

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA
SAN JOSE FACILITY

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

FELONY COMPLAINT

DA NO: 030615105

CEN

03030496 EA HELD 6/11/2003

vs.

ENRIQUE SOSA ALVAREZ (12/12/1979),
aka DAVID MONTIEL CRUZ,
[REDACTED] SAN JOSE, CA

Defendant(s)

PROTECTIVE ORDER

The undersigned is informed and believes that:

COUNT 1

On or about June 6, 2003, in the County of Santa Clara, State of California, the crime of **FIRST DEGREE BURGLARY - ENTERING WITH INTENT TO COMMIT A FELONY**, in violation of **PENAL CODE SECTION 459-460(a)**, a Felony, was committed by **ENRIQUE SOSA ALVAREZ** who did enter an inhabited dwelling house, located at [REDACTED] San Jose, California with the intent to commit (a) felony(ies), felonies.

It is further alleged that the defendant(s) is/are ineligible for probation pursuant to Penal Code section 462(a).

A felony conviction of the offense requires that the defendant provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand pursuant to Penal Code section 296(a).

COUNT 2

On or about June 6, 2003, in the County of Santa Clara, State of California, the crime of **AGGRAVATED SEXUAL ASSAULT OF A CHILD UNDER 14 AND 10 OR MORE YEARS YOUNGER THAN THE DEFENDANT**, in violation of **PENAL CODE SECTION 269**, a Felony, was committed by **ENRIQUE SOSA ALVAREZ** who did commit a violation of Penal Code section 289(a) (**SEXUAL PENETRATION BY FOREIGN OBJECT**) upon Jane Doe, a child who was nine years old and who was both under the age fourteen (14) years and ten and more years younger than the defendant.

P.C. 1048 PRIORITY

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290. A felony conviction of the offense requires that the defendant provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand pursuant to Penal Code section 296(a).

COUNT 3

On or about and between June 6, 2003 and June 9, 2003, in the County of Santa Clara, State of California, the crime of RAPE BY FORCE, VIOLENCE, DURESS, MENACE OR FEAR, in violation of PENAL CODE SECTION 261(a)(2), a Felony, was committed by ENRIQUE SOSA ALVAREZ who did accomplish an act of sexual intercourse with Jane Doe , a person not the spouse of the defendant, against the person's will by means of force, violence, duress, menace, and fear of immediate and unlawful bodily injury.

It is further alleged that the defendant(s) is/are not eligible for probation and the suspension of sentence, within the meaning of Penal Code section 1203.065(a).

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290. A felony conviction of the offense requires that the defendant provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand pursuant to Penal Code section 296(a).

It is further alleged that prior to the commission of the offense charged above, the defendant, ENRIQUE SOSA ALVAREZ, kidnapped the victim and the movement of the victim substantially increased the risk of harm to the victim over and above the level of risk necessarily inherent in the foregoing offense, within the meaning of Penal Code sections 667.61(a) and 667.61(d).

It is further alleged that the defendant, ENRIQUE SOSA ALVAREZ, kidnapped the victim in violation of section 207, 209, and 209.5 and engaged in the tying and binding of the victim and other person in the commission of the offense charged above, within the meaning of Penal Code sections 667.61(a) and 667.61(e).

COUNT 4

On or about and between June 6, 2003 and June 9, 2003, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD BY FORCE, VIOLENCE, DURESS MENACE AND FEAR, in violation of PENAL CODE SECTION 288(b)(1), a Felony, was committed by ENRIQUE SOSA ALVAREZ who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe , a child under the age of fourteen years, nine years of age, by use of force, violence, duress, menace and fear of immediate and unlawful bodily injury on the child and another person and with the intent of arousing, appealing to and gratifying the lust, passions and sexual desires of the defendant and of the child.

It is further alleged that the defendant(s) is/are not eligible for probation and the suspension of sentence, within the meaning of Penal Code section 1203.066(a)(1).

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290. A felony conviction of the offense requires that the defendant provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand pursuant to Penal Code section 296(a).

It is further alleged that prior to the commission of the offense charged above, the defendant, ENRIQUE SOSA ALVAREZ, kidnapped the victim and the movement of the victim substantially increased the risk of harm to the victim over and above the level of risk necessarily inherent in the foregoing offense, within the meaning of Penal Code sections 667.61(a) and 667.61(d).

COUNT 5

On or about and between June 6, 2003 and June 9, 2003, in the County of Santa Clara, State of California, the crime of LEWD OR LASCIVIOUS ACT ON A CHILD BY FORCE, VIOLENCE, DURESS MENACE AND FEAR, in violation of PENAL CODE SECTION 288(b)(1), a Felony, was committed by ENRIQUE SOSA ALVAREZ who did willfully and lewdly commit a lewd and lascivious act upon and with the body and certain parts and members thereof of Jane Doe , a child under the age of fourteen years, nine years of age, by use of force, violence, duress, menace and fear of immediate and unlawful bodily injury on the child and another person and with the intent of arousing, appealing to and gratifying the lust, passions and sexual desires of the defendant and of the child.

