

**FILED****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

JUN 22 2022

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES,

Plaintiff-Appellee,

v.

MURPHY ALEX BEGAY,

Defendant-Appellant.

No. 19-10251

D.C. No.  
3:18-cr-08107-SPL-1**MEMORANDUM\***

Appeal from the United States District Court  
for the District of Arizona  
Steven P. Logan, District Judge, Presiding

Argued and Submitted May 13, 2022  
Pasadena, California

Before: WATFORD and FRIEDLAND, Circuit Judges, and AMON,\*\* District Judge.

Concurrence by Judge FRIEDLAND, joined by Judge WATFORD

Murphy Alex Begay appeals from the denial of his motion for a new trial and his motion for acquittal as a matter of law, arguing that the district court's failure to

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The Honorable Carol Bagley Amon, United States District Judge for the Eastern District of New York, sitting by designation.

suppress his pretrial statements, its decision to exclude portions of his interview with the FBI, and statements made by the government in closing infected his trial with error. We affirm.

1. The district court did not err by denying Begay's motion to suppress. "Whether a person is 'in custody' for purposes of *Miranda* [v. Arizona, 384 U.S. 436 (1966)] is a mixed question of law and fact that is reviewed de novo." *United States v. Cazares*, 788 F.3d 956, 979 (9th Cir. 2015). "A defendant is in custody if," based on the totality of the circumstances, "a 'reasonable innocent person in such circumstances would conclude that after brief questioning he or she would not be free to leave.'" *United States v. Bassignani*, 575 F.3d 879, 883 (9th Cir. 2009) (quoting *United States v. Booth*, 669 F.2d 1231, 1235 (9th Cir. 1981)). Five non-dispositive factors relevant to the custody determination are "(1) the language used to summon the individual; (2) the extent to which the defendant is confronted with evidence of guilt; (3) the physical surroundings of the interrogation; (4) the duration of the detention; and (5) the degree of pressure applied to detain the individual." *Id.* (quoting *United States v. Kim*, 292 F.3d 969, 974 (9th Cir. 2002)).

Considering the totality of the circumstances, the district court's finding that Begay was not in custody when he made the statements he sought to suppress was well supported. Before Begay entered the agents' car, one agent "informed him that he was not under arrest and that [they] would not be driving anywhere in [the]

vehicle.” Once they entered the car, the agent confirmed: “you’re not under arrest,” “[y]ou’re not in my custody,” the “[d]oors are unlocked,” and “[y]ou can—free to leave whenever you want.” Begay indicated he understood. Moreover, the interview itself was conducted by agents in plainclothes who did not display their firearms, lasted only 36 minutes, and took place in an unlocked car with Begay’s family nearby. Additionally, a review of the recording supports the district court’s finding that the tone of the interview was never “aggressive” or “coercive.”

At oral argument, counsel for Begay conceded that if Begay were not in custody, *Miranda* would not apply and statements made after Begay expressed a desire not to talk would not be subject to suppression under *Miranda*. *See Montejov v. Louisiana*, 556 U.S. 778, 795 (2009) (“[T]he *Miranda-Edwards* regime . . . applies only in the context of custodial interrogation.”). Begay also challenges the voluntariness of his statements, which is an inquiry independent of the applicability of the *Miranda* decision. *See Beckwith v. United States*, 425 U.S. 341, 347-48 (1976). Although Begay’s statements that he did not wish to speak to the agents bear on that inquiry, we conclude based upon the facts outlined above and considering the totality of the circumstances that his statements were voluntary.

2. Begay argues that the district court abused its discretion by denying his motion to admit the entirety of his statement to the FBI under Federal Rule of Evidence 106. We review for harmless error and will reverse only if it is more

probable than not that the error materially affected the verdict. *See United States v. Lopez*, 4 F.4th 706, 714, 717-18 (9th Cir. 2021) (applying harmless error standard to Rule 106 challenge).

Assuming without deciding that the trial court's failure to admit the full recording was an abuse of discretion, we find that any error was harmless. "It is well established that the strength of the Government's case can render trial errors harmless by reducing the likelihood that tainted evidence impacted the verdict." *Id.* at 718. There was substantial evidence of Begay's guilt. The victim testified to knowing Begay prior to the charged incident, testified in detail about the incident, and identified Begay as the perpetrator by both his full name and his nickname "Smurf," and through an in-court identification. Begay's presence at the scene of the crime was corroborated by two witnesses, and two other witnesses testified to the victim's contemporaneous distress. The jury also heard recordings of Begay's phone calls from jail in which he seemingly admitted to having gotten drunk with the victim's mother and having returned to her house.

Moreover, on taking the stand, Begay was effectively cross-examined on his claim that he had very limited English language proficiency and on his denial of his use of the nickname "Smurf." The jury could have easily inferred that he lied about these matters, as well as his claim that he had never been to the victim's mother's

house.<sup>1</sup> “[D]isbelief by the jury of defendant’s testimony would here present some damaging affirmative inferences.” *United States v. Smith*, 427 F.2d 1164, 1164 (9th Cir. 1970) (per curiam); *see also United States v. Reyes*, 660 F.3d 454, 467 (9th Cir. 2011) (citing *United States v. Perkins*, 937 F.2d 1397, 1402 (9th Cir. 1991), for the proposition that “false exculpatory statements can be considered as evidence of consciousness of guilt”).

Admission of the full recording would not have undercut the strength of this evidence. Moreover, Begay’s decision to testify at least partially “served to mitigate any prejudice resulting from the improper admission of the misleading excerpts.” *Lopez*, 4 F.4th at 718. Although Begay was not able to testify to all the details of his interview, he was able to dispute that his statements to the FBI agents were confessional. Given this record, it is more probable than not that the error did not materially affect the verdict.

