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FILED
DISTRICT COURT
2005 JUN 15 P 2 43

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SEALED

UNITED STATES OF AMERICA,	:	I N D I C T M E N T
	:	
Plaintiff,	:	VIO. 21 U.S.C. § 846,
	:	CONSPIRACY AND ATTEMPT TO
vs.	:	POSSESS PEYOTE WITH INTENT
	:	TO DISTRIBUTE, CONSPIRACY
JAMES MOONEY, LINDA MOONEY and	:	TO DISTRIBUTE PEYOTE; 21
NICHOLAS STARK,	:	U.S.C. § 841(a)(1),
	:	DISTRIBUTION OF PEYOTE AND
Defendants.	:	POSSESSION OF PEYOTE WITH
	:	INTENT TO DISTRIBUTE; 21
	:	U.S.C. § 844, POSSESSION OF
	:	COCA LEAVES; 21 U.S.C.
	:	§ 853, NOTICE OF INTENT TO
	:	SEEK FORFEITURE

The Grand Jury charges:

Judge Ted Stewart
DECK TYPE: Criminal
DATE STAMP: 06/15/2005 @ 13:00:07
CASE NUMBER: 2:05CR00410 TS

INTRODUCTION

1. Prior to the period of the conspiracies alleged in this Indictment, defendant JAMES MOONEY fraudulently obtained a membership card to the Oklevueha Band of Yamassee Seminole Indians (referred to herein as "the Band"), a tribe that is not federally recognized. Traditionally, the Band does not use peyote in its religious ceremonies.

2. JAMES MOONEY used his affiliation with the Band to obtain peyote illegally which he, LINDA MOONEY and NICHOLAS STARK

distributed to non-Native Americans, in violation of federal law.

3. During the course of the conspiracies alleged in the Indictment, JAMES MOONEY misrepresented himself as a Native American.

4. In April 1997, JAMES and LINDA MOONEY established the Oklevueha Earth Walks Native American Church of Utah, a non-profit corporation that is not associated with the Native American Church of North America and is not recognized as a traditional Native American church by traditional Native American organizations.

5. In November 1997, the Band terminated its affiliation with JAMES MOONEY based upon his activities involving peyote. The Band requested that MOONEY return his membership card and further requested that JAMES MOONEY stop using the name "Oklevueha" in connection with his activities.

6. JAMES MOONEY did not return the Band's membership card and he and LINDA MOONEY have continued to use the name "Oklevueha" in connection with their activities. Moreover, during the course of the conspiracies, JAMES MOONEY obtained peyote by utilizing his membership card with the Band, even after his affiliation was terminated, in violation of federal law.

COUNT I

(Conspiracy to Possess Peyote
with Intent to Distribute, 21 U.S.C. § 846)

7. The Grand Jury incorporates by reference paragraphs 1 through 6 as if fully stated herein.

8. Beginning on a date unknown to the Grand Jury, but at least by April 15, 1996, and continuing until the date of this Indictment, in the Central Division of the District of Utah and elsewhere,

JAMES MOONEY and LINDA MOONEY,
defendants herein, did knowingly and intentionally combine, conspire, confederate and agree with other persons known and unknown, to commit the following offense against the United States of America:

a. To possess with intent to distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, all in violation of 21 U.S.C. § 846 and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT II

(Conspiracy to Distribute Peyote,
21 U.S.C. § 846)

9. The Grand Jury incorporates by reference paragraphs 1 through 8 as if fully stated herein.

10. Beginning on a date unknown to the Grand Jury, but at least by April 15, 1996, and continuing until the date of this Indictment, in the Central Division of the District of Utah and elsewhere,

JAMES MOONEY and LINDA MOONEY,
defendants herein, did knowingly and intentionally combine, conspire, confederate and agree with persons known and unknown,

to commit the following offense against the United States of America:

a. To distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2; all in violation of 21 U.S.C. § 846 and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT III

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

11. The Grand Jury incorporates by reference paragraphs 1 through 10 as if fully stated herein.

12. On or about July 5, 2000, in the Central Division of the District of Utah,

JAMES MOONEY,

defendant herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT IV

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

13. The Grand Jury incorporates by reference paragraphs 1 through 12 as if fully stated herein.

14. On or about July 7, 2000, in the Northern Division of

the District of Utah,

NICHOLAS STARK,

defendant herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT V

(Possession of Peyote with Intent
to Distribute, 21 U.S.C. § 841(a)(1))

15. The Grand Jury incorporates by reference paragraphs 1 through 14 as if fully stated herein.

16. On or about July 8, 2000, in the Northern Division of the District of Utah,

NICHOLAS STARK,

defendant herein, did knowingly and intentionally possess with intent to distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT VI

(Possession of Coca Leaves,
21 U.S.C. § 844)

17. The Grand Jury incorporates by reference paragraphs 1 through 16 as if fully stated herein.

18. On or about July 8, 2000, in the Northern Division of the District of Utah,

NICHOLAS STARK,

defendant herein, did knowingly and intentionally possess coca leaves, a Schedule II controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 844 and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 844.

