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STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

DISTRICT COURT
DONA ANA COUNTY, NM

STATE OF NEW MEXICO,

Plaintiff,

vs.

Douglas R. Driggers

HECTOR MONTES,

No. D-307-CR-2005 1498

Defendant.

Judge: ~~Silvia Cano-Garcia~~
[Signature]

CHARGES: Criminal Sexual Contact of a Minor in the Fourth Degree (School Employee)

GRAND JURY INDICTMENT

THE GRAND JURY CHARGES:

Criminal Sexual Contact of a Minor in the Fourth Degree (School Employee), on or about November 12, 2005, in Dona Ana County, New Mexico, the above-named defendant did touch or apply force to the intimate parts of [REDACTED], who was at least thirteen but less than eighteen years of age, to wit: her breasts and buttocks or intentionally caused [REDACTED] to touch the intimate parts of the defendant to wit: his penis and the defendant was a person who was a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer and the defendant learned that [REDACTED] was a student in the school and the defendant was at least eighteen years of age and at least four years older than [REDACTED], a fourth degree felony, contrary to §30-9-13(B), NMSA 1978.


The name of the witness upon whose testimony this Indictment is based is Detective Kacee Thatcher.

I hereby certify that the foregoing instrument is a TRUE Bill.

[Signature]
FOREPERSON

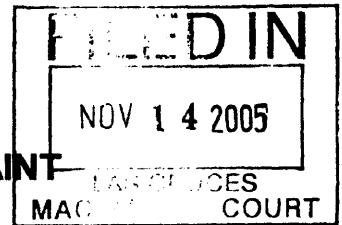
DATE: 11/23/2005

APPROVED



701 Amy L. Orlando
Deputy District Attorney
District Attorney's Office
201 W. Picacho, Suite B
Las Cruces, NM 88005
(505) 524-6370

Name: Hector Montes
Address: 13907 Montes Road, La Mesa, NM 88044 or 1414 Sweet Ave. Las Cruces,
NM 88011
DOB: 01/24/1983
POB: Las Cruces, NM
SSN: [REDACTED]
FBI No.: Unknown
Marks/Tattoos: Tattoo, Arm, right, peacock, woman; Tattoo, Shoulder, right, ladies face
Aliases: Hector Lloyd Montes
Booking Slip No.: 0500012391
State Tracking No.: 070100051884
Magistrate Court No.: M-14-FR-200500941



STATEMENT OF FACTS IN SUPPORT OF COMPLAINT
IN THE MAGISTRATE COURT

FR
2005.941
OFF

Dona Ana County
State of New Mexico

V.
Hector Montes

DOB: 01-24-83 SSN: ██████████ OLN: SEX: Male RACE: White/Hispanic	HGT:6-00 WGT: 165 EYE: Brown HAIR: Brown COMP: Dark	ADDRESS: 1414 Sweet Las Cruces, NM OTHER:
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The undersigned, being duly sworn on his/her oath, has reason to believe that on or about the 1st Day of 2005, in Dona Ana County, State of New Mexico, the above-named Defendant(s) did commit the crime(s) of **Criminal Sexual Contact of a Minor by a School Employee**, contrary to section(s) 30-9-13(D)(2), NMSA 1978.

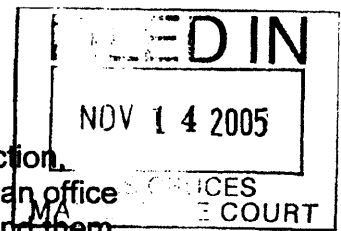
Undersigned further states the following facts on oath to establish probable cause to believe that the above-named Defendant(s) did commit the crime(s) charged.