3. The trial court did not err in denying Begay’s motion for acquittal. Begay admits that his motion for acquittal “was admittedly weak and predicated upon the wrongful admission of the interview excerpts.” As noted, Begay was not in custody and participated in the interview voluntarily, so the interview excerpts were not wrongfully admitted. Moreover, even without the interview excerpts, there was

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<sup>1</sup> Notably, the sentencing judge found that Begay “made false statements [while] testifying about material issues” when he gave the aforementioned testimony, observing that he “just flat out lied while he was on the stand.”

other significant evidence of Begay's guilt, as discussed above. Accordingly, "viewing the evidence in the light most favorable to the prosecution, a[] rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *United States v. Mincoff*, 574 F.3d 1186, 1192 (9th Cir. 2009) (quoting *United States v. Dearing*, 504 F.3d 897, 900 (9th Cir. 2007)).

4. Begay alleges that the government engaged in impermissible vouching during its closing argument. Because Begay failed to object to the alleged vouching, we apply the plain error standard. *United States v. Brooks*, 508 F.3d 1205, 1209 (9th Cir. 2007). Here, the government did not commit plain error. "Improper vouching typically occurs in two situations: (1) the prosecutor places the prestige of the government behind a witness by expressing his or her personal belief in the veracity of the witness, or (2) the prosecutor indicates that information not presented to the jury supports the witness's testimony." *Id.* (quoting *United States v. Hermanek*, 289 F.3d 1076, 1098 (9th Cir. 2002)). The government's discussion of the victim's testimony did not rely on the government's prestige or indicate the existence of information not presented to the jury. Instead, the government argued only that the testimony that the jury had heard bolstered the victim's credibility. That is a permissible argument where the defense has challenged a witness's credibility. *See United States v. Alcantara-Castillo*, 788 F.3d 1186, 1195 (9th Cir. 2015) (finding no improper vouching where "the prosecutor appears to be employing the language of

the district court's jury instruction as to credibility to argue that the jury should believe [a witness] based upon inferences it could draw from the evidence").

Additionally, it was permissible for the government to argue that Begay's response "[u]m, yes" to the agent's question "[y]ou put your penis in her vagina" was an admission. Any error in the prosecutor's statement that the jury "should believe" Begay's admission "[b]ecause that's true" is not so apparent that it amounts to plain error.

5. Because we find no error in the district court's failure to suppress Begay's statements to the FBI or the government's closing statement and find that any evidentiary error was harmless, we conclude that the court did not abuse its discretion when it denied Begay's motion for a new trial. Begay waived any additional arguments referenced only obliquely in his summary of argument section because he did not "specifically and distinctly argue the issue[s] in his . . . opening brief." *See United States v. Kama*, 394 F.3d 1236, 1238 (9th Cir. 2005).

**AFFIRMED.**

**FILED**

JUN 22 2022

*USA v. Murphy Begay*, No. 19-10251MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

Judge FRIEDLAND, with whom Judge WATFORD joins, concurring:

I concur because I agree that the trial court's failure to admit the full interview was harmless given the strength of the Government's case. But I write separately to emphasize that I believe that admitting only the Government's excerpts from the interview was an abuse of discretion, and to urge the Government not to repeat the tactic of offering misleading partial excerpts in future cases.

Under the Rule of Completeness, "If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part—or any other writing or recorded statement—that in fairness ought to be considered at the same time." Fed. R. Evid. 106. Portions of a document or recording are admissible under Rule 106 notwithstanding the bar on hearsay evidence when they are offered "'to correct a misleading impression' in the edited statement" introduced by an opposing party. *United States v. Vallejos*, 742 F.3d 902, 905 (9th Cir. 2014) (quoting *United States v. Collicott*, 92 F.3d 973, 983 (9th Cir. 1996)). In an interrogation context, we have held that Rule 106 allows the admission of additional portions of a defendant's statement when the prosecution offers a redacted version that "distorts the meaning of the statement," "excludes information substantially exculpatory of the declarant," or "excludes

portions of a statement that are . . . explanatory of [or] relevant to the admitted passages.” *United States v. Dorrell*, 758 F.2d 427, 435 (9th Cir. 1985) (alterations in original) (quotation marks omitted).

Here, the district court abused its discretion by categorically excluding the remaining portions of the interview as inadmissible hearsay. The Government’s edited excerpts did not accurately present the content of Begay’s statements during the interview. Rather, the excerpts risked misleading the jury by making it seem as though Begay clearly confessed to having sex with an underaged girl and showed remorse. The full interview conveys a very different impression. The excluded portions of the interview suggest that Begay may not have been admitting to partaking in a sexual incident at all. Begay seems to mumble, respond affirmatively simply to indicate that he is listening, and repeat the officers’ language as he is thinking. And rather than clearly confessing, he always returns to the same bottom line: *if it happened*, I am sorry. Because excluded “portions contained statements that bore directly on the meaning of the excerpts presented by the Government at trial . . . [b]y ruling that the remainder of the [interview] would be inadmissible hearsay if proffered by the defense, the district court denied [Begay] the opportunity to proffer [interview portions] that would serve to correct the misleading impression created by the Government’s excerpts.” *United States v.*

*Lopez*, 4 F.4th 706, 717 (9th Cir. 2021), *petition for cert. docketed*, No. 21-7624 (U.S. Apr. 14, 2022).

The district court and Government relied on *Ortega* in concluding that the remaining portions of the interview, if offered by Begay, would constitute inadmissible hearsay. *United States v. Ortega*, 203 F.3d 675, 682 (9th Cir. 2000). That conclusion, however, misconstrues our dicta in *Ortega*. When we stated that “[e]ven if the rule of completeness did apply, exclusion of Ortega’s exculpatory statements was proper because these statements would still have constituted inadmissible hearsay,” *id.*, we were explaining only that—under the facts of that case—the statements would not have corrected a distortion created by the government.

“[W]hile [a prosecutor] may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.” *Berger v. United States*, 295 U.S. 78, 88 (1935). I urge the Government to heed its duty that “justice shall be done,” *id.*, and to err on the side of completeness when it introduces defendants’ statements at trial.

**United States Court of Appeals for the Ninth Circuit**

**Office of the Clerk**  
95 Seventh Street  
San Francisco, CA 94103

**Information Regarding Judgment and Post-Judgment Proceedings****Judgment**

- This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

**Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)**

- The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate ECF system or, if you are a pro se litigant or an attorney with an exemption from using appellate ECF, file one original motion on paper.

