon Archuleta at the Española Police Department. Detective Archuleta stated that on April

12, 2019, there was a city utilities deposit missing from the utilities office safe at City Hall. The utilities office is responsible for collecting utility (water, sewer, and solid waste) payments for the City of Española.

Detective Archuleta said there are normally three employees who work in the utilities office -- Nadine Trujillo, Yvette Martinez, and Anna Hall. Nadine Trujillo was the Utility Billing Supervisor, while Yvette Martinez and Anna Hall served as cashiers and collected utility payments from customers.

Detective Archuleta provided OAG investigators with a series of documents, which included a cash-receipt summary, list of payments made to the City on the missing deposit, background information on City Manager David Valdez, written statements from Hall and Trujillo, DVDs containing interviews conducted by Detective Archuleta, and video surveillance from Española City Hall on April 12, 2019.

Background on David Valdez

David Valdez lives with his family in Colorado City, Colorado. Prior to his employment with the City of Española, he was employed as City Manager for Colorado City until August 2018. Valdez was hired as the City Manager for the City of Española on April 1, 2019. Valdez commuted to Española for the work week and returned home to Colorado City on the weekend. Valdez was employed with the City of Española for 10 days when the deposit went missing from the vault. Valdez was terminated from his position as Española City Manager during a City Council closed-session meeting on July 9, 2019.

On September 9, 2019, the Pueblo County Sheriff's Office (PCSO) filed four (4) felony charges of Theft and Embezzlement of public property against Valdez for several fraudulent incidents that allegedly occurred while he served as District Manager of the Colorado City Metropolitan District. On July 10, 2020, Valdez pled guilty to felony 4 Theft (\$20,000 -\$100,000) in regards to this incident. Valdez was ordered to pay \$25,263.50 in restitution, pay court fees and 200 hours of community service through intervention.

Daily Routine

On July 22, 2019, OAG Investigators interviewed several Española City Hall Employee, to include Nadine Trujillo, Anna Hall, interim Utilities Billing Supervisor Danielle Bustos, Finance Manager Diahann Jacquez, Public Works Director Steven Trujillo, and City Clerk Melissa Velasquez (Titles contained in this document were current as of the time of interviews and/or incident).

During an interview with investigators, Nadine Trujillo described the daily routine at the utilities office. Nadine Trujillo stated it was common practice for each cashier to start their day with \$50.00 cash in their cash drawer. Throughout the day, the cashiers collected utility payments from customers in the form of cash, checks, and credit-card payments. The credit-card payments were automatically processed overnight. At the end of the day, each cashier had to balance their drawers with the various check and cash payments received throughout the day. \$50.00 cash was maintained in each drawer and placed in the vault at the end of each workday. The remainder of the checks and cash from each drawer was balanced, verified, and separately placed in the vault, each with its own deposit slip. The deposits were then placed in a zipper bank bag and locked in the safe inside the vault overnight. The bank bags are approximately 5.5” by 10.5” in size.

The next morning, the two deposits from each drawer were combined into one large deposit. A report is printed out to account for the cash, checks, and credit-card payments from the previous business day. The deposit is then verified and balanced a second time, placed in a bank bag, and placed in the safe inside the vault. The bank bag containing the deposit is later taken to the bank to be deposited.

Statements

Prior to Incident

According to Nadine Trujillo and Hall’s written statements and interviews, on Thursday, April 11, 2019, Martinez and Hall balanced their drawers with the cash and check payments from that business day. Yvette Martinez and Hall’s cash drawers were verified and secured overnight in the safe located in the vault. Nadine Trujillo, Yvette Martinez, and Hall all exited the office for the day together at approximately 5:15 PM.

The following morning, on Friday, April 12, 2019, Nadine Trujillo and Hall arrived at work at approximately 8:00 AM and began their daily routine. Yvette Martinez called in sick and was not present at the office on this date. Nadine Trujillo stated she opened a cash drawer and set up at Yvette Martinez’s workstation since Martinez was absent. Nadine Trujillo began to process the “express bill pay” (online payments), while Hall processed the daily deposit from the previous business day. Hall verified the two deposits from the previous day and combined them to create the daily deposit. The deposit contained \$11,606.43 in checks and \$6,637.89 in cash for a combined total of \$18,244.32.

After Hall prepared the daily deposit, it was placed in a bank bag, then placed in the safe located inside the vault. The doors to both the safe and vault were closed, but not locked. Nadine Trujillo and Hall both stated it was common practice to leave the vault door and safe closed, but unlocked throughout the day in case a cashier needed change.

Review of Video Surveillance

On May 24, 2019, OAG investigators received video surveillance recordings collected by the Espanola Police Department and immediately reviewed the recordings. The surveillance video recordings consisted of footage from two video cameras at the Espanola City Hall on April 12, 2019. Investigators thoroughly reviewed the video surveillance recordings from April 12, 2019, and observed footage from the two different surveillance cameras. One surveillance camera (ch01) was located in the utilities office, directed toward the front entrance lobby where customers walked into City Hall and made their utility payments with the cashier. There was a glass partition between the front lobby and the utilities office that separated the customers and cashiers. From this camera angle, investigators were able to observe the front lobby and a portion of the utilities office from the reflection of the glass partition.

The second surveillance camera (ch04) was located in the hallway outside the utilities office that pointed toward a tinted glass door. The tinted glass door separated and secured the front lobby area from the City Hall employee offices. From this camera angle, investigators were able to view the entrance to the utilities office and the entire hallway from the reflection of the tinted glass door.