- I. Affiant is a full-time salaried Law Enforcement Officer with the Las Cruces Police Department's Criminal Investigation Division.
- II. Affiant learned the following from Detective Jeff Ferguson, from his interview with John Schultz:
 - A. That he is an Administrator with Las Cruces Public Schools
 - B. That he had a meeting scheduled with Mrs. Haynes at Las Cruces High School today, 11-12-05 at 1:00 p.m., and they were going to go to the music section of the school
 - C. That he arrived a little early and walked to the chorus room alone

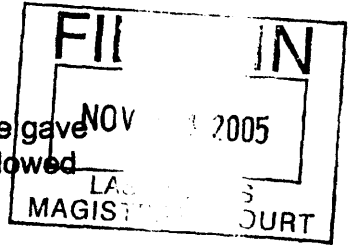
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LAS CRUCES
DISTRICT COURT

- D. That he found the outer door of the music section was unusually ajar
 - E. That he attempted to open the door to the office in the chorus room and found it was unlocked, but being held shut by someone
 - F. That he pushed on the door three times and saw that someone was holding the door shut with their foot
 - G. That the lights were off in this office
 - H. That he called out for the person inside to show themselves
 - I. That the door finally opened, and he found the Defendant inside the office in the dark
 - J. That he and the Defendant walked out of the room and returned to the door to the music section
 - K. That he observed a young female crouched down wearing only one shoe
 - L. That the Defendant had her other shoe in his hand
 - M. That he told the girl to stand and when she did he observed that her belt was unbuckled and her clothing was disheveled
 - N. That he contacted Mrs. Haynes, the principal and notified her of what he observed
 - O. That he and Mrs. Haynes spoke with the female, who identified herself as April
 - P. That the female ran away from them and they were not able to catch her
 - Q. That they asked the Defendant to wait in an office while they contacted the police
- III. Affiant learned the following from [REDACTED]
- A. That she is 15 years old and that she is a student at Las Cruces High School
 - B. That she knows the Defendant as the janitor at Las Cruces High School
 - C. That she and the Defendant have been flirting in the hallways with each other and whistling at each other for quite some time during school hours
 - D. That she was at Las Cruces High School today, 11-12-05, walking down the halls when she saw the Defendant
 - E. That they began flirting again and that she gave the Defendant her phone number
 - F. That the Defendant told her that he wanted to hook up with her today and she told him she was going with friends to the mall
 - G. That the Defendant told her he wanted to hook up with her right then



- H. That the Defendant walked her to the music section, unlocking doors along the way, and lead her to an office where they went in and he closed the door behind them
 - I. That she sat on the desk while the Defendant stood in front of her
 - J. That she and the Defendant began kissing and fondling each other
 - K. That the Defendant touched her breasts and her buttocks over her clothing
 - L. That someone attempted to open the door while they were kissing and the Defendant held the door closed in order to provide her time to get out of the room
 - M. That her shoe came off when she was running out the back door
 - N. That she was located by other school employees and she gave them a fake name
 - O. That she ran away from them and was able to leave the campus
- IV. Affiant learned the following from the Defendant:
- A. That he was working as the school custodian today when he saw ~~_____~~ in the hallway and she began flirting with him
 - B. That he went into an office in the music section and that ~~_____~~ followed him in
 - C. That they began kissing and making out in the office
 - D. That the door was shut and the lights were off
 - E. That he picked her up and her shoe fell off
 - F. That she was seated on a desk and he stood in front of her while they kissed
 - G. That they fondled each other
 - H. That she touched and fondled his penis over his clothing
 - I. That he touched her breasts over her clothing
 - J. That he touched her buttocks over and under her clothing
 - K. That he did not touch her vaginal area either over or under her clothing
 - L. That he did not penetrate her in any way
 - M. That ~~_____~~ removed her own shirt and was topless when someone attempted to open the door to the office
 - N. That he held the door closed until ~~_____~~ could get away
 - O. That the only reason they did not have sex was because someone walked in and interrupted them



P. That he realizes what he did was wrong, that he gave way to temptation and he never should have allowed this to happen

Based upon the above-mentioned information, Affiant petitions the Court to accept this Statement of Facts for the above-mentioned Defendant, charging him with **Criminal Sexual Contact of a Minor by a School Employee**, contrary to **30-9-13(D)(2), NMSA 1978**.

Subscribed and sworn before me
In Dona Ana County, State of New
Mexico this ___ day of _____
2005.


Affiant Kacee Thatcher
Detective Las Cruces Police Dept.

Judge

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

STATE OF NEW MEXICO,

Plaintiff,

vs.

HECTOR MONTES,

Defendant.

