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FILED
Clerk of the Superior Court
DEC 13 2021
By: R. Mallari

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION

12 PEOPLE OF THE STATE OF
13 CALIFORNIA,

Case No.: CN413778
AG Docket No. SD2020301535

THIRD AMENDED FELONY
COMPLAINT

14 Plaintiff,

Ct. 1: Burglary, PC §§459/460(a) (*Benavente Only*)
Ct. 2: Financial Elder Abuse, PC §368(e)(1) (*Benavente Only*)
Ct. 3: Grand Theft, PC §487(a) (*Benavente Only*)
Ct. 4: Financial Elder Abuse, PC §368(e)(1) (*Benavente Only*)
Ct. 5: Grand Theft, PC §487(a) (*Both Defendants*)
Ct. 6: Identity Theft, PC §530.5(a) (*Both Defendants*)
Ct. 7: Financial Elder Abuse, PC §368(e)(2) (*Benavente Only*)
Ct. 8: Petty Theft, PC §484(a) (*Both Defendants*)
Ct. 9: Financial Elder Abuse, PC §368(e)(2) (*Benavente Only*)
Ct. 10: Petty Theft, PC §484(a) (*Both Defendants*)
Ct. 11: Identity Theft, PC §530.5(a) (*Both Defendants*)
Ct. 12: Forcible Lewd Act on a Dependent Adult, PC §288(b)(2) (*Benavente Only*)
Ct. 13: Forcible Lewd Act on a Dependent

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19 v.
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24 BRANDON JEREMIAH BENAVENTE
(DOB: 8/2/1995)

25 &

26 ODALIZ AIDE MENDEZ (DOB:
27 12/20/1994)
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Defendants.

Adult, PC §288(b)(2) *(Benavente Only)*
 Ct. 14: Forcible Oral Copulation, PC §287(c)(2)(A) *(Benavente Only)*
 Ct. 15: Forcible Oral Copulation, PC §287(c)(2)(A) *(Benavente Only)*
 Ct. 16: Burglary, PC §§459/460(a) *(Benavente Only)*
 Ct. 17: Financial Elder Abuse, PC §368(e)(2) *(Benavente Only)*
 Ct. 18: Forcible Lewd Act on a Dependent Adult, PC §288(b)(2) *(Benavente Only)*
 Ct. 19: Lewd Act on a Dependent Adult, PC §288(c)(2) *(Benavente Only)*
 Ct. 20: Receiving Stolen Property, PC §496(a) *(Mendez Only)*
 Ct. 21: Burglary, PC §§459/460(a) *(Benavente Only)*
 Ct. 22: Financial Elder Abuse, PC §368(e)(2) *(Benavente Only)*
 Ct. 23: Petty Theft, PC §484(a) *(Benavente Only)*
 Ct. 24: Financial Elder Abuse, PC §368(e)(1) *(Benavente Only)*
 Ct. 25: Grand Theft, PC §487(a) *(Both Defendants)*
 Ct. 26: Identity Theft, PC §530.5(a) *(Both Defendants)*
 Ct. 27: Petty Theft, PC §484(a) *(Benavente Only)*
 Ct. 28: Grand Theft of Firearm, PC 487(d)(2) *(Benavente Only)*
 Ct. 29: Sexual Battery with Restraint, PC 243.4(a) *(Benavente Only)*

INFORMATION

Date: _____

CHARGE SUMMARY

<u>Ct.</u>	<u>Charge</u>	<u>Type</u>	<u>Range</u>	<u>Special Allegation</u>
1.	PC 459/460(a)	Felony	2y-4y-6y	PC 667.5(c)(21)
2.	PC 368(e)(1)	Felony	2y-3y-4y	
3.	PC 487(a)	Felony	16m-2y-3y	
4.	PC 368(e)(1)	Felony	2y-3y-4y	
5.	PC 487(a)	Felony	16m-2y-3y	