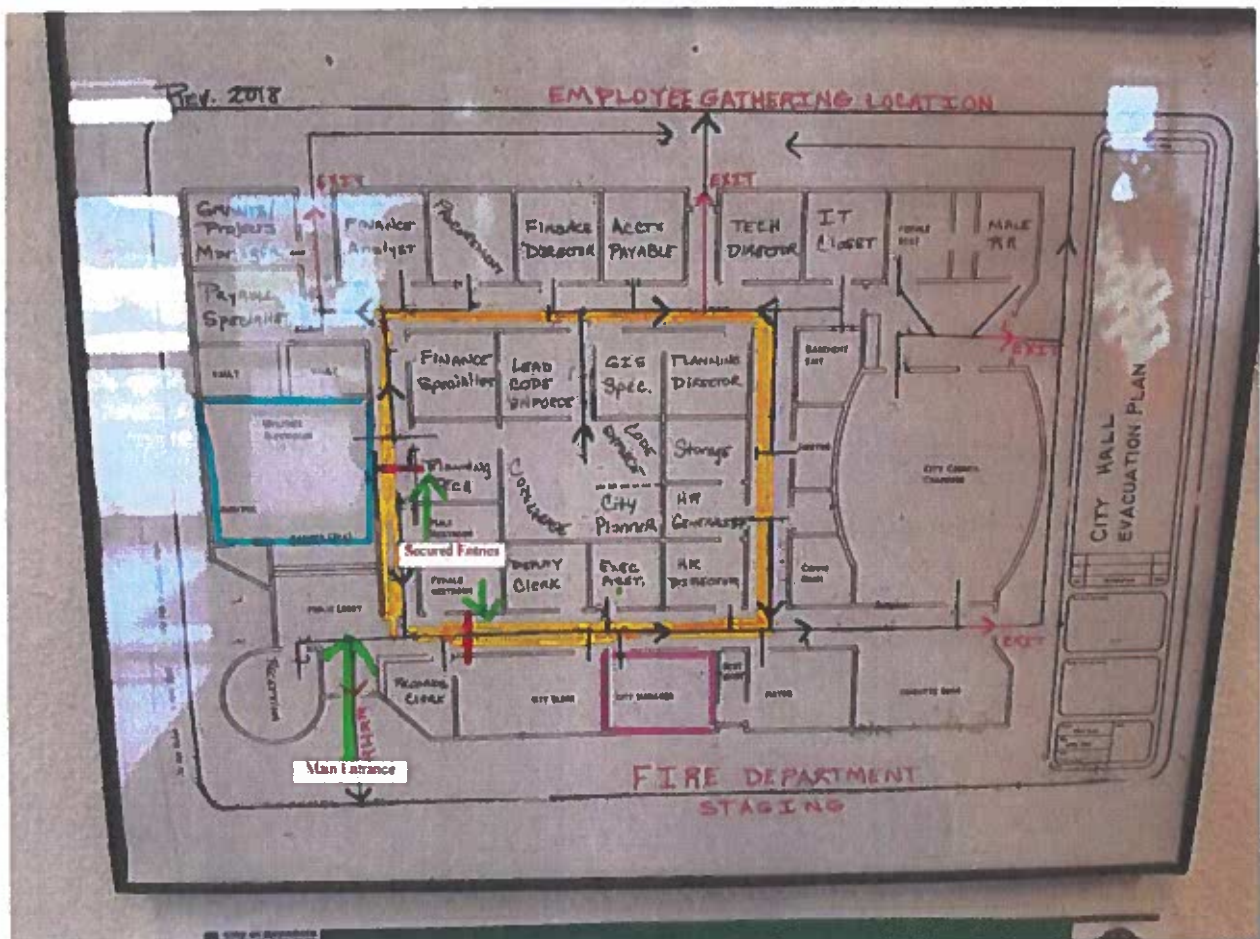
At 11:19 AM, Nadine Trujillo walked out of the utilities office and took her lunch break. Hall was left in the utilities office alone during this time period. At approximately 12:31 PM, Hall walked out with nothing in hand, leaving the office unattended. Hall returned at 12:33 PM, but no one was observed entering the utilities office while the office was unattended. At 12:41 PM, City Manager David Valdez was observed pacing in the front lobby area, holding his hands behind his back looking towards various parts of the ceiling. Valdez can also be seen surveying the utilities office through the glass partition that separated the utilities office from the front lobby. Valdez, shortly after, entered the utilities office with nothing in his hands.

Off the reflection of the glass partition, Valdez is observed pacing and walking toward the back of the utilities office where the vault is located. Valdez walked out of the utilities office at approximately 12:44 PM and returned to the utilities office approximately two minutes later with what appeared to be a thin, black, leather portfolio-type case under his left arm. At approximately 12:48 PM, Valdez and Hall both walked out of the utilities office. The door to the utilities office remained open, but no one was observed entering the office while they were gone. At approximately 12:49 PM, both Valdez and Hall returned with an anti-fatigue cushioned floor mat. Valdez is seen with the aforementioned portfolio walking toward the back end of the utilities office and then goes out of camera view toward the direction of the vault.

At 12:51 PM, Valdez quickly peeked his head out into the hallway from the utilities office to the left, toward the City Hall offices, in a suspicious manner, as if wary of who might be in the hallway. At 12:53 PM, Valdez walked out of the utilities office with a cup in his left hand, a pencil in his mouth, and the same portfolio in his right hand. He walked down the hallway toward the left, the direction he was previously observed peeking his head into. Valdez appeared to look toward the portfolio as he swung it back and forth down the hallway. As Valdez walked down the

hallway, a bulge can be seen on both sides of the leather portfolio and it appeared to be thicker than before. One minute later, Valdez was seen walking into the front lobby from the door located to the right side of the front lobby without the leather portfolio.