No. CR-2005-1498
Judge Cano Garcia

FILED

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DISTRICT COURT
DONA ANA COUNTY, NM
JOHN D. NEIL-2

~~FILED~~

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~~DISTRICT COURT
DONA ANA COUNTY, NM
JOHN D. NEIL~~

*filed in
error
K*

WAIVER OF ARRAIGNMENT
ENTRY OF PLEA OF NOT GUILTY

I understand that I have been charged with the following criminal offense or offenses under the law of the State of New Mexico: COUNT 1: CRIMINAL SEXUAL PENETRATION OF A MINOR IN THE FOURTH DEGREE (SCHOOL EMPLOYEE), contrary to §30-9-13 (B), NMSA 1978.

I understand that I am entitled to personally appear before the District Court Judge and enter my plea to the crimes charged and to have my rights explained to me.

I hereby acknowledge receipt of a copy of the Criminal Complaint, which I have read and had explained to me by defense counsel. I understand the crime or crimes charged and the penalty provided by law for the crime or crimes charged.

I further understand that: I have a right to trial by jury; I have the right to the assistance of an attorney at all stages of the proceeding, and to an appointed attorney, to be furnished free of charge, if I cannot afford one; I have the right to confront the witnesses against me and to cross examine them as to the truthfulness of their testimony;

*12/20/05
14/02
K*

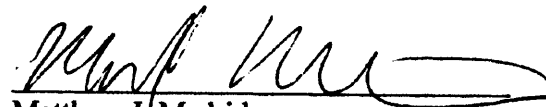
I have the right to present evidence on my own behalf and to have the State compel witnesses of my choosing to appear and testify; I have the right to remain silent and that any statement made by me may be used against me; I have a right to trial by jury and that all jurors must agree on my guilt of the crime charged beyond a reasonable doubt for me to be found guilty.

After reading and understanding the above, I hereby give up my right to personally appear before the District Court for arraignment and I hereby enter a plea of not guilty to all criminal offenses charged in the above-styled cause.

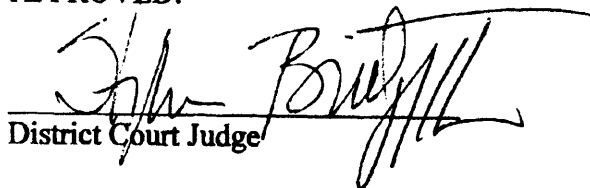
DATED this 29th day of November, 2005


HECTOR MONTES, Defendant

I have explained to the Defendant his right to personally appear before the District Court to enter a plea of not guilty and to have his rights explained to him by the judge and I am satisfied that he understands the waiver of his rights.


Matthew J. Madrid
Attorney for Defendant
637 N. Alameda
Las Cruces, NM 88005
(505) 642-0587

APPROVED:


District Court Judge

FILED

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

MAY 17 AM 10:01

STATE OF NEW MEXICO,

CLERK OF COURT
DONA ANA COUNTY, NM
NADIE SANCHEZ - 7

v.

HECTOR MONTES,
DOB: 01/24/1983
SSN: ██████████

D-307-CR-200501498
Judge Douglas R. Driggers

PLEA AND DISPOSITION AGREEMENT

The State of New Mexico and the defendant hereby agree to the following disposition of this case:

Plea: The defendant agrees to plead guilty to the following offenses:

Contributing to the Delinquency of a Minor, a fourth degree felony, contrary to §30-06-03, NMSA 1978, occurring on or about November 12, 2005, as an amended charge of the charge in ~~Count 1~~ of the Grand Jury Indictment;

MUSA

Terms: This agreement is made subject to the following conditions:

1. **No agreement as to sentence.** There are no agreements as to sentencing. The maximum penalties for these charges are:

SN
AM ~~Count 2: Contributing to the Delinquency of a Minor, a fourth degree felony with a basic sentence of eighteen (18) months and a fine of \$5,000, followed by one (1) year parole. The Court must also impose a \$5.00 Domestic Violence Treatment Fee.~~

The defendant shall provide a sample of biological material sufficient for DNA Testing and pay a \$100.00 fee to the New Mexico Department of Corrections for the combined DNA Index System (CODIS), pursuant to §29-16-1, et seq., NMSA 1978.

If the Court finds that due to the nature of this offense and the resulting harm that this crime is a serious violent offense or this offense is classified as a serious violent offense pursuant to §33-2-34, NMSA 1978, the Defendant's meritorious deductions shall not exceed a maximum of four (4) days per month of time served.