COUNT VII

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

19. The Grand Jury incorporates by reference paragraphs 1 through 18 as if fully stated herein.

20. On or about July 8, 2000, in the Central Division of the District of Utah,

JAMES MOONEY,

defendant herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT VIII

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

21. The Grand Jury incorporates by reference paragraphs 1 through 20 as if fully stated herein.

22. On or about July 15, 2000, in the Central Division of the District of Utah,

JAMES MOONEY,

defendant herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT IX

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

23. The Grand Jury incorporates by reference paragraphs 1 through 22 as if fully stated herein.

24. On or about July 22, 2000, in the Central Division of the District of Utah,

JAMES MOONEY and LINDA MOONEY,

defendants herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT X

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

25. The Grand Jury incorporates by reference paragraphs 1

through 24 as if fully stated herein.

26. On or about July 29, 2000, in the Central Division of the District of Utah,

JAMES MOONEY,

defendant herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT XI

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

27. The Grand Jury incorporates by reference paragraphs 1 through 26 as if fully stated herein.

28. On or about August 1, 2000, in the Central Division of the District of Utah,

JAMES MOONEY,

defendant herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT XII

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

29. The Grand Jury incorporates by reference paragraphs 1

through 28 as if fully stated herein.

30. On or about August 5, 2000, in the Central Division of the District of Utah,

LINDA MOONEY,

defendant herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT XIII

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

31. The Grand Jury incorporates by reference paragraphs 1 through 30 as if fully stated herein.

32. On or about August 9, 2000, in the Central Division of the District of Utah,

JAMES MOONEY,

defendant herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT XIV

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

33. The Grand Jury incorporates by reference paragraphs 1

through 32 as if fully stated herein.

34. On or about September 2, 2000, in the Central Division of the District of Utah,

JAMES MOONEY and LINDA MOONEY,

defendants herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT XV

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

35. The Grand Jury incorporates by reference paragraphs 1 through 34 as if fully stated herein.

36. On or about September 9, 2000, in the Central Division of the District of Utah,

JAMES MOONEY and LINDA MOONEY,

defendants herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT XVI

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

37. The Grand Jury incorporates by reference paragraphs 1

through 36 as if fully stated herein.

38. On or about September 16, 2000, in the Central Division of the District of Utah,

JAMES MOONEY,

defendant herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT XVII

(Distribution of Peyote,
21 U.S.C. § 841(a)(1))

39. The Grand Jury incorporates by reference paragraphs 1 through 38 as if fully stated herein.

40. On or about September 23, 2000, in the Central Division of the District of Utah,

JAMES MOONEY and LINDA MOONEY,

defendants herein, did knowingly and intentionally distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT XVIII

(Possession of Peyote with Intent,
to Distribute, 21 U.S.C. § 841(a)(1))

41. The Grand Jury incorporates by reference paragraphs 1

through 40 as if fully stated herein.

42. On or about October 10, 2000, in the Central Division of the District of Utah,

JAMES MOONEY and LINDA MOONEY,

defendants herein, did knowingly and intentionally possess with intent to distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT XIX

(Attempted Possession of Peyote with Intent,
to Distribute, 21 U.S.C. § 846)

43. The Grand Jury incorporates by reference paragraphs 1 through 42 as if fully stated herein.

44. On or about October 20, 2000, in the Central Division of the District of Utah,

JAMES MOONEY,

defendant herein, did knowingly and intentionally attempt to possess with intent to distribute peyote, a Schedule I controlled substance within the meaning of 21 U.S.C. § 812, and did aid and abet therein; in violation of 21 U.S.C. §§ 846, 841(a)(1) and 18 U.S.C. § 2, and punishable under 21 U.S.C. § 841(b)(1)(C).

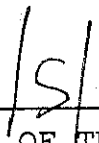
NOTICE OF INTENT TO SEEK FORFEITURE

As a result of the offenses alleged in Counts IV-VI of the Indictment, the defendant Nicholas Stark shall forfeit to the United States pursuant to 21 U.S.C. § 853, all property, real or

personal, that is derived from, used, or intended to be used in violation of 21 U.S.C. § 841, including but not limited to:

- Approximately \$ 10,900 in U.S. currency

A TRUE BILL:



FOREPERSON OF THE GRAND JURY

PAUL M. WARNER
United States Attorney



VEDA M. TRAVIS
Assistant United States Attorney

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT

Name of District Court, and/or Judge/Magistrate Location (City)

NORTHERN -- DISTRICT OF UTAH COURT

OFFENSE CHARGED
DISTRIBUTION OF PEYOTE; POSSESSION OF PEYOTE WITH INTENT TO DISTRIBUTE; POSSESSION OF COCA LEAVES

- Petty
 Minor
 Misdemeanor
 Felony

Place of offense
Salt Lake County
Central Division
District of Utah

U.S.C. Citation
21 : 844; 841(a)(1)

DEFENDANT - U.S. vs.