The Española City Hall building is laid out in the form of a square (see diagram, below). There are two secured doors from the front lobby that lead to the employee offices at City Hall. There is a door directly across from the front entrance and a door to the right side of the front entrance. A person can enter the door across from the front entrance, next to the utilities office, take three rights in the hallway and re-enter the front lobby through the door to the right side of the front entrance. A person can also enter the door to the right side of the front entrance, take three left turns in the hallway and re-enter the front lobby from the door next to the utilities office. Valdez's office is closest to the door to the right side of the front lobby entrance.



Valdez walked into the utilities office with another city employee identified as Javier Martinez (Former Interim City Manager). Nadine Trujillo, who had just returned from her lunch break, was observed walking in behind them. At 12:58 PM, Hall walked out of the utilities office and down the hallway for her lunch break. At approximately 1:00 PM, Valdez and Javier Martinez

walked out of the utilities office and out the door into the front lobby. Trujillo was left working in the utilities office alone.

At 1:21 PM, Valdez and another city employee, identified as Jeff Sergeant, walked into the utilities office. At 1:29 PM, Valdez walked out of the utilities office and slowly walked towards the back offices with his hands behind his back and appeared to survey the hallways. Valdez glanced around the corner of the hallway, leaned and stepped back as he continued to scan the area. Valdez then turned around behind the location of the surveillance camera and looked down the hallway in the same direction of the camera angle. Valdez faced the reflective glass door that separated the front lobby and the City Hall offices and continued to scan the area for a couple of seconds. Valdez then walked through the hallway toward his office.

At 1:32 PM, Valdez carried what appeared to be the same leather portfolio and returned to the utilities office with Javier Martinez. This time the portfolio appeared much thinner than before. At 1:34 PM, Valdez and Javier Martinez exited the utilities office. Javier Martinez walked in and out of the office with nothing in hand and Valdez walked out with the noticeably thinner leather portfolio. Upon exiting the utilities office, Valdez looked up directly at the surveillance camera, and then turned around toward the tinted glass door. Valdez appeared to notice his reflection on the tinted glass door, looked down toward the portfolio, lifted both arms away from his body, making the portfolio visible. He then slowly turned around in a complete circle in the hallway. As Valdez stood in the hallway and waited for Martinez, he slowly lifted the portfolio in front of him, awkwardly held it up for about a second, and proceeded to look into the pouch on the outer side of the portfolio, in a way to make it appear that he did not have anything on him or in his portfolio.

At 2:00 PM, Hall returned from her lunch break and walked into the utilities office. At approximately 2:28 PM, Trujillo was observed walking out of the utilities office. According to Nadine Trujillo during a later interview with OAG investigators, this was around the time she discovered the deposit was not in the safe and notified Hall. Trujillo walked out of the utilities office and down the hallway in search of Steven Trujillo, the Public Works Director and Utilities Department Supervisor.

Statements

After Deposit was Noticed Missing on April 12, 2019

After the incident, Nadine Trujillo stated she looked for Steven Trujillo to inform him of the missing deposit, but was unable to locate him. Nadine Trujillo said she then contacted her former supervisor, Diahanne Jacquez, to inform her of the situation. Nadine Trujillo and Jacquez both proceeded to look for Steven Trujillo. Steven Trujillo was located in the Human Resources office.

According to Steven Trujillo, he proceeded to the utilities office and immediately contacted Valdez by telephone, since Valdez was his immediate supervisor. Steven Trujillo told OAG

Investigators that Valdez said he was not in the building and would immediately return to City Hall.

After a review of Valdez's Wells Fargo Financial information, Valdez was at the Wells Fargo Bank during this time period. Valdez opened a Wells Fargo checking account (ending 54076) and completed this process with a \$1,500 cash deposit at 2:37 PM. The Española Wells Fargo Bank is approximately 5 minutes away from City Hall. Valdez returned to City Hall and entered the utilities office at approximately 2:45 PM. The vault, office, trash cans, and dumpsters were all searched by Steven Trujillo after Valdez arrived.

During this time, Nadine Trujillo, Steven Trujillo, Hall, and Jacquez all reported to investigators during their individual interviews that Valdez asked them if there was anyone else who knew of the missing deposit. They told Valdez they were the only employees who knew of the incident. Valdez told everyone in the office to keep the incident between them and not to tell anyone. Jacquez told investigators during an interview what was most unusual to her was why they had to keep it "their dirty little secret."

According to Nadine Trujillo, Valdez told them "loose lips sink ships" and "I'd be willing to bet Steven's salary it will show up on Monday." Valdez asked for everyone involved to fill out a written statement, which Valdez never collected. OAG investigators do not have copies of these statements. It is unknown who retained copies of these written statements. All parties involved were stunned by how the incident was handled and that it was not reported to law enforcement. All parties involved stated they followed Valdez's directives since he was the City Manager.

At approximately 3:18 PM, an unknown Española Police Officer was seen on the surveillance video in the hallway outside of the utilities office. The Española Police Officer was standing directly across from the entrance to the utilities office with his back toward the utilities office door. The officer wore a navy blue shirt that clearly read "Española Police" on his back and was visible to anyone who walked through the hallway, especially from the utilities office. Steven Trujillo and Hall both walked through the hallway and glanced toward the officer but did not make contact with him.

At approximately 3:39 PM, Nadine Trujillo was observed walking through the front entrance and into the lobby next to a non-uniformed Police Officer. Nadine continued to walk toward the utilities office just as Valdez walked out of the receptionist office. Valdez made contact with the non-uniformed Police Officer and shook his hand. Valdez had an opportunity to report the incident to the Police Officer, but failed to do so at that time.

Nadine Trujillo told OAG investigators that Valdez excused her and Hall at 4:30 PM, a half-hour prior to their normal time of departure. Nadine Trujillo noted a deposit had never gone missing before, but said she felt no one should have been allowed to leave until the deposit was located and everyone, including their vehicles, had been searched. Both Trujillo and Hall's drawers

were balanced, secured in the safe, and they both eventually departed for the day at approximately 5:15 PM.

