

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

PEOPLE OF THE STATE OF CALIFORNIA
v.
GREGORY PAUL VIEN


Defendant(s)

NO. **19-CR-016858**

COMPLAINT

PFN:ALO657/DSY709 CEN:9420623

WARRANT

| |
|--|
| <p>FILED ALAMEDA COUNTY 11/4/2019 2:17:05 PM CLERK OF THE SUPERIOR COURT</p> <p>BY  Signed: 11/4/2019 02:40 PM DEPUTY</p> |
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The undersigned, being sworn says, on information and belief, that GREGORY PAUL VIEN did, in the County of Alameda, on or about **September 15, 1997**, commit a **FELONY**, to wit: **SEXUAL PENETRATION BY FOREIGN OBJECT**, a violation of section 289(a)(1)(A) of the **PENAL CODE** of California, in that said defendant(s) committed an act of sexual penetration against the will of JANE DOE by means of force, violence, duress, menace and fear of immediate and unlawful bodily injury on JANE DOE and another person.

"NOTICE: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c) and a violent felony within the meaning of Penal Code section 667.5(c)."

"NOTICE: Conviction of this offense will require you to register pursuant to Penal Code section 290. Section 290 requires lifetime registration as a sex offender. Willful failure to register is a crime."

"NOTICE: Conviction of this offense will require you to provide specimens and samples pursuant to Penal Code section 296. Willful refusal to provide the specimens and samples is a crime."

NOTICE: It is further alleged that said defendant(s) is/are ineligible for probation or suspension of sentence pursuant to Penal Code section 1203.065(a).

**SPECIAL ALLEGATION-SEX OFFENSE AND KIDNAP AS TO
DEFENDANT GREGORY PAUL VIEN**

It is further alleged within the meaning of Penal Code section 667.61(d)(2) that the said defendant kidnapped the victim of the above offense, and the movement of the victim substantially increased the risk of harm to the victim over and above that level of risk necessarily inherent in the commission of that offense. It is further alleged that said act was in violation of Penal Code 667.8 and that the victim of the above offense was 14 years of age or older at the time of the offense. It is further alleged that said defendant is punishable under the provisions of section 667.61(a) and is ineligible for probation pursuant to section 667.61(h).

**SPECIAL ALLEGATION-SEX OFFENSE- KIDNAP AS TO
DEFENDANT GREGORY PAUL VIEN**

It is further alleged that the said defendant kidnapped the victim of the above offense in violation of Penal Code §§ 207, 208, 209, and 209.5, within the meaning of Penal Code Section 667.61(e)(1). It is further alleged that said defendant is punishable under the provisions of subdivisions (a) and (b) of section 667.61 and is ineligible for probation pursuant to subdivision (h) section 667.61.

**SPECIAL ALLEGATION-SEX OFFENSE- MULTIPLE VICTIMS AS TO
DEFENDANT GREGORY PAUL VIEN**

It is further alleged that the said defendant has been convicted in these proceedings of committing an offense specified in subdivision (c) of Penal Code § 667.61 against more than one victim, within the meaning of Penal Code Section 667.61(e)(5). It is further alleged that said defendant is punishable under the provisions of subdivisions (a) and (b) of section 667.61 and is ineligible for probation pursuant to subdivision (h) section 667.61.

**NOTICE PROVISION-RE STATE PRISON ELIGIBILITY- VIOLENT FELONY AS TO
DEFENDANT GREGORY PAUL VIEN**

It is further alleged that the above offense is a violent felony within the meaning of Penal Code section 667.5(c) and that pursuant to Penal Code section 1170(h)(3) an executed sentence for the offenses herein charged shall be served in the state prison.

SECOND COUNT

The undersigned further deposes and says on information and belief, that said GREGORY PAUL VIEN did, in the County of Alameda, on or about **September 15, 1997**, commit a FELONY, to wit: FORCIBLE ORAL COPULATION, a violation of section 287(c)(2)(A) of the PENAL CODE of California, in that said defendant(s) did unlawfully participate in an act of oral copulation with JANE DOE and did accomplish said act against said victim's will by force, violence, duress, menace, and fear of immediate and unlawful bodily injury to said victim and to another.

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

"NOTICE: Conviction of this offense will require you to register pursuant to Penal Code section 290. Section 290 requires lifetime registration as a sex offender. Willful failure to register is a crime."