1	6.	PC 530.5(a)	Felony	16m-2y-3y	
2	7.	PC 368(e)(2)	Misd.	1y	
3	8.	PC 484(a)	Misd.	6 mos.	
4	9.	PC 368(e)(2)	Misd.	1y	
5	10.	PC 484(a)	Misd.	6 mos.	
6	11.	PC 530.5(a)	Felony	16m-2y-3y	
7	12.	PC 288(b)(2)	Felony	5y-8y-10y	PC 667.5(c) & PC 290
8	13.	PC 288(b)(2)	Felony	5y-8y-10y	PC 667.5(c) & PC 290
9	14.	PC 287(c)(2)(A)	Felony	3y-6y-8y	PC 1202.1, PC 290, PC 1192(c), & PC 667.5(c)
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11	15.	PC 287(c)(2)(A)	Felony	3y-6y-8y	PC 1202.1, PC 290, PC 1192(c), & PC 667.5(c)
12	16.	PC 459/460(a)	Felony	2y-4y-6y	PC 667.5(c)(21)
13	17.	PC 368(e)(2)	Misd.	1y	
14	18.	PC 288(b)(2)	Felony	5y-8y-10y	PC 667.5(c) & PC 290
15	19.	PC 288(c)(2)	Felony	1y-2y-3y	PC 1202.1 & PC 290
16	20.	PC 496(a)	Felony	16m-2y-3y	
17	21.	PC 459/460(a)	Felony	2y-4y-6y	PC 667.5(c)(21)
18	22.	PC 368(e)(2)	Misd.	1y	
19	23.	PC 484(a)	Misd.	6 mos.	
20	24.	PC 368(e)(1)	Felony	2y-3y-4y	
21	25.	PC 487(a)	Felony	16m-2y-3y	
22	26.	PC 530.5(a)	Felony	16m-2y-3y	
23	27.	PC 484(a)	Misd.	6 mos.	
24	28.	PC 487(d)(2)	Felony	16m-2y-3y	
25	29.	PC 243.4(a)	Felony	2y-3y-4y	
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1 The undersigned, certifying upon information and belief, complains that defendant
2 BRANDON JEREMIAH BENAVENTE did commit the following crimes in San Diego County,
3 State of California:

4 **COUNT 1**

5 **First Degree Burglary – Penal Code §§459/460(a)**

6 **(Benavente Only)**

7 On or about December 14, 2020, defendant BRANDON JEREMIAH BENAVENTE did
8 enter an inhabited dwelling house and inhabited portion of a building occupied by *Patricia A.*,
9 with the intent to commit larceny and a felony, in violation of Penal Code §§459/460(a), a felony.

10 **NOTICE: PENAL CODE § 667.5(c)(21)**

11 It is further alleged as to Count 1 that another person, other than the accomplice, was
12 present in the residence during the commission of the burglary within the meaning of Penal Code
13 section 667.5(c)(21).

14 **COUNT 2**

15 **Financial Elder Abuse – Penal Code §368(e)(1)**

16 **(Benavente Only)**

17 On or about December 14, 2020, defendant BRANDON JEREMIAH BENAVENTE, in his
18 capacity as a caretaker, committed theft, embezzlement, fraud, and identity theft with respect to
19 the property and personal identifying information of *Patricia A.*, an elder, with the property and
20 money having a value in excess of \$950.00, while defendant knew that *Patricia A.*, was an elder,
21 in violation of Penal Code §368(e)(1), a felony.

22 **COUNT 3**

23 **Grand Theft – Penal Code §487(a)**

24 **(Benavente Only)**

25 On or about December 14, 2020, defendant BRANDON JEREMIAH BENAVENTE did
26 willfully and unlawfully take from *Patricia A.*, money in excess of \$950.00, in violation of Penal
27 Code §487(a), a felony.