Nadine Trujillo and Hall told investigators during their interviews that when they returned to work on Monday, they were fearful of even entering or being alone in the office. Hall told investigators she did not want to enter the office alone because she did not want to be blamed for the stolen deposit if it reappeared in the office.

The deposit ultimately was not returned on Monday, April 15th, as Valdez had said. Nadine Trujillo contacted her supervisor, Steven Trujillo, and asked him if there were any changes made concerning the deposit or daily routines in the utilities office. According to Hall and Nadine Trujillo, there was little to no contact between Valdez and the utilities office after the missing deposit. Nadine Trujillo and Hall felt isolated due to the lack of communication about the missing deposit after the incident. Nadine Trujillo told investigators that Valdez avoided the utilities office and cashiers after the incident.

Hall told OAG investigators that Valdez entered the utilities office when she was working alone (between 12:41 PM and 12:55 PM) on the day the deposit went missing. During this time, Valdez walked into the utilities office and asked her specific questions in reference to the locations of surveillance cameras and the areas in which they monitored. According to Hall, she showed Valdez the location of the surveillance monitor, which showed the locations being monitored. Valdez also asked Hall where the vault was located and whether or not there was a camera inside the vault. Hall told Valdez there were no surveillance cameras located in the vault.

Hall also told investigators that Valdez was alone and not visible in the vault for a few minutes while she tended to a customer on April 12, 2019. Valdez asked Hall several questions about what was kept in the vault while he was in the vault alone. Hall later found it extremely unusual that Valdez spent a large amount of time in the utilities office and asked so many questions in reference to the surveillance cameras, security of the utilities office, and security of the vault on the exact day the money went missing.

The deposit was believed to be stolen between 9:20 AM, when Hall got change from the money bag deposit, and 2:24 PM, when Nadine Trujillo went to the safe to take the money bag to deposit at the bank. There were four (4) people alone in the vault during that time period who had an opportunity to take the deposit. Those four (4) people included Hall, Nadine Trujillo, the custodian, and Valdez. Of all those individuals, Valdez was the only person who does not have daily responsibilities in the vault or utilities office. According to Hall and Nadine Trujillo, Valdez never returned to the vault or utilities office after April 12, 2019. Hall and Nadine Trujillo felt Valdez avoided contact with them after the date of this incident.

Approximately two weeks later, customers called City Hall and asked if their utilities payments had been paid because their checks had not cleared from their bank accounts. As of January 20, 2022, it does not appear that the stolen checks were ever cashed. The utilities

department informed the customers who paid with a check to place a stop payment on their checks. The city then deducted the stop payment fees from the customers bill to compensate for the bank fees. Nadine Trujillo continually asked Steven Trujillo what was happening with the deposit and Steven Trujillo told her he did not know and that the City Manager (Valdez) was taking care of it.

Pueblo County Sheriff's Office reports and court documents

Between July 2019 and February 2022 , Special Agents worked collaboratively with the Pueblo County Sheriff's Office (PCSO) in Colorado and the Colorado Office of the Attorney General (COAG) in order to obtain court documents, reports and financial records from Colorado.

OAG investigators learned of two reports filed with PCSO that involved Valdez. On July 2, 2019, OAG investigators contacted PCSO Detective J.C. Williams, who confirmed that Valdez was allegedly involved in two separate matters in Colorado City, CO related to Fraud and Embezzlement.

Detective Williams informed investigators that a Fraud report (#19S007088) was filed with their office on March 29, 2019 that listed Valdez as the suspect (further details explained below). This report was listed as closed at the time of inquiry.

OAG investigators were also informed that an Embezzlement report (#19S014068) was filed with PCSO on June 12, 2019 with Valdez listed as the suspect as well. PCSO report #19S014068 alleged that Valdez embezzled approximately \$13,500 in cash from the Colorado City Metropolitan District (CCMD) during his employment as the District Manager. The report states that a customer purchased water from CCMD and paid Valdez in cash on three (3) separate occasions between March of 2018 and June of 2018. Valdez gave the customer receipts for these 3 transactions of purchased water, but never turned in or deposited the cash into the CCMD. The customer attempted to claim the water he/she purchased, but was denied because there was no record of the customer purchasing the water. The customer returned with receipts signed by Valdez that verified Valdez received cash payments for the water. When CCMD officials referred to the receipt book, it was found that 23 receipts were missing from the receipt book, including the three receipts provided by the customer. Valdez resigned from his position as District Manager for CCMD in October 2018.

Detective Williams stated the Embezzlement report (#19S014068) was an active investigation and would not be available to OAG investigators at that time (July 2, 2019). OAG investigators believed at the time that the conclusion of this investigation would be necessary for a thorough and conclusive investigation by our office. OAG investigators did receive Fraud report #19S007088 on this date and patiently waited for the completion of the investigation and prosecution of PCSO case #19S014068.

On September 9, 2019, a felony complaint was filed with the 10th Judicial District Court in Pueblo County, Colorado regarding the Embezzlement report #19S014068.

On July 10, 2020, Valdez pled guilty to Theft between \$20,000 - \$100,000 (Felony) and was ordered to pay restitution in the amount of \$25,263.50, court fees and 200 hours of community service.