NICHOLAS STARK

Address

Birth Date

- Male Alien
 Female (if applicable)

(Optional unless a juvenile)

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Joe Sturzenegger, TFO

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCP 20, 21 or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:
 U.S. Att'y Defense

SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

MAGISTRATE CASE NO.

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome this proceeding
2) Is a Fugitive
3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
5) On another conviction
6) Awaiting trial on other charges

Has detainer been filed? Yes No

If "Yes" give date filed

DATE OF ARREST

Or... if Arresting Agency & Warrant were not Federal

DATE TRANSFERRED TO U.S. CUSTODY

Name and Office of Person Furnishing Information on THIS FORM

Paul M. Warner

U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

VEDA M. TRAVIS

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

Please issue a SEALED SUMMONS for subject.

SEALED

Judge Ted Stewart
DECK TYPE: Criminal
DATE STAMP: 06/15/2005 @ 13:00:07
CASE NUMBER: 2:05CR00410 TS

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT

Name of District Court, and/or Judge/Magistrate Location (City)

NORTHERN -- DISTRICT OF UTAH

OFFENSE CHARGED
CONSPIRACY AND ATTEMPT TO POSSESS PEYOTE WITH INTENT TO DISTRIBUTE;
CONSPIRACY TO DISTRIBUTE PEYOTE;
DISTRIBUTION OF PEYOTE; POSSESSION OF PEYOTE WITH INTENT TO DISTRIBUTE

Petty
 Minor
 Misdemeanor
 Felony

Place of offense
Salt Lake County
Central Division
District of Utah

U.S.C. Citation
21 : 846; 841(a)(1)

DEFENDANT - U.S. vs.

LINDA MOONEY

Address

Birth Date

Male Alien
 Female (if applicable)

(Optional unless a juvenile)

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Joe Sturzenegger, TFO

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:
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Name and Office of Person Furnishing Information on THIS FORM

Paul M. Warner

U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

VEDA M. TRAVIS

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
- 5) On another conviction } Fed'l State
- 6) Awaiting trial on other charges } If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No

If "Yes" give date filed

Mo. Day Year

DATE OF ARREST

Or... if Arresting Agency & Warrant were not Federal

DATE TRANSFERRED TO U.S. CUSTODY

Mo. Day Year

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

Please issue a SEALED WARRANT for subject. Subject is not in custody and considered a danger to the community and risk of flight.

Judge Ted Stewart
DECK TYPE: Criminal
DATE STAMP: 06/15/2005 @ 13:00:07
CASE NUMBER: 2:05CR00410 TS

SEALED

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION -- IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT

Name of District Court, and/or Judge/Magistrate Location (City)

NORTHERN -- DISTRICT OF UTAH

OFFENSE CHARGED

CONSPIRACY AND ATTEMPT TO POSSESS PEYOTE WITH INTENT TO DISTRIBUTE; CONSPIRACY TO DISTRIBUTE PEYOTE; DISTRIBUTION OF PEYOTE; POSSESSION OF PEYOTE WITH INTENT TO DISTRIBUTE

Petty Minor Misdemeanor Felony

Place of offense Salt Lake County Central Division District of Utah

U.S.C. Citation

21 : 846; 841(a)(1)

DEFENDANT -- U.S. vs. JAMES MOONEY

JAMES MOONEY

Address

Birth Date

Male Alien Female (if applicable)

(Optional unless a juvenile)

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Joe Sturzenegger, TFO

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of: U.S. Att'y Defense

SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant

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MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on THIS FORM

Paul M. Warner

U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

VEDA M. TRAVIS

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome this proceeding If not detained give date any prior summons was served on above charges
2) Is a Fugitive
3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
5) On another conviction
6) Awaiting trial on other charges
If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No

If "Yes" give date filed

Mo. Day Year

DATE OF ARREST

Or... if Arresting Agency & Warrant were not Federal

DATE TRANSFERRED TO U.S. CUSTODY

Mo. Day Year

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

Please issue a SEALED WARRANT for subject. Subject is not in custody and considered a danger to the community and risk of flight.

SEALED

Judge Ted Stewart
DECK TYPE: Criminal
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