**Petition for Panel Rehearing (Fed. R. App. P. 40; 9th Cir. R. 40-1)****Petition for Rehearing En Banc (Fed. R. App. P. 35; 9th Cir. R. 35-1 to -3)****(1) A. Purpose (Panel Rehearing):**

- A party should seek panel rehearing only if one or more of the following grounds exist:
  - ▶ A material point of fact or law was overlooked in the decision;
  - ▶ A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
  - ▶ An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

**B. Purpose (Rehearing En Banc)**

- A party should seek en banc rehearing only if one or more of the following grounds exist:

- ▶ Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or
- ▶ The proceeding involves a question of exceptional importance; or
- ▶ The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

**(2) Deadlines for Filing:**

- A petition for rehearing may be filed within 14 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- *See Advisory Note to 9th Cir. R. 40-1* (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-2.

**(3) Statement of Counsel**

- A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

**(4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))**

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- A response, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

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- The petition or response must be accompanied by a Certificate of Compliance found at Form 11, available on our website at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Forms*.
- You may file a petition electronically via the appellate ECF system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

#### **Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)**

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Forms*.

#### **Attorneys Fees**

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Forms* or by telephoning (415) 355-7806.

#### **Petition for a Writ of Certiorari**

- Please refer to the Rules of the United States Supreme Court at [www.supremecourt.gov](http://www.supremecourt.gov)

#### **Counsel Listing in Published Opinions**

- Please check counsel listing on the attached decision.
- If there are any errors in a published opinion, please send an email or letter **in writing within 10 days** to:
  - ▶ Thomson Reuters; 610 Opperman Drive; PO Box 64526; Eagan, MN 55123 (Attn: Maria Evangelista ([maria.b.evangelista@tr.com](mailto:maria.b.evangelista@tr.com))));
  - ▶ and electronically file a copy of the letter via the appellate ECF system by using “File Correspondence to Court,” or if you are an attorney exempted from using the appellate ECF system, mail the Court one copy of the letter.

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Form 10. Bill of Costs**

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form10instructions.pdf>

**9th Cir. Case Number(s)**

**Case Name**

The Clerk is requested to award costs to (party name(s)):

I swear under penalty of perjury that the copies for which costs are requested were actually and necessarily produced, and that the requested costs were actually expended.

**Signature**

**Date**

(use "s/[typed name]" to sign electronically-filed documents)

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DOCUMENTS / FEE PAID				
Excerpts of Record*	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Principal Brief(s) (Opening Brief; Answering Brief; 1st, 2nd, and/or 3rd Brief on Cross-Appeal; Intervenor Brief)	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Reply Brief / Cross-Appeal Reply Brief	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Supplemental Brief(s)	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Petition for Review Docket Fee / Petition for Writ of Mandamus Docket Fee / Appeal from Bankruptcy Appellate Panel Docket Fee				\$ <input type="text"/>
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\*Example: Calculate 4 copies of 3 volumes of excerpts of record that total 500 pages [Vol. 1 (10 pgs.) + Vol. 2 (250 pgs.) + Vol. 3 (240 pgs.)] as:

No. of Copies: 4; Pages per Copy: 500; Cost per Page: \$.10 (or actual cost IF less than \$.10);  
TOTAL: 4 x 500 x \$.10 = \$200.

Feedback or questions about this form? Email us at [forms@ca9.uscourts.gov](mailto:forms@ca9.uscourts.gov)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

**United States of America**

v.

**Murphy Alex Begay**

**JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed On or After November 1, 1987)

**No. CR-18-08107-001-PCT-SPL**

Philip A. Seplow (CJA)

Attorney for Defendant

USM#: 80798-008

**THERE WAS A VERDICT OF guilty on 5/3/2019 as to Count 1 of the Indictment.**

**ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S):** violating Title 18, U.S.C. §1153, 2241(c) and 2246, CIR - Aggravated Sexual Abuse of a Child, a Class A Felony offense, as charged in Count 1 of the Indictment.

**IT IS THE JUDGMENT OF THIS COURT THAT** the defendant is committed to the custody of the Bureau of Prisons for a term of **LIFE**, with credit for time served. Upon release from imprisonment, the defendant shall be placed on supervised release for a term of **LIFE**.

The Court recommends that the defendant be placed in an institution in Arizona or in the southwest portion of the United States to facilitate visitation.

**CRIMINAL MONETARY PENALTIES**

The defendant shall pay to the Clerk the following total criminal monetary penalties:

**SPECIAL ASSESSMENT: \$100.00      FINE: WAIVED      RESTITUTION: N/A**

The defendant shall pay a special assessment of \$100.00 which shall be due immediately.

The Court finds the defendant does not have the ability to pay a fine and orders the fine and the assessment pursuant to 18 U.S.C. 3014(a) waived.

The defendant shall pay a total of \$100.00 in criminal monetary penalties, due immediately. Having assessed the defendant's ability to pay, payments of the total criminal monetary penalties are due as follows: Balance is due in equal monthly installments of \$25.00 over a period of four months to commence 60 days after the release from imprisonment to a term of supervised release.

If incarcerated, payment of criminal monetary penalties are due during imprisonment at a rate of not less than \$25 per quarter and payment shall be made through the Bureau of Prisons' Inmate Financial Responsibility Program. Criminal monetary payments shall be made to the Clerk of U.S. District Court, Attention: Finance, Suite 130, 401 West Washington Street, SPC 1, Phoenix, Arizona 85003-2118. Payments should be credited to the various monetary penalties imposed by the Court in the priority

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established under 18 U.S.C. § 3612(c). The total special assessment of \$100.00 shall be paid pursuant to Title 18, United States Code, Section 3013 for Count 1 of the Indictment.

Any unpaid balance shall become a condition of supervision and shall be paid within 90 days prior to the expiration of supervision. Until all restitutions, fines, special assessments and costs are fully paid, the defendant shall immediately notify the Clerk, U.S. District Court, of any change in name and address. The Court hereby waives the imposition of interest and penalties on any unpaid balances.