On June 10, 2021, affiant contacted Sergeant J.C. Williams regarding information on the cases Valdez was involved with in Colorado City. Sergeant Williams informed affiant Valdez had pled guilty to PCSO case #19S014068 and believed PCSO fraud case #19S007088 remained closed and was never pursued. Affiant respectfully requested for assistance in obtaining the discovery regarding the Embezzlement case Valdez pled guilty to. Sergeant Williams advised affiant he was no longer a Detective and was recently promoted to Sergeant at the correction facility. Sergeant Williams referred me to the 10th Judicial District Attorney's Office to obtain these documents. After contact was made with the 10th Judicial District Attorney's Office, I was once again referred back to PCSO.

Financial Records

PCSO case #19S007088 was received on July 2, 2019 and it was found that Valdez utilized the Bank of the San Juans and ENT Credit Union, both from Colorado, to either deposit or cash checks related to PCSO Fraud report #19S007088. Valdez's personnel file revealed he had a bank account with Wells Fargo Bank. OAG investigators requested Valdez's financial records from Bank of the San Juans in Colorado, ENT Credit Union in Colorado and Wells Fargo Bank through search warrants. The following information was obtained from the following financial institutions.

Bank of the San Juans in Colorado

On January 29, 2020, a search warrant was signed and authorized by New Mexico 1st Judicial District Judge Matthew Wilson, to be served on Bank of the San Juans regarding Valdez's financial records for 2019. On January 31, 2020, Courtney Quillen at Bank of the San Juans in Colorado City, CO was contacted and served with the warrant via email.

On February 20, 2020, our office received a letter from Peggy Bennett representing the Bank of San Juan division of Glacier Bank. The letter read:

"This letter is in response to the Subpoena received by Bank of San Juan division of Glacier Bank, regarding accounts possibly held by David Valdez. Bank of San Juans does not have a presence in New Mexico; therefore, Bank of San Juans is unable to respond to this Subpoena. The Order would have to be received through an Idaho, Montana, Washington, Colorado, Arizona, Nevada or Utah Court/Attorney."

After several unsuccessful attempts to obtain Valdez's financial records from Bank of the San Juans, OAG investigators reached out to the COAG office for assistance. On July 1, 2021, affiant made contact with COAG Senior Investigator Karen Bliss. Senior Investigator Bliss was briefed on the cases regarding Valdez in Colorado and New Mexico. A copy of the search warrant was sent to Senior Investigator Bliss. The case was turned over to COAG Criminal Investigator Chris Byrne who completed a Colorado Court Order for Production of Records (COPR) for the financial records requested from Bank of the San Juans.

On August 19, 2021, affiant was notified by Investigator Byrne that a Colorado Judge signed and approved the COPR. Bank of the San Juans was served with the COPR. Affiant was later notified that Valdez did not have a bank account with Bank of the San Juans during the requested time period in 2019.

ENT Credit Union in Colorado

On January 29, 2020, a search warrant was signed and authorized by 1st Judicial District Judge Matthew Wilson, to be served on ENT Credit Union in Colorado regarding Valdez's financial records for 2019. On January 31, 2020, Jenn Newville at ENT Credit Union in Colorado was contacted and served with the warrant via email. On February 21, 2020, OAG investigators obtained Valdez's financial records from ENT Credit Union in Colorado for the period between January 31, 2019 through March 9, 2019.

Valdez received a bi-weekly unemployment benefit (CDLE UI Benefits) directly deposited into his checking account for the amount of \$1,026.00. This unemployment benefit was Valdez's only consistent source of income. Valdez's other sources of income into this checking account consisted of random cash deposits, transfers from his wife's and children's accounts, and checks from Charlie Burns that were eventually found to be forged and fraudulently cashed or deposited into Valdez's account according to bank records and Pueblo County Sheriff's Office (PCSO) report #19S007088.

After an analysis of Valdez's bank statements, OAG investigators found that he withdrew a large portion of his income at casinos in Colorado and New Mexico.

On February 8, 2019, Valdez made five (5) ATM withdrawals for a total amount of \$426.97 (including ATM fees) in Blackhawk, Colorado. Blackhawk is Colorado's largest gambling town and is located approximately 40 miles west of Denver. Valdez also made two (2) \$100.00 bank transfers from his wife's account into his own checking account on this date. Valdez's checking account was overdrawn February 9, 2019 through February 12, 2019 a total of -\$95.78 until his unemployment check was automatically deposited into his account.

On February 16, 2019, Valdez's checking account was again overdrawn a total of -\$267.60 through February 26, 2019 when Valdez's unemployment check was automatically deposited and overdraft fees were reimbursed.

On February 27, 2019, Valdez returned to Blackhawk, CO and withdrew \$2,593.96 (including fees) from his checking account. On this same date, a \$2,000 bank transfer was made into Valdez's checking account from Mark Valdez (David's brother). On March 2, 2019, Valdez's checking account was overdrawn again through March 11, 2019. His checking account was overdrawn a total of -\$226.52 until a \$2,000 cash deposit was made on March 11th at 8:35 AM. On March 11th at 8:27 AM, the same date of the deposit, Valdez cashed a \$6,500.00 check (#1020) from Charles A. Burns. According to PCSO report #19S007088, written on March 29, 2019, Burns reported this check was stolen from his checkbook, fraudulently forged and unauthorized.

On March 13, 2019, Valdez made a \$500.00 cash deposit into his checking account at 3:42 PM. Valdez also made a cash deposit into his account and then a bank transfer deposit of \$400.00 from his son, Jacob Valdez's account. On this date Valdez withdrew \$1,240.00 from Buffalo Thunder Casino and \$413.95 from Camel Rock Casino (Tesuque Casino). Valdez had another "Debit card Visa Check" withdrawal from Buffalo Thunder Casino for \$491.19 dated for March 15, 2019. Valdez withdrew a total of \$2,145.14 at the New Mexico Casinos during this visit.