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COUNT 4

Financial Elder Abuse – Penal Code §368(e)(1)

(Benavente Only)

Beginning on or about November 24, 2020, and continuing on through November 27, 2020, defendant BRANDON JEREMIAH BENAVENTE, in his capacity as a caretaker, committed theft, embezzlement, fraud, and identity theft with respect to the property and personal identifying information of *Martin L.*, an elder, with the property and money having a value in excess of \$950.00, while defendant knew that *Martin L.*, was an elder, in violation of Penal Code §368(e)(1), a felony.

COUNT 5

Grand Theft – Penal Code §487(a)

(Both Defendants)

Beginning on or about November 24, 2020, and continuing on through November 27, 2020, defendant BRANDON JEREMIAH BENAVENTE and ODALIZ AIDE MENDEZ did willfully and unlawfully take from *Martin L.*, money in excess of \$950.00, in violation of Penal Code §487(a), a felony.

COUNT 6

Identity Theft §530.5(a)

(Both Defendants)

Beginning on or about November 24, 2020, and continuing on through November 27, 2020, defendant BRANDON JEREMIAH BENAVENTE and ODALIZ AIDE MENDEZ did willfully and unlawfully obtain personal identifying information of *Martin L.*, and used that information for an unlawful purpose and to obtain, and attempt to obtain credit, goods, or services, without the consent of *Martin L.*, in violation of Penal Code §530.5(a), a felony.

COUNT 7

Financial Elder Abuse – Penal Code §368(e)(2)

(Benavente Only)

Beginning on or about November 20, 2020, and continuing on through November 24, 2020,

1 defendant BRANDON JEREMIAH BENAVENTE, in his capacity as a caretaker, committed
2 theft, embezzlement, fraud, and identity theft with respect to the property and personal identifying
3 information of *Mary J.*, an elder, with the property and money having a value less than \$950.00,
4 while defendant knew that *Mary J.*, was an elder, in violation of Penal Code §368(e)(2), a
5 misdemeanor.

6 **COUNT 8**

7 **Petty Theft – Penal Code §484(a)**

8 **(Both Defendants)**

9 Beginning on or about November 20, 2020, and continuing on through at least November
10 24, 2020, defendant BRANDON JEREMIAH BENAVENTE and ODALIZ AIDE MENDEZ did
11 willfully and unlawfully take from *Mary J.*, money with a value less than \$950.00, in violation of
12 Penal Code §484(a), a misdemeanor.

13 **COUNT 9**

14 **Financial Elder Abuse – Penal Code §368(e)(2)**

15 **(Benavente Only)**

16 Beginning on or about October 30, 2020, and continuing on through November 8, 2020,
17 defendant BRANDON JEREMIAH BENAVENTE, in his capacity as a caretaker, committed
18 theft, embezzlement, fraud, and identity theft with respect to the property and personal identifying
19 information of *Sharon N.*, an elder, with the property and money having a value less than
20 \$950.00, while defendant knew that *Sharon N.*, was an elder, in violation of Penal Code
21 §368(e)(2), a misdemeanor.

22 **COUNT 10**

23 **Petty Theft – Penal Code §484(a)**

24 **(Both Defendants)**

25 Beginning on or about October 30, 2020, and continuing on through at least November 8,
26 2020, defendant BRANDON JEREMIAH BENAVENTE and ODALIZ AIDE MENDEZ did
27 willfully and unlawfully take from *Sharon N.*, money with a value less than \$950.00, in violation
28 of Penal Code §484(a), a misdemeanor.

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COUNT 11
Identity Theft §530.5(a)
(Both Defendants)

Beginning on or about October 30, 2020, and continuing on through November 8, 2020, defendant BRANDON JEREMIAH BENAVENTE and ODALIZ AIDE MENDEZ did willfully and unlawfully obtain personal identifying information of *Sharon N.*, and used that information for an unlawful purpose and to obtain, and attempt to obtain credit, goods, or services, without the consent of *Sharon N.*, in violation of Penal Code §530.5(a), a felony.