"NOTICE: Conviction of this offense will require you to provide specimens and samples pursuant to Penal Code section 296. Willful refusal to provide the specimens and samples is a crime."

**SPECIAL ALLEGATION-SEX OFFENSE AND KIDNAP AS TO
DEFENDANT GREGORY PAUL VIEN**

It is further alleged within the meaning of Penal Code section 667.61(d)(2) that the said defendant kidnapped the victim of the above offense, and the movement of the victim substantially increased the risk of harm to the victim over and above that level of risk necessarily inherent in the commission of that offense. It is further alleged that said act was in violation of Penal Code 667.8 and that the victim of the above offense was 14 years of age or older at the time of the offense. It is further alleged that said defendant is punishable under the provisions of section 667.61(a) and is ineligible for probation pursuant to section 667.61(h).

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DEFENDANT GREGORY PAUL VIEN**

It is further alleged that the said defendant kidnapped the victim of the above offense in violation of Penal Code §§ 207, 208, 209, and 209.5, within the meaning of Penal Code Section 667.61(e)(1). It is further alleged that said defendant is punishable under the provisions of subdivisions (a) and (b) of section 667.61 and is ineligible for probation pursuant to subdivision (h) section 667.61.

**SPECIAL ALLEGATION-SEX OFFENSE- MULTIPLE VICTIMS AS TO
DEFENDANT GREGORY PAUL VIEN**

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THIRD COUNT

The undersigned further deposes and says on information and belief, that said GREGORY PAUL VIEN did, in the County of Alameda, on or about **May 06, 1997**, commit a FELONY, to wit: SEXUAL PENETRATION BY FOREIGN OBJECT, a violation of section 289(a)(1)(A) of the PENAL CODE of California, in that said defendant(s) committed an act of sexual penetration against the will of JANE DOE 2 by means of force, violence, duress, menace and fear of immediate and unlawful bodily injury on JANE DOE 2 and another person.

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It is further alleged that the said defendant kidnapped the victim of the above offense in violation of Penal Code §§ 207, 208, 209, and 209.5, within the meaning of Penal Code Section 667.61(e)(1). It is further alleged that said defendant is punishable under the provisions of subdivisions (a) and (b) of section 667.61 and is ineligible for probation pursuant to subdivision (h) section 667.61.

**SPECIAL ALLEG-SEX OFFENSE-USE OF DEADLY WEAPON AS TO
DEFENDANT GREGORY PAUL VIEN**

It is further alleged that the said defendant was armed with and personally used a dangerous or deadly weapon in the commission of the above offense within the meaning of Penal Code Sections 667.61(e)(3), 12022(b) and 12022.3. It is further alleged that said defendant is punishable under the provisions of subdivisions (a) and (b) of section 667.61 and is ineligible for probation pursuant to subdivision (h) section 667.61.

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DEFENDANT GREGORY PAUL VIEN**

It is further alleged that the said defendant has been convicted in these proceedings of committing an offense specified in subdivision (c) of Penal Code § 667.61 against more than one victim, within the meaning of Penal Code Section 667.61(e)(5). It is further alleged that said defendant is punishable under the provisions of subdivisions (a) and (b) of section 667.61 and is ineligible for probation pursuant to subdivision (h) section 667.61.

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FOURTH COUNT

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DEFENDANT GREGORY PAUL VIEN**

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**SPECIAL ALLEGATION-SEX OFFENSE-MULTIPLE VICTIMS AS TO
DEFENDANT GREGORY PAUL VIEN**

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FIFTH COUNT

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DEFENDANT GREGORY PAUL VIEN**

It is further alleged that the above offense is a violent felony within the meaning of Penal Code section 667.5(c) and that pursuant to Penal Code section 1170(h)(3) an executed sentence for the offenses herein charged shall be served in the state prison.

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by Penal Code Section 1054.3.