On March 21, 2019, Valdez returned to Buffalo Thunder and Camel Rock Casino (Tesuque). On this date Valdez had an ATM withdrawal at Camel Rock for \$505.50 and two withdrawals at Buffalo Thunder Casino for a total of \$531.00. Valdez's checking account dwindled down to \$22.35 when Valdez made a \$1,200.00 cash deposit on March 22, 2019.

On March 25, 2019 at 4:24 PM, Valdez withdrew \$500.00 cash from his checking account and deposited a \$2,000.00 check (#1018) from Charles Burns' Bank of the San Juans checking account. According to PCSO report #19S007088 written on March 29, 2019, Burns reported this check was stolen from his checkbook, fraudulently forged, and unauthorized to be cashed.

During this time period, Valdez traveled back to New Mexico and had the following withdrawals at Buffalo Thunder Casino:

- 3/26 - \$505.00 at Buffalo Thunder
- 3/26 - \$523.50 at Buffalo Thunder
- 3/27 - \$505.00 at Buffalo Thunder
- 3/27 - \$523.50 at Buffalo Thunder

\$2,102.00 total withdrawn during this trip

On March 27, 2019, Valdez diluted his account to \$64.82 until he deposited a \$2,500.00 check (#1019) from Charles Burns' Bank of the San Juans checking account. Again, according to PCSO report #19S007088, Burns reported this check (#1019) to be stolen from his checkbook, fraudulently forged, and was unauthorized to be cashed by Valdez.

On March 28, 2019, Valdez spent \$1,447.45 servicing his vehicle and withdrew the following amounts:

- 3/28 - \$200.00 at ENT ATM in Rye, Colorado
- 3/28 - \$305.00 at Buffalo Thunder
- 3/28 - \$315.50 at Buffalo Thunder

\$820.50 total withdrawn on this short trip to New Mexico

On this date, Valdez dwindled his account balance to \$20.01. Valdez then returned to Pueblo, CO and deposited another \$6,500.00 check (#1016) from Charles Burns' Bank of the San Juans checking account at 3:20 PM. Valdez withdrew \$100.00 from this check and a total of \$5,800.00 was placed on a hold by ENT Credit Union due to the large amount of the check. This check (#1016) deposited by Valdez was also reported to PCSO by Burns to be stolen from his checkbook, forged, and was not authorized to be converted into currency.

On Sunday, March 31, 2019, the day before Valdez started his first day as Espanola's City Manager, Valdez returned to Buffalo Thunder and made the following withdrawals:

- 3/31 - \$205.00 at Buffalo Thunder Casino
- 3/31 - \$25.00 at Buffalo Thunder Casino
- 3/31 - \$245.00 at Buffalo Thunder Casino
- 4/1 - \$45.00 at Buffalo Thunder Casino

\$520.00 total withdrawn at Buffalo Thunder Casino

PCSO Fraud Case #19S007088

On March 29, 2019, Charles Burns, an elderly male who Valdez assisted with meals and tasks around his residence, went to his bank, Bank of the San Juans in Colorado. Burns found that his checking account was overdrawn and wanted to find out why. The bank manager, Kourtney Quillen, informed Burns his account was overdrawn due to six (6) large checks paid to David Valdez. Burns stated he signed and authorized two (2) checks to Valdez that totaled \$12,500, but he did not sign or authorize four (4) of the checks that totaled \$15,200. The four (4) checks fraudulently cashed/deposited by Valdez were missing from the back end of Burns' checkbook. According to the report, Burns' two sons and Valdez were the only people who had been in Burns' home and could have had access to his checkbook. Bank of the San Juans eventually reported the fraudulent checks to Valdez's bank, ENT Credit Union.

On Monday, April 1, 2019, the same day Valdez started as Espanola's City Manager, ENT Credit Union made large withdrawals from Valdez's checking account for the forged and fraudulent checks deposited by Valdez related to PCSO Fraud case #19S007088 that was filed in March. The following withdrawals were made by ENT Credit Union:

- 4/1 -\$2,500.00
- 4/1 -\$2,000.00
- 4/2 -\$6,500.00

Valdez's checking account balance started at \$5,922.21 on Monday, April 1, 2019 and was closed by ENT Credit Union on Wednesday, April 3, 2019 with an overdrawn ending balance of -\$5,372.51. It is unknown if Valdez ever repaid ENT Credit Union for these overdrawn funds. It is also unknown whether Valdez repaid Burns for any other funds that were fraudulently taken from Burns.

David Valdez receives his first paycheck

On Thursday, April 11, 2019, the day before the utilities deposit was stolen, Valdez received his first payroll check for a week's worth of work in the amount of \$1,461.20. It did not appear that Valdez had a bank account between April 3, 2019 when ENT Credit Union closed his bank account and Friday, April 12, 2019 when Valdez opened a checking account with Wells Fargo Bank on the day the deposit was stolen.

Wells Fargo Bank records

OAG investigators obtained Valdez's financial records from Wells Fargo Bank via a search warrant on October 28, 2019. After an analysis of these records, OAG investigators found that Valdez opened his Wells Fargo checking account (ending 4076) on Friday, April 12, 2019 at 2:37 PM. This was the same day the utility deposit was stolen from the safe at City Hall. The account was opened with \$1,500.00 cash at the Wells Fargo Branch on 645 N. Riverside in Espanola, N, approximately 5 minutes from City Hall. Valdez appeared to have returned to Colorado City, CO during the weekend and returned to Española on Monday, April 15, 2019.