Any basic sentence may be altered up to one third for aggravating and mitigating circumstances.

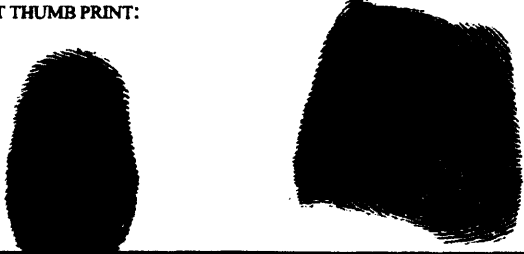

[Signature] MAY 21 2007

Any basic sentence shall be enhanced pursuant to §31-18-17, NMSA 1978 as an habitual criminal offender, if the defendant has any undisclosed prior felony convictions.

2. **Additional charges.** The following charges will be dismissed, or if not yet filed, shall not be brought against the defendant:
3. **Restitution.** The defendant agrees to pay restitution as follows: Restitution will be ordered in accordance with §31-17-1, NMSA 1978. The defendant agrees to make restitution on all charges whether or not dismissed or not filed pursuant to this agreement.
4. **Effect on charging document.** That this agreement, unless rejected or withdrawn, serves to amend the complaint, indictment or information to charge the offense to which the defendant pleads, without the filing of any additional pleading. If the plea is rejected or withdrawn, the original charges are automatically reinstated.
5. **Waiver of defenses and appeal.** Unless this plea is rejected or withdrawn, the defendant gives up any and all motions, defenses, objections or requests which the defendant has made or raised, or could assert hereafter, to the court's entry of judgment and imposition of a sentence consistent with this agreement. The defendant waives the right to appeal the conviction that results from the entry of this plea agreement.
6. **Withdrawal permitted if agreement rejected.** If after reviewing this agreement and any presentence report the court concludes that any of its provisions are unacceptable, the court will allow the withdrawal of the plea, and this agreement will be void. If the plea is withdrawn, neither the plea nor any statements arising out of the plea proceedings shall be admissible as evidence against the defendant in any criminal proceedings.


I understand that entry of this plea agreement may have an effect upon my immigration or naturalization status.

I have read and understand the above. I have discussed the case and my constitutional rights with my lawyer. I understand that by pleading guilty I will be giving up my right to a trial by jury, to confront, cross-examine and compel the attendance of witnesses and my privilege against self-incrimination. I understand that if the court grants me probation, a suspended sentence, a deferred sentence or a conditional discharge, the terms and conditions thereof are subject to modification in the event that I violate any of the terms or conditions imposed.

<p>RIGHT THUMB PRINT:</p> 	<p>SIGNATURE:</p>  <p>Hector Montes</p>
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DEFENSE COUNSEL REVIEW

I have reviewed the plea and disposition agreement with my client. I have discussed this case with my client and I have advised my client of my client's constitutional rights and possible defenses.



 Matthew J. Madrid
 Defense Counsel

5/16/07

 Date

PROSECUTOR REVIEW

I have reviewed and approve this plea and disposition agreement and find that it is appropriate and consistent with the best interests of justice.



 Susan M. Riedel
 Prosecutor

5/16/07

 Date

DISTRICT COURT APPROVAL

The defendant personally appearing before me and I have concluded as follows:

1. That the defendant understands the charges set forth in the indictment.
2. That the defendant understands the range of possible sentences for the offenses charged, from probation to a maximum of:

Montes

Count 2: Contributing to the Delinquency of a Minor, a fourth degree felony with a basic sentence of eighteen (18) months and a fine of \$5,000, followed by one (1) year parole. The Court must also impose a \$5.00 Domestic Violence Treatment Fee.

The defendant shall provide a sample of biological material sufficient for DNA Testing and pay a \$100.00 fee to the New Mexico Department of Corrections for the combined DNA Index System (CODIS), pursuant to §29-16-1, et seq., NMSA 1978.

If the Court finds that due to the nature of this offense and the resulting harm that this crime is a serious violent offense or this offense is classified as a serious violent offense pursuant to §33-2-34, NMSA 1978, the Defendant's meritorious deductions shall not exceed a maximum of four (4) days per month of time served.

