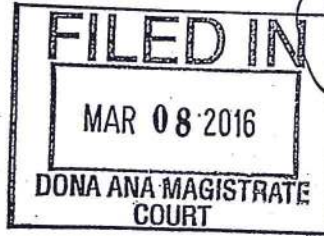


IN THE MAGISTRATE COURT
COUNTY OF DONA ANA
STATE OF NEW MEXICO



State of New Mexico,
Plaintiff,

v.

No. M-14-_____

David Gutierrez,
Defendant

CRIMINAL COMPLAINT

Crime: Using Public Office to Obtain Personal Benefit, 10-16-3(A) and Failure of a Public Official to Conduct One's Self in a Manner that Justifies Public Confidence, 10-16-3-(B) and Failure of a Public Official to Disclose a Conflict of Interest 10-16-3(C).

The undersigned, under penalty of perjury complains and says that on or about the, in the county of **Dona Ana, State of New Mexico**, the above-named Defendant did commit the crimes of:

1. Using Public Office to Obtain Personal Benefit

On or between the 4th day of March, 2014, through the 4th day of March, 2016, in Dona Ana County, New Mexico, the above-named defendant was a Public Official and he used the powers and resources of public office to obtain personal benefits or pursue private interests, to wit: The defendant is the Dona Ana County Treasurer, and the victim is _____ who was an employee working under his supervision in the Dona Ana County Treasurer's Office. The Respondent constantly told the victim how attractive she was, commenting on her breasts, and how nicely she was dressed, but she felt uncomfortable with these comments. The Respondent asked the victim for her personal telephone number but she declined to give it to him. On June 17-19, 2014, the Respondent took the victim to Deming, NM, for the Annual Conference of the NM Association of Counties, where they stayed in separate rooms at a hotel, and he tried to persuade her to wear a bikini at the pool. And on August 18, 2014, the defendant drove the victim to the bank to make a bank deposit for the County Treasurers' Office, in a County Treasurer's vehicle, while the victim was clocked in to work, and while driving back to the office, he tried to persuade the victim to spend a couple hours having sex with him at a hotel, by offering her \$2,000 and the removal of a previous disciplinary write up, a fourth degree felony, contrary to 10-16-3(A & D), NMSA 1978.

Or in the Alternative:

2. Failure of a Public Official to Conduct One's Self in a Manner that Justifies Public Confidence

On or between the 4th day of March, 2014, through the 4th day of March, 2016, in Dona Ana County, New Mexico, the above-named defendant was a Public Official and he used the powers and resources of public office to obtain personal benefits or pursue private interests, to wit: The defendant is the Dona Ana County Treasurer, and the victim is J [REDACTED], who was an employee working under his supervision in the Dona Ana County Treasurer's Office. The Respondent constantly told the victim how attractive she was, commenting on her breasts, and how nicely she was dressed, but she felt uncomfortable with these comments. The Respondent asked the victim for her personal telephone number but she declined to give it to him. On June 17-19, 2014, the Respondent took the victim to Deming, NM, for the Annual Conference of the NM Association of Counties, where they stayed in separate rooms at a hotel, and he tried to persuade her to wear a bikini at the pool. And on August 18, 2014, the defendant drove the victim to the bank to make a bank deposit for the County Treasurers' Office, in a County Treasurer's vehicle, while the victim was clocked in to work, and while driving back to the office, he tried to persuade the victim to spend a couple hours having sex with him at a hotel, by offering her \$2,000 and the removal of a previous disciplinary write up, a fourth degree felony, contrary to 10-16-3(B & D), NMSA 1978.

Or in the Alternative:

3. Failure of a Public Official to Disclose a Conflict of Interest

On or between the 4th day of March, 2014, through the 4th day of March, 2016, in Dona Ana County, New Mexico, the above-named defendant was a Public Official and he used the powers and resources of public office to obtain personal benefits or pursue private interests, to wit: The defendant is the Dona Ana County Treasurer, and the victim is J [REDACTED], who was an employee working under his supervision in the Dona Ana County Treasurer's Office. The Respondent constantly told the victim how attractive she was, commenting on her breasts, and how nicely she was dressed, but she felt uncomfortable with these comments. The Respondent asked the victim for her personal telephone number but she declined to give it to him. On June 17-19, 2014, the Respondent took the victim to Deming, NM, for the Annual Conference of the NM Association of Counties, where they stayed in separate rooms at a hotel, and he tried to persuade her to wear a bikini at the pool. And on August 18, 2014, the defendant drove the victim to the bank to make a bank deposit for the County Treasurers' Office, in a County Treasurer's vehicle, while the victim was clocked in to work, and while driving back to the office, he tried to persuade the victim to spend a couple hours having sex with him at a hotel, by offering her \$2,000 and the removal of a previous disciplinary write up. The defendant pursued a romantic and sexual relationship with the victim but did not make a public disclosure of the potential conflict between his relationship to her as a supervisor and his relationship to her as a potential lover, a fourth degree felony, contrary to 10-16-3(C & D), NMSA 1978.