During the week of Monday, April 15, 2019 through Friday, April 19, 2019, Valdez had the following ATM withdrawals and deposits in regards to his Wells Fargo Bank account:

- 4/15 \$1,000.00 cash deposit
- 4/15 \$305.50 ATM withdrawal (fees included) from an ATM located across from Santa Claran Casino
- 4/16 \$306.50 ATM withdrawal from Tesuque Casino
- 4/17 \$200.00 cash deposit
- 4/19 \$70.26 Hilton Hotel at Buffalo Thunder Casino

\$612.00 total ATM/Casino withdrawals this week (not including hotel payment)

Valdez appeared back in Colorado City, CO during the weekend and returned back to Espanola, NM on Monday April, 22, 2019. Valdez made the following ATM withdrawals and deposits during the week of Monday, April 22, 2019 through Friday, April 26, 2019 on his Wells Fargo checking account:

*Note: On April 22, 2019, Valdez's checking account was overdrawn -\$33.72.

- 4/25 \$2,303.24 cash deposit (1st payroll check)
- 4/25 \$305.50 ATM withdrawal from ATM across Santa Claran Casino
- 4/25 \$310.95 withdrawal from Santa Claran Casino
- 4/25 \$318.99 withdrawal from Santa Claran Casino

\$935.44 total ATM/Casino withdrawals this week

It appeared that Valdez traveled to Colorado City, CO for the weekend on Friday, April 26, 2019 and returned back to Espanola, NM on Tuesday, April 29, 2019. Valdez made the following ATM withdrawals and deposits for the week of Monday, April 29, 2019 through Friday, May 4, 2019 from his Wells Fargo checking account:

- 4/30 \$25.50 ATM withdrawal in Colorado City, CO (not included in weekly total)
- 5/1 \$306.00 ATM withdrawal at Buffalo Thunder Casino
- 5/2 \$25.50 ATM withdrawal from ATM across Santa Claran Casino
- 5/3 \$400.50 Deposit - "City of Española Petty Cash/David Valdez" (Total Check was for \$479.50 and \$79.00 was kept in cash)

\$331.50 total ATM/Casino withdrawals this week

Valdez received a check from the City of Española paid to the order of "City of Española Petty Cash/David Valdez". This check was deposited into Valdez's personal Wells Fargo checking account on May 3, 2019 at 10:46 AM. Valdez deposited \$400.50 into his checking account and cashed the remaining \$79.00. Prior to this deposit, Valdez's checking account balance was overdrawn -\$1.49. After the deposit was made, Valdez's account balance was \$399.01 Valdez spent the remaining "Petty cash" deposit at the following locations:

- 5/3 \$38.91 Ohkay Express Mart in Espanola, NM
- 5/3 \$91.42 Texas Roadhouse in Pueblo, CO
- 5/4 \$48.49 Cactus Flower Inc. in Pueblo, CO
- 5/4 \$213.59 Wal-Mart in Pueblo, CO
- 5/4 \$27.60 Sam's Club in Pueblo, CO

Following these withdrawals, Valdez's account balance was again overdrawn -\$21.00 until May 9, 2019 when he made a \$1,933.24 cash deposit into his account. Immediately after being paid and depositing his payroll check, Valdez made the following withdrawals:

- 5/9 \$306.00 ATM withdrawal at Buffalo Thunder Casino

- 5/9 \$315.50 withdrawal at Buffalo Thunder Casino
- 5/9 \$315.50 withdrawal at Buffalo Thunder Casino
- 5/9 \$318.99 withdrawal at Santa Claran Casino

\$1,255.99 withdrawn on Thursday, May 9th at the casinos

Immediately after returning from Colorado City, CO on Sunday, May 13, 2019, Valdez returned to Buffalo Thunder Casino and made the following withdrawals and made a deposit from a personal check written to him from his mother, Diana Valdez:

- 5/13 \$106.00 withdrawal from Buffalo Thunder Casino
- 5/13 \$106.00 withdrawal from Buffalo Thunder Casino
- 5/13 \$700.00 check from Diana Valdez (\$400 deposit & \$300 cash back)

\$212.00 withdrawal from Buffalo Thunder Casino and \$300 cash from a personal check on this date

On May 23, 2019, Valdez deposited his \$2,669.53 payroll check to his checking account. Valdez deposited \$2,069.53 and cashed out \$600.00 from his payroll check and later made the following withdrawals:

- 5/29 \$306.00 ATM withdrawal from Buffalo Thunder Casino
- 5/29 \$310.95 withdrawn from Camel Rock Casino (Tesuque)
- 5/29 \$310.95 withdrawn from Camel Rock Casino (Tesuque)
- 5/29 \$318.99 withdrawn from Santa Claran Casino
- 5/30 \$46.00 ATM withdrawal from Buffalo Thunder Casino
- 5/30 \$66.00 ATM withdrawal from Buffalo Thunder Casino

\$1,358.89 total withdrawn from the local casinos on these dates

Valdez liquidated his checking account to \$4.86 until he received his payroll check from the City of Española on June 5, 2019. Valdez continued this spending pattern throughout his tenure as the City Manager of Española until he was terminated from his position on July 10, 2019.

During the analysis of Valdez's Wells Fargo bank statements, OAG investigators observed a \$1,000.00 personal check (#99) written to the City of Española. The check was dated June 25, 2019 and "wallet/utilities" was written in the memo section of the check. After a follow up phone call on January 25, 2022 with the current Deputy City Clerk Melissa Velasquez and Utilities Supervisor Danielle Bustos, Bustos recalled Valdez telling her that he had lost his wallet and had the utilities department cash his personal check at the utilities office. Valdez wrote the \$1,000.00 check to the City of Espanola and gave it to the utilities cashier. The utilities cashier took \$1,000.00 cash from the utilities deposit and then placed Valdez's personal check in the utilities deposit. Valdez's personal check cleared his personal bank account on June 26, 2019 without any discrepancies.