### **SUPERVISED RELEASE**

It is ordered that while on supervised release, the defendant must comply with the mandatory and standard conditions of supervision as adopted by this court, in General Order 17-18, which incorporates the requirements of USSG §§ 5B1.3 and 5D1.2. Of particular importance, the defendant must not commit another federal, state, or local crime during the term of supervision. Within 72 hours of sentencing or release from the custody of the Bureau of Prisons the defendant must report in person to the Probation Office in the district to which the defendant is released. The defendant must comply with the following conditions:

### **MANDATORY CONDITIONS**

- 1) You must not commit another federal, state or local crime.
- 2) You must not unlawfully possess a controlled substance. The use or possession of marijuana, even with a physician's certification, is not permitted.
- 3) You must refrain from any unlawful use of a controlled substance. The use or possession of marijuana, even with a physician's certification, is not permitted. Unless suspended by the Court, you must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
- 4)

### **STANDARD CONDITIONS**

- 1) You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of sentencing or your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
- 2) After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
- 3) You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
- 4) You must answer truthfully the questions asked by your probation officer.
- 5) You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify

the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

- 6) You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
- 7) You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 8) You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9) If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
- 10) You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- 11) You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- 12) If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
- 13) You must follow the instructions of the probation officer related to the conditions of supervision.

### **SPECIAL CONDITIONS**

The following special conditions are in addition to the conditions of supervised release or supersede any related standard condition:

- 1) You must participate as instructed by the probation officer in a program of substance abuse treatment (outpatient and/or inpatient) which may include testing for substance abuse. You must contribute to the cost of treatment in an amount to be determined by the probation officer.

- 2) You must not use or possess alcohol or alcoholic beverages.
- 3) You must cooperate in the collection of DNA as directed by the probation officer.
- 4) You must attend and participate in a sex offender treatment program and sex offense specific evaluations as approved by the probation officer. You must abide by the policies and procedures of all the treatment and evaluation providers. You must contribute to the cost of such treatment and assessment not to exceed an amount determined to be reasonable by the probation officer based on ability to pay.
- 5) You must attend and participate in periodic polygraph examinations as a means to determine compliance with conditions of supervision and the requirements of your therapeutic program, as directed by the probation officer. No violation proceeding will arise solely on the result of the polygraph test. A valid Fifth Amendment refusal to answer a question during a polygraph examination will not be used as a basis for a violation proceeding. You must contribute to the cost of such polygraph examination not to exceed an amount determined to be reasonable by the probation officer based on ability to pay.
- 6) You must reside in a residence approved, in advance, by the probation officer. Any changes in the residence must be pre-approved by the probation officer.
- 7) You must not knowingly possess, view, or otherwise use material depicting sexually explicit conduct as defined in 18 U.S.C. § 2256 (2). You will submit any records requested by the probation officer to verify your compliance with this condition. You must not enter any location where the primary function is to provide these prohibited materials.
- 8) You must register as a sex offender in compliance with all federal, state, tribal or other local laws or as ordered by the Court. Failure to comply with registration laws may result in new criminal charges.
- 9) You must submit your person, and any property, house, residence, vehicle, papers, computer, other electronic communications or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of supervised release or unlawful conduct, and by any probation officer in the lawful discharge of the officer's supervision functions. You must consent to and cooperate with the seizure and removal of any hardware and/or data storage media for further analysis by law enforcement or the probation officer with reasonable suspicion concerning a violation of a condition of supervision or unlawful conduct. You must warn any other residents that the premises may be subject to searches pursuant to this condition.
- 10) You must not be in the company of or have contact with children who you know are under the age of 18, including your own children. Contact includes, but is not limited to, letters, communication devices, audio or visual devices, visits, or communication through a third party.
- 11) You must not directly or indirectly contact any victim(s) and victim(s) family of the instant offense(s) without prior written permission. This also includes victim(s) disclosed in treatment,

assessment and/or any other victim identified by the probation officer. Indirect contact includes, but is not limited to letters, communication devices, audio or visual devices, communication through a third party and /or your presence at any location the victim(s) may be known to frequent. You must immediately report any contact to the probation officer.

- 12) You are restricted from engaging in any occupation, business, volunteer activity or profession where you have the potential to be alone with children under the age of 18 without prior written permission. Acceptable employment shall include a stable, verifiable work location and the probation officer must be granted access to your work site.
- 13) You must not go to, or remain at, any place where you know children under the age of 18 are likely to be, including parks, schools, playgrounds, and childcare facilities. You must not go to, or remain at, a place for the primary purpose of observing or contacting children under the age of 18.

**THE DEFENDANT IS ADVISED OF DEFENDANT'S RIGHT TO APPEAL BY FILING A NOTICE OF APPEAL IN WRITING WITHIN 14 DAYS OF ENTRY OF JUDGMENT.**

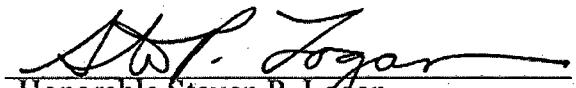
The Court may change the conditions of probation or supervised release or extend the term of supervision, if less than the authorized maximum, at any time during the period of probation or supervised release. The Court may issue a warrant and revoke the original or any subsequent sentence for a violation occurring during the period of probation or supervised release.

The Court orders commitment to the custody of the Bureau of Prisons and recommends that the defendant be placed in an institution in Arizona or in the southwest portion of the United States to facilitate visitation.

The defendant is remanded to the custody of the United States Marshal.

Date of Imposition of Sentence: **Monday, July 15, 2019**

Dated this 16th day of July, 2019.



Honorable Steven P. Logan  
United States District Judge

CR-18-08107-001-PCT-SPL  
USA vs. Murphy Alex Begay

Page 6 of 6

**RETURN**

I have executed this Judgment as follows:

defendant delivered on \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_, the institution  
designated by the Bureau of Prisons with a certified copy of this judgment in a Criminal case.