Subscribed and sworn to before me,
Monday, November 4, 2019

This document was filed electronically in
compliance with Penal Code section 959.1


JOSEPH EICHHORN
Deputy District Attorney
State Bar #126705
Alameda County, California

UPD 970506037; LPD 97-19525



County of Alameda



Request for Out of Custody Complaint
Declaration of Probable Cause

| | | | | | |
|--|-------------|--|----------|--------------------------------|------------------------------|
| Arrestee/Suspect GREGORY VIEN | | DOB 12/21/1958 | Sex M | PFN ALO657 | |
| Race WHITE | | CDL N5064929 CA | | Agency Report # 970506037 | |
| Arresting Agency UNION CITY PD (CA0011300) | | Declarant Joshua Clubb | | Agency Phone (510) 471-1365 | Agency Fax (510) 471-5974 |
| Arrest Date | Arrest Time | Arrest Location | | | |
| Holds | | Arrestee Home Address 138 CAMEO DR LIVERMORE CA | | | |
| Charges/Violations PC 289(A)(1)(A) F(1 Counts), PC 287 F(1 Counts), PC 207(A) F(1 Counts) | | | | | |

The following facts are outlined in UCPD case # 970506037 & Livermore PD case # 97-0915-25:

On 05/06/1997 at about 1800 hours, UCPD Officers were dispatched to 700 Bradford Street to investigate a sexual assault. Victim (Confidential) told Officers she had been violently attacked by an unknown male and dragged into a secluded area of a nearby field while walking to BART after work. Suspect then cut Victim's clothes off of her using a knife and sexually assaulted her (digital penetration and forced oral copulation).

Victim told Officers that she spit the Suspect's ejaculate out of her mouth and onto the inside portion of her jacket. This item of clothing was collected and preserved as evidence.

Suspect was described as a White Male in his 30's, about 6'03" tall and weighing about 240 pounds. The Suspect was wearing a navy blue hooded sweat-shirt, blue jeans and off-white, knit gloves.

DNA evidence:

On 05/14/1997, UCPD Detectives sent Victim's jacket to the Alameda County Crime Lab to be examined for the presence of semen. ACSO Lab Technicians confirmed the presence of several semen stains on Victim's jacket. One of the stains was found to have a genetic marker type that was foreign to the Victim and could not have originated from her.

Ultimately, this DNA sample was found to be a match with a DNA sample from DNA collected at the scene of a Livermore rape (case # 97-0915-25) which occurred the same year.

The suspect DNA sample was submitted for entry into the Convicted Offender Database (CODIS) and cross-referenced against previously arrested offender DNA profiles. No matches were made to known offenders.

Recent Developments:

During the same time frame (March 2019), I corresponded with Livermore PD Forensic Specialist Steward and Livermore PD Detective Brittany England. On June 19th, 2019, Specialist Steward coordinated the transport of Livermore's DNA sample to a private lab. Once a usable DNA sample was developed, it was uploaded into a private DNA database & a Genetic Genealogy search was conducted.

Identification of an Investigative Lead:

Once the preliminary results identified a possible relative of the target suspect, work was begun to develop additional information that might result in an investigative lead as to the possible identity of that suspect. Ultimately, a suspect lead was developed, the results of which were provided to myself and Livermore Sex Crimes Detective Brittney England. The Suspect identified was:

Gregory Paul Vien

DOB: 12/21/1958
CDL# N5064929
White Male, Brown Hair, Hazel Eyes.
Height: 6' Weight: 225 lbs.

Surreptitious collection of Suspect DNA:

Detective England learned Suspect Vien had resided in Livermore for the last several decades and currently lived at 138 Camino Drive, Livermore CA (approximately 3 miles from the Livermore assault).

Livermore Detectives conducted extensive surveillance of Suspect Vien in and around their city. As a result of this surveillance, several items were collected surreptitiously which had been discarded by Suspect Vien. Of note, one Baskin Robbins spoon was collected after Suspect Vien used it to eat ice cream. The spoon was sent to the Jan Bashinski DNA Laboratory for forensic analysis.

On 8/28/19, at about 1448 hours, I received notification from a Senior Criminalist at the California DOJ Bureau of Forensics Services-Jan Bashinski DNA Laboratory advising the following:

A male STR profile was detected on a swab taken of the Baskin Robbins spoon. The male profile from the Baskin Robbins spoon was compared to the male STR profile detected for the semen stain on the jacket / sperm fraction from Victim's UCPD rape case.

Lab personnel compared DNA from the surreptitiously collected items to evidence collected from the original investigations, and determined that the DNA was a match.