During the later month of June 2019 and the month of July 2019, OAG investigators begin to see payments to quick loan type financial institutions. Several payments were made to OneMain Financial, Infinity Loans, and Speedy Loan. Valdez was suspended as the City Manager on July 5, 2019 due to the fact that the City of Espanola learned that Valdez was the target of a criminal investigation in Colorado City, CO, regarding the theft or misappropriation of public funds while District Manager for the Colorado City Metropolitan District. Valdez was terminated during a closed executive city council meeting on July 9, 2019. Valdez deposited his final paycheck from the City of Española on July 11, 2019.

Casino records

OAG investigators retrieved player card information from local casinos in or around the City of Espanola. Information was obtained from Buffalo Thunder Casino on June 20, 2019. On June 28, 2019, OAG investigators received player card information from Tesuque Casino, also known as Camel Rock Casino. On July 26, 2019, James Baca, a representative with the Santa Claran Casino was served with a subpoena requesting player card information for Valdez. Ohkay Casino and Cities of Gold in the area did not have information of Valdez gambling at their locations. The information from the documents collected from these three (3) casinos exhibited the dates, times, the amount of money bet, the amount the casino profits (casino win) from Valdez, among other information.

According to these documents, Valdez lost the following amounts at the three (3) casinos combined during the following months:

- March 2019 - \$9,763.72
- April 2019 - \$7,335.04
- May 2019 - \$2,399.75

Valdez started his employment with the City of Española on Monday, April 1, 2019. On the week the deposit was stolen, Valdez gambled on:

- Monday, April 8, 2019 and lost a total of \$1,019.55
- Thursday, April 11, 2019 and lost a total of \$1,323.65 (Received 1st payroll check of \$1,461.20)

Total loss for the two (2) days was \$2,343.20

On Friday, April 12, 2019, the deposit was stolen from the safe and based on Valdez's financial records, Valdez traveled back to his home in Colorado City, Colorado for the weekend. Valdez returned to work at Española City Hall on Monday, April 15, 2019. On this Monday, Valdez returned to the following casinos:

Monday, April, 15, 2019

- Tesuque Casino - \$35.00 lost
- Buffalo Thunder Casino - \$1,129.80 lost
- Santa Claran Casino - \$1,210.00 lost

Total loss on this date was \$2,374.80

Between April 15, 2019 and April 25, 2019, the two (2) weeks following the day the deposit was stolen from City Hall, Valdez gambled away \$4,801.94.

Conclusion

Based on the above information, it is both probable and reasonable that Valdez had both the means and opportunity to steal the City Hall utilities deposit from the vault on April 12, 2019. Valdez had only been employed with the City of Española for approximately 10 days before this incident occurred. Valdez was the one of four employees who was alone in the vault during the time period the deposit was stolen and the only employee that did not have daily responsibilities in the utilities office. Prior to Valdez's employment, several employees said there has never been an incident where a deposit had ever gone missing.

Valdez made several statements to Hall on the day the deposit went missing regarding his interest in the locations of the video-surveillance cameras and the areas in which they monitored. Upon reviewing the video surveillance of the incident itself, it is clear to this Affiant that Valdez displays a pattern of suspicious behavior that is indicative of an individual who has committed a criminal act based on Affiant's training and experience.

Valdez is observed pacing back and forth in the lobby area, later carrying a thin black leather portfolio into the utilities office. Valdez disappears to the back of the office where the vault is located with the portfolio in hand. Hall tends to customers while Valdez remains in the vault. Valdez is seen on camera quickly peeking out into the hallway as if to see if someone is coming, and exiting the utilities office a few minutes later with the portfolio in hand. The portfolio Valdez leaves the office with appears to be significantly thicker than it initially appeared. Valdez returned to the office multiple times after this with different employees. Shortly after Nadine Trujillo discovers the deposit is missing from the vault, over \$6,600.00 in cash and \$11,600.00 in checks are still unaccounted for. To this day, the cash and checks are still unaccounted for.

After an analysis and comparison of Valdez's financial statements and casino records, it appeared that Valdez had an obsessive gambling habit. Documents showed Valdez had a consistent spending pattern when he received income, legally or illegally, indicating he immediately gambled a majority of those funds at the casinos.

On Thursday, April 11, 2019, the day before the utilities deposit was stolen, Valdez received his first payroll check from the City of Española for a week's worth of pay in the amount of \$1,461.20. Valdez lost \$1,323.65 of his paycheck that same evening at local New Mexico casinos. Valdez was left with approximately \$135 until his next payday on April 25, 2019.

On Friday, April 12, 2019, the deposit was stolen from the utilities safe at City Hall. The deposit contained \$6,637.89 in cash. On this date, while the utilities deposit was found to be missing, Valdez opened his Wells Fargo checking account with \$1,500.00 cash. Valdez made another deposit of \$1,000.00 cash on Monday, April 15, 2019.

Between Monday, April 12, 2019 and Wednesday, April 24, 2019, the day before Valdez's next paycheck, Valdez spent \$2,133.72 outside of the casinos (personal spending) and lost \$3,721.94 at the local New Mexico casinos for a total of \$5,855.66. OAG investigators are unable to account for the source of these funds other than the cash from the stolen deposit. The \$5,855.66 spent and lost by Valdez during this time period would make up 87% of the cash in the stolen utilities deposit.

The Affiant has not included every fact related to this investigation, but included only those facts Affiant believes necessary to establish probable cause.

Based on the aforementioned facts and circumstances, it is reasonable to conclude that David Gilbert Valdez acted contrary to Section 30-16-1 (E) NMSA 1978 and N.M. Const. Art. VIII, § 4.

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.



Affiant

NMAG Special Agent

Title



Assistant Attorney General

Title

If Probable Cause Determination Required:

Probable Cause Found

Probable Cause Not Found, and Defendant Released from Custody

Judge: _____

Date: _____

Time: _____