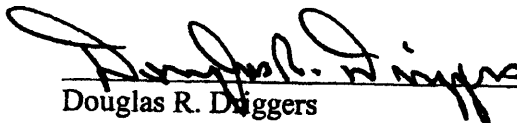
Any basic sentence may be altered up to one third for aggravating and mitigating circumstances.

Any basic sentence shall be enhanced pursuant to §31-18-17, NMSA 1978 as an habitual criminal offender, if the defendant has any undisclosed prior felony convictions.

3. That the defendant understands the following constitutional rights which the defendant gives up by pleading guilty:
 - (a) the right to trial by jury, if any;
 - (b) the right to the assistance of an attorney at trial, and to an appointed attorney, to be furnished free of charge, if the defendant cannot afford one;
 - (c) the right to confront the witnesses against the defendant and to cross-examine them as to the truthfulness of their testimony;
 - (d) the right to present evidence on the defendant's own behalf, and to have the state compel witnesses of the defendant's choosing to appear and testify;
 - (e) the right to remain silent and to be presumed innocent until proven guilty beyond a reasonable doubt.
4. That the defendant wishes to give up the constitutional rights of which the defendant has been advised.
5. That there exists a basis in fact for believing the defendant is guilty of the offenses charged and that an independent record for such factual basis has been made.

6. That the defendant and the prosecutor have entered into a plea agreement and that the defendant understands and consents to its terms.
7. That the plea is voluntary and not the result of force, threats or promises other than a plea agreement.
8. That under the circumstances, it is reasonable that the defendant plead guilty.
9. That the defendant understands that a conviction may have an effect upon the defendant's immigration or naturalization status.


On the basis of these findings, I conclude that the defendant knowingly, voluntarily and intelligently pleads guilty to the above charges and accepts such plea. These findings shall be made a part of the record in the above-styled case.



Douglas R. Diggers
District Judge

5-16-07

Date

Name: Hector Montes
Address: P.O. Box 382 / 13907 Montes Rd. , La Mesa, NM 88044
DOB: 01/24/1983
SSN: 
POB: Las Cruces, NM
Height: 6'01
Weight: 180
Color of Eyes: Brown
Color of Hair: Black
FBI No.: Unknown
Marks/Tattoos: Tattoo, Arm, right, peacock, woman; Tattoo, Shoulder, right, lady's face and man's face
Aliases:
Booking Slip No.: 0500012391
State Tracking No.: 0701000051884

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STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

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DISTRICT COURT
DONA ANA COUNTY, NM
NADINE SANCHEZ - 7

STATE OF NEW MEXICO,

Plaintiff,

vs.

HECTOR MONTES,

Defendant.

No. D-307-CR-200501498
Judge Douglas R. Driggers

JUDGMENT AND ORDER PARTIALLY SUSPENDING SENTENCE

THIS MATTER came before the Court for sentencing on October 25, 2007. The State of New Mexico was represented by Susan M. Riedel, Chief Deputy District Attorney. The Defendant was present and represented by counsel, Matthew J. Madrid.

The Defendant was convicted on May 16, 2007, pursuant to a guilty plea accepted and recorded by the Court, of the offense of Contributing to the Delinquency of a Minor, a fourth degree felony, contrary to §30-06-03, NMSA 1978, occurring on or about November 12, 2005, as charged as an included offense in the Grand Jury Indictment.

The Defendant is hereby found and adjudged guilty and convicted of this crime.

IT IS THE JUDGMENT AND SENTENCE OF THE COURT that the Defendant be committed to the custody of the Dona Ana County Detention Center where the Defendant shall serve:

Contributing to the Delinquency of a Minor, a term of eighteen (18) months, followed by one (1) year parole.

11-13
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IT IS ORDERED that the Defendant shall serve one hundred nineteen (119) days of this sentence in the custody of the Dona Ana County Detention Center. The remainder of the Defendant's sentence, which is one (1) year and sixty-three (63) days, shall be suspended. Upon completion of this term of incarceration and release from custody, the Defendant shall be placed on supervised probation for a period of one (1) year and three (3) months under the supervision of the Probation and Parole Division of the New Mexico Corrections Department.