\_\_\_\_\_  
United States Marshal

By: \_\_\_\_\_ Deputy Marshal

CR-18-08107-001-PCT-SPL- Begay 7/15/2019 - 5:28 PM

# App 10

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

12

1 tell them?

2 MR. BEGAY: I just told them I don't know  
3 anything about it. So I don't know what's going on. I  
4 don't know what you guys are talking about. So...

5 S.A. SMITH: So, I mean, I -- I know that  
6 there was -- I know that there was a sexual incident  
7 between you and -- and D. *NAH-YH* Okay?

8 MR. BEGAY: *Um-hm.* *[REDACTED]* *[REDACTED]*  
9 S.A. SMITH: So -- so what I -- what I kind  
10 of need to know is, I mean, was it, you know -- was it  
11 consensual? Did she want to do that with you? Or is that  
12 something you forced her to do?

13 MR. BEGAY: I don't know. I don't -- I  
14 don't -- I don't think so, no. I told the FBI that I  
15 don't know, you know, the whole -- I told Emilene that  
16 too.

17 S.A. SMITH: Okay.

18 MR. BEGAY: You know what I mean? So no.

19 S.A. SMITH: So you don't know if it was  
20 consensual or you don't know if it -- if it was forced?

21 MR. BEGAY: Uh-uh. Never did it. Nope.  
22 Never did or never talked to her or not anything like  
23 that.

24 S.A. SMITH: Yeah. Why would -- why would  
25 she say that?

# App 11

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

13

1 MR. BEGAY: I don't know.

2 S.A. SMITH: Yeah. So you talked to an FBI  
3 agent before?

4 MR. BEGAY: Yeah.

5 S.A. SMITH: They come out here?

6 MR. BEGAY: They came out -- yeah, they came  
7 out here. It was like --

8 S.A. SMITH: Right to the house?

9 MR. BEGAY: Yeah. It was like four years  
10 ago.

11 S.A. SMITH: Really? Okay. All right.

12 But why -- why would D\_\_\_\_\_ say that if  
13 something didn't happen?

14 MR. BEGAY: I don't know. Nothing happened.  
15 So I don't know what's -- I don't know what she was  
16 talking about.

17 S.A. SMITH: Okay. Okay. I mean, Emilene  
18 said it happened too. I mean, that the girl told her  
19 about it. I mean, D\_\_\_\_\_ -- or Emilene was -- was home  
20 when it happened.

21 MR. BEGAY: No. I don't -- I don't -- like  
22 I said, nothing happened. I don't know what she's talking  
23 about. I don't know what the mom was talking about too.  
24 So no.

25 S.A. SMITH: Okay.

# App 12

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

16

1                   S.A. SMITH: -- you're probably going to  
2 fail that, aren't you?

3                   MR. BEGAY: Yeah. Only if something  
4 happened (inaudible) yeah.

5                   But no. I don't know what you guys are  
6 talking about. No. I got questioned about that already.  
7 I told that -- that cop and the -- the FBI, actually. I  
8 told them that nothing happened. I don't know what you  
9 guys are talking about. No.

10                  S.A. SMITH: Okay. So I just asked you if  
11 you would fail and you said yes. So something did happen  
12 with D\_\_\_\_\_?

13                  MR. BEGAY: Mm-hmm.

14                  S.A. SMITH: Okay. Just tell me -- just  
15 tell me what happened with her. Let's get this all behind  
16 us. I know this was years ago. I know it's -- it's old.

17                  It sounds like you talked about it once  
18 before. I didn't know that. Okay. I'm not coming out  
19 here to bother you again. Okay. I didn't know that you  
20 talked to somebody before. That's fine.

21                  MR. BEGAY: Yeah. I already talked to  
22 somebody before about that. You know what I mean? I  
23 don't want to -- I don't want to, you know what I mean,  
24 continue on with that, you know what I mean, because I  
25 already told the other FBI that --

# App 13

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

19

1 MR. BEGAY: (Inaudible).

2 S.A. SMITH: I mean, did -- did something --  
3 did -- was it a mistake? Like, were you drunk? I mean --

4 MR. BEGAY: I drink a lot. You know what I  
5 mean? I drink a lot now. I drink a lot now. So  
6 sometimes I don't remember cruising with some people. You  
7 know what I mean?

8 But I do about that. I never did that. You  
9 know what I mean?

10 But, me, I drink a lot. I'm an alcoholic  
11 now.

12 S.A. SMITH: Okay. All right.

13 MR. BEGAY: So everything, you know -- but I  
14 know who to hang out with or who not to hang out with.  
15 You know, just me and my girl, sometimes, we just -- we're  
16 just by ourselves.

17 S.A. SMITH: Yeah. Okay.

18 MR. BEGAY: But we cruised with her mom,  
19 but, you know, now we just like -- from just like -- just  
20 to drop off, just a real quick, you know.

21 S.A. SMITH: Yeah. So you still -- do you  
22 still cruise with her mom sometimes?

23 MR. BEGAY: Nah-uh.

24 S.A. SMITH: Oh.

25 MR. BEGAY: Just like -- just like I said,

# App 14

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

24

1 S.A. SMITH: Yeah.

2 S.A. THORNTON: Like, she was -- it wasn't  
3 rape. Like, you -- it was something you guys agreed to  
4 do.

5 MR. BEGAY: I don't know about consensual --

6 S.A. THORNTON: She didn't fight it. So  
7 that what it means. It means --

8 S.A. SMITH: Like she wanted -- she  
9 wanted --

10 S.A. THORNTON: -- she wanted to.

11 S.A. SMITH: She wanted to have, you know --

12 MR. BEGAY: Yeah.

13 S.A. SMITH: -- a sexual incident with you.

14 MR. BEGAY: Oh. Yeah. No. First time I  
15 heard that name, that word; so is consensual.

16 S.A. SMITH: Consensual.

17 MR. BEGAY: Yeah.

18 S.A. SMITH: All right. So what --

19 S.A. THORNTON: But, I mean, that just means  
20 she wanted to.

21 MR. BEGAY: Oh, yeah. No. I don't know.  
22 Like I tell you guys, I don't know.

23 S.A. SMITH: Okay.

24 MR. BEGAY: I don't think, no. I don't  
25 never did that. No. Probably talking about some other

# App 15

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

28

1 you'd probably take it back, is what I think.