COUNT 12
Forcible Lewd Act on Dependent Adult – Penal Code §288(b)(2)
(Benavente Only)

On or about November 6, 2020, defendant BRANDON JEREMIAH BENAVENTE, did, while being a caretaker, commit an act described in § 288(a) upon *Gary S.*, a dependent person, to wit, inserting defendant’s penis into said Victim’s mouth, by use of force, violence, duress, menace, and fear of immediate and unlawful bodily injury on *Gary S.*, and with the intent described in that Section, in violation of Penal Code §288(b)(2), a felony.

NOTICE: PENAL CODE § 667.5(c)

The above offense is a violent felony within the meaning of Penal Code 667.5(c).

NOTICE: PENAL CODE § 290

Conviction of this offense will require to register pursuant to Penal Code § 290 et seq. Willful failure to register is a crime.

COUNT 13
Forcible Lewd Act on Dependent Adult – Penal Code §288(b)(2)
(Benavente Only)

On or about November 6, 2020, defendant BRANDON JEREMIAH BENAVENTE, did, while being a caretaker, commit an act described in § 288(a) upon *Gary S.*, a dependent person, to wit, inserting Victim’s penis into defendant’s mouth, by use of force, violence, duress, menace, and fear of immediate and unlawful bodily injury on *Gary S.*, and with the intent described in that

1 Section.

2 **NOTICE: PENAL CODE § 667.5(c)**

3 The above offense is a violent felony within the meaning of Penal Code 667.5(c).

4 **NOTICE: PENAL CODE § 290**

5 Conviction of this offense will require to register pursuant to Penal Code § 290 et seq.
6 Willful failure to register is a crime.

7 **COUNT 14**

8 **Forcible Oral Copulation § 287(c)(2)(A)**

9 **(Benavente Only)**

10 On or about November 6, 2020, defendant BRANDON JEREMIAH BENAVENTE did
11 unlawfully participate in an act of oral copulation with *Gary S.*, to wit, inserting defendant's penis
12 into said victim's mouth, and did accomplish said act against said victim's will by force, violence,
13 duress, menace, and fear or immediate and unlawful bodily injury to said victim, in violation of
14 Penal Code §287(c)(2)(A), a felony.

15 **NOTICE: PENAL CODE § 1202.1**

16 Conviction of this offense will require the court to order you to submit to a blood test for
17 evidence of antibodies to the probable causative agent of Acquired Immune Deficiency Syndrome
18 (AIDS). Penal Code § 1202.1.

19 **NOTICE: PENAL CODE § 290**

20 Conviction of this offense will require to register pursuant to Penal Code § 290 et seq.
21 Willful failure to register is a crime.

22 **NOTICE: PENAL CODE §§ 1192.7(c) & 667.5(c)**

23 The above offense is a serious felony within the meaning of Penal Code § 1192.7(c) and a
24 violent felony within the meaning of Penal Code § 667.5(c).

25 **COUNT 15**

26 **Forcible Oral Copulation § 287(c)(2)(A)**

27 **(Benavente Only)**

28 On or about November 6, 2020, defendant BRANDON JEREMIAH BENAVENTE did

1 unlawfully participate in an act of oral copulation with *Gary S.*, to wit, inserting said victim's
2 penis into defendant's mouth, and did accomplish said act against said victim's will by force,
3 violence, duress, menace, and fear or immediate and unlawful bodily injury to said victim, in
4 violation of Penal Code § 287(c)(2)(A), a felony.

5 **NOTICE: PENAL CODE § 1202.1**

6 Conviction of this offense will require the court to order you to submit to a blood test for
7 evidence of antibodies to the probable causative agent of Acquired Immune Deficiency Syndrome
8 (AIDS). Penal Code § 1202.1.

9 **NOTICE: PENAL CODE § 290**

10 Conviction of this offense will require to register pursuant to Penal Code § 290 et seq.
11 Willful failure to register is a crime.