Based on the work done by Lab personnel, and subject to a confirming swab being taken from Mr. Vien, these results demonstrate that this suspect is the likely source of the profile from the jacket semen stain developed from the original UCPD crime scene.

Further conversation with Detective England & Specialist Steward confirmed that the male profile from the Baskin Robbins spoon was compared to the male STR profile detected for the semen stain found at Livermore's rape scene, and both profiles matched in that case as well. So we now had evidence that the surreptitiously collected evidence matched the DNA from two different crime scenes.

These findings were shared with Deputy District Attorney Mark Melton of the Alameda County District Attorney's Cold Case Unit and the decision was made to make contact with the Victims in each respective case.

Recent Contact with Victim:

On 10/24/2019 at 1400 hours, I met with Victim at UCPD for the purposes of conducting an interview. A double-blind sequential photo line-up was used (containing a Driver License photograph of Suspect Vien from 1992) but Victim was unable to make a positive identification.

Victim reviewed her original statements regarding this incident from the 1997 case file. Victim advised the statements were consistent with her memory of the attack. Victim confirmed the details of the sexual assault and the elements of the crimes. Victim told me she was afraid her attacker was going to kill her at the time and relayed the profound effect of the attack on her life. Victim told me she was still desirous of prosecution in this matter.

This case has been forwarded to the Alameda District Attorney's Cold Case Unit for charging.

I declare under penalty of perjury that the above information was obtained through official police channels and is contained in the above-mentioned police report. Executed in the County of Alameda, State of California. Identity and signature of declarant verified by CRIMS.

Date: 11/04/2019 11:57:45

Declarant: Joshua Clubb

Badge: 3551

Reviewed and approved.

Date: 11/04/2019 11:57:48

Supervisor: Joshua Clubb

Badge: 3551

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County of Alameda



Request for Out of Custody Complaint
Declaration of Probable Cause

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| Arrestee/Suspect GREGORY VIEN | | DOB 12/21/1958 | Sex M | PFN AL0657 | |
| Race WHITE | | CDL N5064929 CA | | Agency Report # 97-1 | |
| Arresting Agency LIVERMORE PD (CA0010700) | | Declarant Brittney England | | Agency Phone (925) 371-4987 | Agency Fax (925) 371-4959 |
| Arrest Date | Arrest Time | Arrest Location | | | |
| Holds | | Arrestee Home Address 138 CAMEO DR LIVERMORE CA | | | |
| Charges/Violations PC 289(A)(1)(A) F(1 Counts), PC 288A(2)(A) F(1 Counts), PC 236 F(1 Counts), PC 207(A) F(1 Counts) | | | | | |

On 09/15/1997 at about 2314 hours, Jane Doe went for a walk at Livermore High School, located at 600 Maple Street in Livermore, CA. While at Livermore High School, the suspect approached Jane Doe. The suspect pulled Jane Doe from the bleachers and forced her to move about 15 feet away from the bleachers in a dark and secluded area.

The suspect forced Jane Doe onto the ground, while he used his body weight to hold her onto the ground, he also covered her nose and mouth, making it hard for her to breath. The suspect touched Jane Doe's bare buttocks with his hand. The suspect then digitally penetrated Jane Doe's vagina with his finger. The suspect then forced Jane Doe to orally copulate his penis until he ejaculated in her mouth. At the time of the crime, Jane Doe spit the suspect's semen onto the ground, which was later collected.

In 2019, I was assigned this investigation to follow up. The suspect's DNA sample was provided to a genetic consultant. The genetic consultant provided an investigative lead for the suspect. After further investigation, I found that the suspect to be Gregory Paul Vien.

Surreptitious DNA samples were collected from Gregory Vien and compared to the DNA crime scene sample. DOJ determined that there was a very strong support that Gregory Vien was the source of the DNA profile of the original DNA crime scene sample.

Based on the aforementioned information, I have probable cause to believe that Gregory Vien is in violation of section(s) 289, 288a, 236, and 207 of the California Penal Code.

I declare under penalty of perjury that the above information was obtained through official police channels and is contained in the above-mentioned police report. Executed in the County of Alameda, State of California. Identity and signature of declarant verified by CRIMS.
Date: 11/04/2019 12:31:57 Declarant: Brittney England Badge: 23

Reviewed and approved.
Date: 11/04/2019 12:48:45 Supervisor: Timothy Lendman Badge: 31

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