2 MR. BEGAY: Mm-hmm.

3 S.A. SMITH: You know?

4 MR. BEGAY: Yeah.

5 S.A. SMITH: You'd from go back and make  
6 sure that it never happened, because I don't -- I don't  
7 really think that you're that kind of person. Okay?

8 MR. BEGAY: Yeah.

9 S.A. SMITH: Everybody makes mistakes. I  
10 make mistakes. Ryan and Cornelia make mistakes. Nobody's  
11 perfect.

12 MR. BEGAY: Mm-hmm.

13 S.A. SMITH: Okay. But our job is to just  
14 man up and say, yeah, something happened, not proud of it.  
15 It was a mistake. I would never do it again. And -- and  
16 that -- that's the only way to get passed it.

17 MR. BEGAY: Mm-hmm. Yeah. No. Like I told  
18 you, man, no. If something did really happen, you know  
19 what I mean, like I say, I'm sorry, you know. I never  
20 meant to did it. You know what I mean?

21 S.A. SMITH: Okay.

22 MR. BEGAY: So I'm not -- not that type of  
23 person anyways too to do stuff like that. You know what I  
24 mean?

25 S.A. SMITH: Okay.

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# App 16

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

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1 hanging out with her mom. She knows who you are. Okay?

2 MR. BEGAY: Mm-hmm.

3 S.A. SMITH: So --

4 MR. BEGAY: Yeah. Everybody knows who I am.  
5 Around Pinon, everybody knows me. You know what I mean?  
6 Everybody knows who I am, even the -- people -- sometime  
7 people that I don't -- I don't even know them. You know  
8 what I mean?

9 S.A. SMITH: Yeah.

10 MR. BEGAY: Hey. What's up, Murphy? How  
11 you doing. You know. Cool. You know what I mean?

12 S.A. SMITH: Okay. So, I mean, I know  
13 something happened.

14 MR. BEGAY: Yeah.

15 S.A. SMITH: So this is your opportunity  
16 to -- to say -- to man up, to say, yeah, I'm sorry. I  
17 wish it didn't happen. And we can move on from it.

18 MR. BEGAY: Yeah. You know what I mean?  
19 I'm just like, you know, for real, nothing -- nothing  
20 happened, but I'm going to man up that nothing happened,  
21 but I'm sorry about -- see, if -- if it happened, you know  
22 what I mean, sorry. You know --

23 S.A. SMITH: If it -- if it --

24 MR. BEGAY: (Inaudible) yeah.

25 S.A. SMITH: If it happened, you're sorry?

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# App 17

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

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1                   MR. BEGAY: Yeah. Sorry. You know what I  
2 mean? Don't meant to do that. You know what I mean?  
3 But -- but you know what I mean? If -- yeah. If I -- if  
4 it really happened, then I would had like -- no. I would  
5 really admit. You know what I mean?

6                   But, no, I'm manning up that I didn't. You  
7 know what I mean? But, no, how you say contentually [sic]  
8 or...

9                   S.A. SMITH: Consensually. Yeah. I mean,  
10 I'm --

11                  MR. BEGAY: Consensually, no.

12                  S.A. SMITH: I mean, so that's -- that's  
13 another one of my questions is like, you know, did you  
14 force her to do something, that would be like rape?

15                  MR. BEGAY: Mm-hmm.

16                  S.A. SMITH: I mean, do you -- you  
17 understand what that means; right?

18                  MR. BEGAY: Yes.

19                  S.A. SMITH: Okay. The other -- the other  
20 way is like consensually, which would basically mean she  
21 wanted to have sex with you.

22                  MR. BEGAY: Uh-huh.

23                  S.A. SMITH: Okay. So, I mean, those are  
24 very different things, you know.

25                  MR. BEGAY: Yeah.

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# App 18

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

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1                   S.A. SMITH: Like, you forced her on one  
2 hand and --

3                   MR. BEGAY: Like -- like I said that I  
4 didn't -- like I -- I don't do that. You know I mean? I  
5 don't force other -- I mean, ladies. Like, you know what  
6 I mean?

7                   S.A. SMITH: I mean, like, if you had --

8                   MR. BEGAY: (Inaudible).

9                   S.A. SMITH: If she wanted to have sex with  
10 you and you had sex with her is really not that big a  
11 deal.

12                  MR. BEGAY: Mm-hmm.

13                  S.A. SMITH: You understand?

14                  MR. BEGAY: Yeah.

15                  S.A. SMITH: So, I mean, is that -- is that  
16 an explana -- is that possibly what happened?

17                  MR. BEGAY: Nah-uh.

18                  S.A. SMITH: No?

19                  MR. BEGAY: That -- that didn't happen.

20                  S.A. SMITH: Okay.

21                  MR. BEGAY: I mean, so either way, you know  
22 what I mean, it didn't happen. You know what I mean?

23                  S.A. SMITH: Okay.

24                  MR. BEGAY: But, you know, like I said, I  
25 man up that, you know what I mean, if it really happened,

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# App 19

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Reporter's Transcript of Recorded Interview

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1 MR. BEGAY: Mm-hmm.

2 S.A. SMITH: So this is your chance to -- to  
3 explain it to me and give your side of the story.

4 MR. BEGAY: Mm-hmm.

5 S.A. SMITH: Show some remorse. Say that  
6 you're sorry. That's what -- that's what we're here for.

7 MR. BEGAY: Mm-hmm.

8 S.A. SMITH: So it's kind of -- kind of last  
9 chance, I mean, for -- for today. You know. I know  
10 something happened with that girl. And you just saying I  
11 don't know or nothing happened --

12 MR. BEGAY: Yeah.

13 S.A. SMITH: -- that -- that doesn't make it  
14 just go away. You understand that; right?

15 MR. BEGAY: Yeah.

16 S.A. SMITH: Okay. So is there -- is there  
17 anything you want to -- you want to -- you want to  
18 actually tell the truth on today?