IT IS THEREFORE ORDERED that the Administrator of the Dona Ana County Detention Center take the Defendant into custody and confine the Defendant for the above term.

The Defendant shall receive pre-sentence confinement credit from November 12, 2005, the date of the Defendant's arrest, through November 14, 2005, the date of the Defendant's release on bond and from June 29, 2007, the date of the Defendant's arrest on a Detention Order, through October 25, 2007, the day of sentencing, for a total of one hundred nineteen (119) days.

IT IS FURTHER ORDERED that the Defendant shall comply with the standard conditions of probation and the following special conditions as directed by the Probation and Parole Division of the New Mexico Corrections Department:

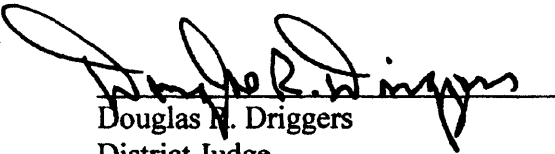
1. The Defendant shall not consume or possess alcoholic beverages.
2. The Defendant shall not enter or frequent establishments where the primary purpose is the sale of alcohol.
3. The Defendant shall not use or possess any controlled substance except as may be prescribed to the Defendant by a licensed physician.
4. The Defendant shall not possess any weapons.

5. The Defendant shall maintain full time employment or full time enrollment in school or a combination thereof.
6. The Defendant shall not violate any local, state or federal laws.
7. The Defendant shall comply with any other reasonable condition specified by the Probation and Parole Division of the New Mexico Corrections Department.
8. The Defendant shall submit to random urinalysis or breath tests or both.
9. The Defendant shall perform one hundred (100) hours of community service. It is recommended that the Defendant perform ten (10) hours of community service per month.
10. The Defendant shall participate in and complete an alcohol or substance abuse screening program and, if necessary, successfully complete alcohol or substance abuse counseling.
11. The Defendant shall pay \$25.00 per month probation costs.
12. The Defendant shall enter into, participate in and successfully complete anger management counseling.
13. The Defendant shall have no contact, direct or indirect, with ██████████
14. The Defendant shall not associate with anyone identified as a member of any gang.
15. The Defendant shall not associate with anyone identified as a known drug user or drug dealer.

IT IS FURTHER ORDERED that the Defendant shall pay a \$5.00 Domestic Violence Treatment Fee to the Probation and Parole Division of the New Mexico Corrections Department.

IT IS FURTHER ORDERED that the Defendant shall provide a sample of biological material sufficient for DNA testing and shall pay a fee of \$100.00 for the combined DNA Index System (CODIS) to the Probation and Parole Division of the New Mexico Corrections Department, pursuant to the DNA Identification Act, §29-16-1, et. seq., NMSA 1978.

The Defendant is advised by the Court of Defendant's right to appeal the judgment and order of this Court. If the Defendant is unable to pay the costs of an appeal, the Defendant has a right to proceed with an appeal at the State's expense and at no cost to Defendant. Further, if any appeal is to be taken, it must be filed within thirty (30) days of the date of the filing of this Judgment and Sentence.


Douglas N. Driggers
District Judge

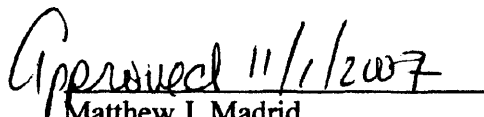
Name: Hector Montes
Address: P.O. Box 382 and/or
13907 Montes Rd., La Mesa, NM 88044
DOB: 01/24/1983
POB: Las Cruces, NM
SSN: ██████████
Height: 6'01
Weight: 180
Color of Eyes: Brown
Color of Hair: Black
FBI No.: Unknown
Marks/Tattoos: Tattoo, Arm, right, peacock, woman; Tattoo, Shoulder, right, lady's face and man's face
Aliases: Unknown
Booking Slip No.: 0500012391; 0700008068
State Tracking No.: 070100051884

SUBMITTED & APPROVED BY:



Susan M. Riedel
Chief Deputy District Attorney
845 N. Motel Blvd., 2nd Floor, Suite D
Las Cruces, NM 88007
575-524-6370

APPROVED BY:



Matthew J. Madrid
Defense Counsel
637 N. Alameda
Las Cruces, NM 88005
505-642-0587

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