12 **NOTICE: PENAL CODE §§ 1192.7(c) & 667.5(c)**

13 The above offense is a serious felony within the meaning of Penal Code § 1192.7(c) and a
14 violent felony within the meaning of Penal Code § 667.5(c).

15 **COUNT 16**

16 **First Degree Burglary – Penal Code §§459/460(a)**

17 **(Benavente Only)**

18 On or about November 6, 2020, defendant BRANDON JEREMIAH BENAVENTE did
19 enter an inhabited dwelling house and inhabited portion of a building occupied by *Gary S.*, with
20 the intent to commit larceny and a felony, in violation of Penal Code §§459/460(a), a felony.

21 **NOTICE: PENAL CODE § 667.5(c)(21)**

22 It is further alleged as to Count 16 that another person, other than the accomplice, was
23 present in the residence during the commission of the burglary within the meaning of Penal Code
24 section 667.5(c)(21).

25 **COUNT 17**

26 **Financial Elder Abuse – Penal Code §368(e)(2)**

27 **(Benavente Only)**

28 On or about November 6, 2020 defendant BRANDON JEREMIAH BENAVENTE, in his

1 capacity as a caretaker, committed theft, embezzlement, fraud, and identity theft with respect to
2 the property and personal identifying information of *Gary S.*, an elder, with the property and
3 money having a value less than \$950.00, while defendant knew that *Gary S.* was an elder, in
4 violation of Penal Code § 368(e)(2), a misdemeanor.

5 **COUNT 18**

6 **Forcible Lewd Act on Dependent Adult – Penal Code §288(b)(2)**

7 **(Benavente Only)**

8 Beginning on or about October 27, 2020 and continuing on through November 27, 2020,
9 defendant BRANDON JEREMIAH BENAVENTE, did, while being a caretaker, commit an act
10 described in § 288(a) upon *Julia S.*, a dependent person, by use of force, violence, duress,
11 menace, and fear of immediate and unlawful bodily injury on *Julia S.*, and with the intent
12 described in that Section, in violation of Penal Code §288(b)(2), a felony.

13 **NOTICE: PENAL CODE § 667.5(c)**

14 The above offense is a violent felony within the meaning of Penal Code § 667.5(c).

15 **NOTICE: PENAL CODE § 290**

16 Conviction of this offense will require to register pursuant to Penal Code § 290 et seq.
17 Willful failure to register is a crime.

18 **COUNT 19**

19 **Lewd Act on a Dependent Person - Penal Code §288(c)(2)**

20 **(Benavente Only)**

21 On or about September 29, 2020, defendant BRANDON JEREMIAH BENAVENTE, did,
22 while being a caretaker, commit and act described in § 288(a) upon *Thomas B.*, a dependent adult,
23 with the intent described in that Section, in violation of Penal Code §288(c)(2), a felony.

24 **NOTICE: PENAL CODE § 1202.1**

25 Conviction of this offense will require the court to order you to submit to a blood test for
26 evidence of antibodies to the probable causative agent of Acquired Immune Deficiency Syndrome
27 (AIDS). Penal Code § 1202.1.

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1 violation of Penal Code § 368(e)(2), a misdemeanor.

2 **COUNT 23**

3 **Petty Theft – Penal Code §484(a)**

4 **(Benavente Only)**

5 On or about May 17, 2020, defendant BRANDON JEREMIAH BENAVENTE did
6 willfully and unlawfully take from *Frank G.*, money with a value less than \$950.00, in violation
7 of Penal Code §484(a), a misdemeanor.

8 **COUNT 24**

9 **Financial Elder Abuse – Penal Code §368(e)(1)**

10 **(Benavente Only)**

11 Beginning on or about May 1, 2020 and continuing through at least May 31, 2020,
12 defendant BRANDON JEREMIAH BENAVENTE, in his capacity as a caretaker, committed
13 theft, embezzlement, fraud, and identity theft with respect to the property and personal identifying
14 information of *Mary O.*, an elder, with the property and money having a value in excess of
15 \$950.00, while defendant knew that *Mary O.*, was an elder, in violation of Penal Code
16 §368(e)(1), a felony.