19 MR. BEGAY: Like I told you, man, like, if  
20 it's like -- what do you call it? Sensensual [sic] it  
21 means -- like, you say that, it means like, you know --  
22 how you say like she did it or --

23 S.A. SMITH: Mm-hmm. Mm-hmm.

24 MR. BEGAY: No.

25 S.A. SMITH: Is that what happened?

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# App 20

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

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1 MR. BEGAY: I don't remember that. You know  
2 what I mean? So man up. Like I say, I'm sorry. ~~I~~ <sup>DIDN'T</sup>  
3 meant to do it. You know, so that's all I can tell you.  
4 You know what I mean? Sorry. Apologize that --

5 S.A. SMITH: So it did happen?  
6 MR. BEGAY: <sup>(Inaudible)</sup> ~~16~~ I <sup>1</sup> ~~thought~~ did it. You know  
7 what I mean? Yeah.

8 S.A. SMITH: So something did happen?

9 MR. BEGAY: Probably something did happen.  
10 You know what I mean? I'm manning up.

11 S.A. SMITH: Okay.

12 MR. BEGAY: So --

13 S.A. SMITH: Okay.

14 MR. BEGAY: -- just apologizing if it did  
15 happen, you know. Probably something did happen. No.

16 S.A. SMITH: So let me -- let me -- let me  
17 go over what she's saying. I'll tell you. I mean, so  
18 she's saying that you guys were at Emilene's house. Okay?

19 MR. BEGAY: Emilene's, yeah.

20 S.A. SMITH: Okay. And you and her went out  
21 behind -- behind the house.

22 MR. BEGAY: Mm-hmm.

23 S.A. SMITH: And she's saying that you put  
24 your penis in her vagina.

25 MR. BEGAY: Uh-huh.

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# App 21

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Reporter's Transcript of Recorded Interview

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1 S.A. SMITH: Yeah? Is that what happened?

2 MR. BEGAY: (Inaudible). No. I don't --  
3 you know what I mean? Like, I don't think so. You know  
4 what I mean?

5 S.A. SMITH: Mm-hmm.

6 MR. BEGAY: I don't think that happened,  
7 like I say, but --

8 S.A. SMITH: But -- but why would D\_\_\_\_\_  
9 say that?

10 MR. BEGAY: I don't know, man.

11 S.A. SMITH: Okay. I mean, did she want it  
12 to happen?

13 MR. BEGAY: She probably did want it to  
14 happen.

15 S.A. SMITH: She probably did want it to  
16 happen?

17 MR. BEGAY: Yeah.

18 S.A. SMITH: Okay.

19 MR. BEGAY: But I don't force. I mean,  
20 like, ladies or girls like that.

21 S.A. SMITH: Okay.

22 MR. BEGAY: Tell you that.

23 S.A. SMITH: Okay. So did -- so did it  
24 happen, but it was something that she wanted to happen? I  
25 mean, you -- you tell me.

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

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1                   MR. BEGAY: Did it -- yeah. It did happen,  
2 saying that she want it probably to happen. You know what  
3 I mean? To happen. You know what I mean?

4                   S.A. SMITH: Okay. So it did happen?

5                   MR. BEGAY: Yeah. Because I know -- I  
6 know -- I know her like -- you know what I mean? Over  
7 at -- not know her, but see her -- I don't know which one.  
8 You know what I mean? But at Pinon selling tamales.

9                   S.A. SMITH: Mm-hmm.

10                  MR. BEGAY: You know what I mean?

11                  S.A. SMITH: Mm-hmm.

12                  MR. BEGAY: That's all I know her. Like, I  
13 know her like that; I mean, to sell tamales and stuff like  
14 that.

15                  S.A. SMITH: Yeah.

16                  MR. BEGAY: So other than that, you know  
17 what I mean, I don't really know -- I don't know her.

18                  S.A. SMITH: Right.

19                  MR. BEGAY: You know what I mean?

20                  S.A. SMITH: She -- she was Emilene's  
21 daughter.

22                  MR. BEGAY: Yeah.

23                  S.A. SMITH: And, I mean, it doesn't matter,  
24 but, I mean, weren't -- weren't you kind of like seeing  
25 Emilene on the side. She was seeing you on the side

# App 23

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

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1 You know what I mean?

2 S.A. SMITH: Okay. So -- so, I mean, I just  
3 want to -- I just want to go back and summarize a little  
4 bit. I mean, you're saying that, yes, there was --  
5 something did happen with Dailene behind Emilene's house.

6 That -- that did happen?

NAH - UH.

7 MR. BEGAY: ~~\_\_\_\_\_~~ You know what I mean?

8 Like, I --

9 S.A. SMITH: Is that -- that's what you just  
10 said.

11 MR. BEGAY: I'll take you a polygraph. You  
12 know what I mean? I'll give you a call. Then we go from  
13 there. You know what I mean?

14 S.A. SMITH: Okay. All right.

15 MR. BEGAY: Cool. Just like -- I mean, I  
16 know -- I know FBIs. That's not the first time that I got  
17 questioned by the FBI.

18 S.A. SMITH: I know.

19 MR. BEGAY: I got questioned by the FBI a  
20 lot of times. You know what I mean?

21 S.A. SMITH: Yeah.

22 MR. BEGAY: Especially white people. You  
23 know, I know what they trying to say. You know, they try  
24 to tell you to admit it or try to make you sound to admit  
25 it and this --

# App 24

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

45

1                   S.A. SMITH: Well, I mean, I -- I know  
2 something happened. So, I mean, either -- either she  
3 really wanted it to happen or -- or you made her do it.  
4 Which one was it?

5                   MR. BEGAY: That she wanted that to happen.  
6 You know what I mean?

7                   S.A. SMITH: She wanted it to happen?

8                   MR. BEGAY: Yeah. I didn't make her to do  
9 it. I mean, like man up. You know what I mean? Sorry.  
10 Apologize, you know what I mean, anything that happened,  
11 you know.

