

Federal grand jury indicts cop killer Kirby Cleveland

Written by Staff Reports
Friday, 14 April 2017 04:38



ALBUQUERQUE – A federal grand jury sitting in, has filed an indictment charging Kirby Cleveland, 32, an enrolled member of the Navajo Nation from Prewitt, N.M., with charges arising out of the murder of Houston James Largo, a tribal police officer of the Navajo Nation Division of Public Safety.

Acting U.S. Attorney James D. Tierney, Special Agent in Charge Terry Wade of the FBI's Albuquerque Division, and Director Jesse Delmar of the Navajo Nation Division of Public Safety announced the filing of the indictment April 13.

Cleveland is scheduled to be arraigned on the eight-count indictment at 9:30 am on April 20, in the federal courthouse in Albuquerque. The indictment charges Cleveland with the following offenses:

Count 1, murdering an officer and employee of the United States who was engaged in the performance of his official duties;

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Count 2, committing felony murder while escaping from an institution of confinement;

Count 3, first-degree murder;

Count 4, escaping from an institution of confinement where he was confined after his conviction on a felony offense;

Count 5, using a firearm during and in relation to a crime of violence, the murder an officer and employee of the United States as charged in Count 1;

Count 6, using a firearm during and in relation to a crime of violence, felony murder as charged in Count 2;

Count 7, using a firearm during and in relation to a crime of violence, first-degree murder as charged in Count 3; and

Count 8, being a felon in possession of a firearm and ammunition.

The charges in the indictment arise out of the alleged murder of Largo on the night of March 11, while the officer was responding to a domestic violence call on the Navajo Indian Reservation in McKinley County.

The charges also arise from Cleveland's alleged escape between Feb. 26 and March 11, from a halfway house in Albuquerque in Bernalillo County, where he was confined by order of the U.S. Bureau of Prisons.

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Counts 1, 2, 5 and 6 of the indictment each carry a maximum penalty of death or life imprisonment upon conviction, and the indictment includes “Special Findings” under 18 U.S.C. § 3591 with respect to these four death-eligible offenses.

The Special Findings preserve the United States’ ability to seek the death penalty. The Attorney General of the United States will decide whether or not to seek the death penalty based on the recommendation of the U.S. Attorney and after carefully considering the defendant’s background and the circumstances of the crime.

The maximum penalties upon conviction for the other offenses charged in the indictment are: Count 3, the first-degree murder charge, life imprisonment; Count 4, the escape charge, five years of imprisonment; Count 7, using a firearm during and in relation to first-degree murder charge, imprisonment for a minimum of ten years and a maximum of life; and Count 8, the felon in possession charge, ten years of imprisonment. The sentence imposed on Count 7 must be served consecutive to any sentence imposed on the other charges.

Cleveland was arrested on tribal charges on March 12 by the Navajo Nation Division of Public Safety and remained in tribal custody until March 20, when the tribal charges against him were dismissed.

Immediately upon dismissal of the tribal charges, the FBI arrested Cleveland on a federal criminal complaint charging him with killing Largo. Cleveland has been in federal custody since that time and will remain in custody pending trial on the indictment.