17 **COUNT 25**

18 **Grand Theft – Penal Code §487(a)**

19 **(Both Defendants)**

20 Beginning on or about May 1, 2020, and continuing on through at least May 31, 2020,
21 defendant BRANDON JEREMIAH BENAVENTE and ODALIZ AIDE MENDEZ did willfully
22 and unlawfully take from *Mary O.*, money in excess of \$950.00, in violation of Penal Code
23 §487(a), a felony.

24 **COUNT 26**

25 **Identity Theft §530.5(a)**

26 **(Both Defendants)**

27 Beginning on or about May 1, 2020, and continuing through at least May 31, 2020,
28 defendant BRANDON JEREMIAH BENAVENTE and ODALIZ AIDE MENDEZ did willfully

1 and unlawfully obtain personal identifying information of *Mary O.*, and used that information for
2 an unlawful purpose and to obtain, and attempt to obtain credit, goods, or services, without the
3 consent of *Mary O.*, in violation of Penal Code §530.5(a), a felony.

4 **COUNT 27**

5 **Petty Theft – Penal Code §484(a)**

6 **(Benavente Only)**

7 Beginning on or about January 1, 2020, and continuing on through at least January 31,
8 2020, defendant BRANDON JEREMIAH BENAVENTE did willfully and unlawfully take from
9 *Care Choice Home Care*, money with a value less than \$950.00, in violation of Penal Code
10 §484(a), a misdemeanor.

11 **COUNT 28**

12 **Grand Theft of Firearm – Penal Code §487(d)(2)**

13 **(Benavente Only)**

14 Beginning on or about December 1, 2019, and continuing on through December 31, 2019,
15 defendant BRANDON JEREMIAH BENAVENTE did unlawfully steal, take, and carry away a
16 firearm, specifically, a .22 caliber handgun, belonging to *Janeen N.* and *John N.*, in violation of
17 Penal Code §487(d)(2), a felony.

18 **COUNT 29**

19 **Sexual Battery with Restraint – Penal Code §243.4(a)**

20 **(Benavente Only)**

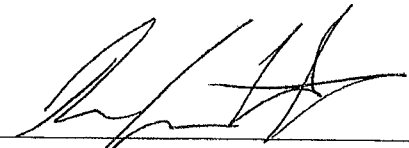
21 On or about November 6, 2020, BENAVENTE did willfully and unlawfully touch an
22 intimate part of *Gary S.*, while said person was unlawfully restrained by BENAVENTE, against
23 the will of *Gary S.* and for the purpose of sexual arousal, sexual gratification, and sexual abuse.

24 **NOTICE: PENAL CODE SECTION 290**

25 Conviction of this offense will require to register pursuant to Penal Code section 290 et seq.
26 Willful failure to register is a crime.
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1 I declare under penalty of perjury based on information and belief that the foregoing is true
2 and correct. Executed on the 12th day of December, 2022, in San Diego, California.

3 For ROB BONTA, Attorney General

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6 _____
7 RYAN E. SCOTT,
8 Deputy Attorney General
9 Attorneys for the People of the State of California
10 Declarant

11 Time estimate for preliminary examination: 2 days

12 **INFORMATION**

13 Dated: _____ ROB BONTA, Attorney General

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17 _____
18 RYAN E. SCOTT,
19 Deputy Attorney General
20 Attorneys for the People of the State of California

21 **PURSUANT TO PENAL CODE §1054.5(b), THE PEOPLE ARE HEREBY**
22 **INFORMALLY REQUESTING THAT DEFENDANTS' COUNSEL PROVIDE**
23 **DISCOVERY TO THE PEOPLE AS REQUIRED BY PENAL CODE §1054.3.**
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