12                  S.A. SMITH: Okay.

13                  MR. BEGAY: Sorry about that all that, but  
14 no.

15                  S.A. SMITH: All right.

16                  MR. BEGAY: But...

17                  S.A. SMITH: So it -- it did happen, but it  
18 was because she wanted it to happen?

19                  MR. BEGAY: Yeah. It did happen, because  
20 she wanted it to happen maybe. You know what I mean?

21                  S.A. SMITH: Okay.

22                  MR. BEGAY: But, you know, sorry.

23                  S.A. SMITH: So --

24                  MR. BEGAY: Apologize.

25                  S.A. SMITH: So you guys had --

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# App 25

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

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1 S.A. THORNTON: Sorry.  
2 MR. BEGAY: Yeah.  
3 S.A. SMITH: You guys ~~ever~~ <sup>HAD</sup> sex? You put  
4 your penis in her vagina? Yes? <sup>Um, YES. (inaudible)</sup>  
5 MR. BEGAY: ~~ever~~ Just like ~~ever~~.  
6 That's just only like -- like, you know what I mean?  
7 S.A. SMITH: Okay. All right.  
8 MR. BEGAY: But, you know, but sorry about.  
9 that to happen now that -- sorry about that. No.  
10 S.A. SMITH: But you didn't force her to do  
11 it?  
12 MR. BEGAY: I didn't force her to do it.  
13 You know what I mean?  
14 S.A. SMITH: All right. Okay.  
15 MR. BEGAY: So just apologize. You know, I  
16 didn't meant to -- not meant that to happen, but no.  
17 S.A. SMITH: Okay.  
18 MR. BEGAY: But see --  
19 S.A. THORNTON: Were you --  
20 MR. BEGAY: -- (inaudible).  
21 S.A. THORNTON: Were you drinking then,  
22 Murphy?  
23 MR. BEGAY: Yeah, I was drinking. It's like  
24 I say, I'm an alcoholic. You know what I mean?  
25 S.A. SMITH: Mm-hmm.

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INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

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1 MR. BEGAY: Mm-hmm.

2 S.A. SMITH: So if that happened three or  
3 four years ago, she would have been 13 or 14.

4 MR. BEGAY: Mm-hmm. I don't know. I don't  
5 know how old she is now, so I don't know when this  
6 happened. So...

7 S.A. SMITH: Okay. Is it -- is it okay for  
8 someone your age to have sex with a 13- or 14-year-old?

9 MR. BEGAY: ~~M~~ NAH-uh.

10 S.A. SMITH: Okay.

11 MR. BEGAY: No.

12 S.A. SMITH: Okay. Even if she -- even if  
13 she wanted to, is it okay?

14 MR. BEGAY: ~~M~~ NAH-uh.

15 S.A. SMITH: Okay.

16 MR. BEGAY: If she want to, yeah. It's up  
17 to them. I mean, that's something whoever it wants to.  
18 You know what I mean?

19 S.A. SMITH: But --

20 MR. BEGAY: (Inaudible).

21 S.A. SMITH: But, I mean, how old are you  
22 now?

23 MR. BEGAY: 40.

24 S.A. SMITH: You're 40?

25 MR. BEGAY: Yes.

1                   S.A. SMITH: So back then, you were like,  
2 what, 36? And she would have been 13 or 14. Is that  
3 okay?

4                   MR. BEGAY: ~~uh~~ NAH-uh.

5                   S.A. SMITH: No. Okay.

6                   MR. BEGAY: Yeah. So I don't know. Like I  
7 said, man. I don't know if it happened or -- you know  
8 what I mean? Just apologize. That's all I'm saying.

9                   S.A. SMITH: Yeah.

10                  MR. BEGAY: Doesn't -- doesn't meant to  
11 happen or -- no. Just...

12                  S.A. SMITH: Okay.

13                  MR. BEGAY: I mean, I -- it's just -- I try  
14 to -- you know what I mean? Right now, only thing I'm  
15 only worrying about is -- right now is sober up, really  
16 sober up. Go to rehab. You know what I mean?

17                  S.A. SMITH: Mm-hmm.

18                  MR. BEGAY: I'm tired of being -- living  
19 like this. You know?

20                  S.A. SMITH: I hope you do, man. I mean, I  
21 hope --

22                  MR. BEGAY: And then I get questioned by,  
23 you know what I mean, FBI that you know what happened with  
24 this boy, you know.

25                  S.A. SMITH: Oh. Really?

# App 28

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

63

1                   S.A. SMITH: Okay. Yeah. I think. So, I  
2 mean, how -- how do you feel about this -- this whole  
3 D. [REDACTED] thing now?

4                   MR. BEGAY: Like, how do I feel? What do  
5 you mean? Like --

6                   S.A. SMITH: Like, how do you feel about it,  
7 me coming out and talking to you and asking you about her?  
8 I mean, you said something did happen. I mean, how do  
9 you -- how do you feel?

10                  MR. BEGAY: I mean, like, if it really  
11 happened, like, you know what I mean, like, consensually,  
12 you know what I mean, like, I'm sorry, I apologize. You  
13 know, but I'm not scared, you know.

14                  S.A. SMITH: Okay.

15                  MR. BEGAY: (Inaudible) but no.

16                  S.A. SMITH: Well, I'll tell you what, I  
17 might -- do you -- do you -- like, could you get a ride to  
18 like either Chinle or Gallup to do the polygraph? I mean,  
19 do you have a ride to do that?

20                  MR. BEGAY: Yeah.

21                  S.A. SMITH: You could -- you could do that?

22                  MR. BEGAY: Yeah.

23                  S.A. SMITH: Okay. Well, I'll tell you  
24 what, I'll probably give you call in a week or two or  
25 something?

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App 29

INTERVIEW OF Murphy Begay - 2/27/2018  
Reporter's Transcript of Recorded Interview

65

1 S.A. SMITH: This will end the recording.

2 It's 11:55 a.m.

3 (Audio ends.)

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