It is further alleged that the defendant(s) is/are not eligible for probation and the suspension of sentence, within the meaning of Penal Code section 1203.066(a)(1).

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290. A felony conviction of the offense requires that the defendant provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand pursuant to Penal Code section 296(a).

It is further alleged that prior to the commission of the offense charged above, the defendant, ENRIQUE SOSA ALVAREZ, kidnapped the victim and the movement of the victim substantially increased the risk of harm to the victim over and above the level of risk necessarily inherent in the foregoing offense, within the meaning of Penal Code sections 667.61(a) and 667.61(d).

COUNT 6

On or about and between June 6, 2003 and June 9, 2003, in the County of Santa Clara, State of California, the crime of **AGGRAVATED SEXUAL ASSAULT OF A CHILD UNDER 14 AND 10 OR MORE YEARS YOUNGER THAN THE DEFENDANT**, in violation of **PENAL CODE SECTION 269**, a Felony, was committed by **ENRIQUE SOSA ALVAREZ** who did commit a violation of Penal Code section 289(a) (**SEXUAL PENETRATION BY FOREIGN OBJECT**) upon Jane Doe , a child who was nine years old and who was both under the age fourteen (14)years and ten and more years younger than the defendant.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290. A felony conviction of the offense requires that the defendant provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand pursuant to Penal Code section 296(a).

COUNT 7

On or about and between June 6, 2003 and June 9, 2003, in the County of Santa Clara, State of California, the crime of **CAUSING OR PERMITTING A CHILD TO SUFFER OR INFLECTING PAIN OR SUFFERING ON A CHILD**, in violation of **PENAL CODE SECTION 273a(a)**, a Felony, was committed by **ENRIQUE SOSA ALVAREZ** who did under circumstances and conditions likely to produce great bodily harm and death, willfully caused and permitted a child, Jane Doe I, to suffer, and inflicted on that child unjustifiable physical pain and mental suffering.

COUNT 8

On or about June 6, 2003, in the County of Santa Clara, State of California, the crime of **ASSAULT BY MEANS OF FORCE LIKELY TO PRODUCE GREAT BODILY INJURY**, in violation of **PENAL CODE SECTION 245(a)(1)**, a Felony, was committed by **ENRIQUE SOSA ALVAREZ** who did commit an assault upon the person of John Doe by means of force likely to produce great bodily injury.

A felony conviction of the offense charged in this count requires that the defendant provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand pursuant to Penal Code section 296(a).

COUNT 9

On or about June 6, 2003, in the County of Santa Clara, State of California, the crime of BATTERY WITH SERIOUS BODILY INJURY, in violation of PENAL CODE SECTION 242-243(d), a Felony, was committed by ENRIQUE SOSA ALVAREZ who did commit a battery upon the person of Jane Doe II and inflicted serious bodily injury upon the person.

A conviction of the offense charged in this count requires the defendant to register pursuant to Penal Code section 290. A felony conviction of the offense charged in this count requires that the defendant provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand pursuant to Penal Code section 296(a).

It is further alleged that at the time of and in the commission and attempted commission of the offense charged above, the defendant, ENRIQUE SOSA ALVAREZ, personally used a deadly and dangerous weapon, a(n) pot, within the meaning of Penal Code section 12022(b)(1).

It is also alleged that probation shall not be granted to the defendant within the meaning of Penal Code section 1203(e)(2).

REQUEST FOR TRIAL PRIORITY PURSUANT TO PENAL CODE § 1048

The case charged above falls within the provisions of Penal Code section 1048, and the People therefore respectfully request that the case be given the trial priority provided by that section.

NOTICE AND STATEMENT OF PROBABLE CAUSE FOR AIDS TESTING

Complainant alleges that the official reports and documents of a law enforcement agency attached to this document and incorporated by reference establish that there is probable cause to believe that a transfer of bodily fluids from the defendant, Enrique Sosa Alvarez, to a victim has occurred within the meaning of Penal Code section 1524.1 and/or Health and Safety Code sections 121055 and 121060.

You are notified that, if at the conclusion of the probable cause hearing the magistrate determines that the requirements of Penal Code section 1524.1, and/or Health and Safety Code sections 121055 and 121060 have been met, the defendant will be ordered to submit to a blood test to detect the AIDS antibody and/or other communicable diseases as provided by statute.

Further, attached and incorporated by reference are official reports and documents of a law enforcement agency which the complainant believes establish probable cause for the pretrial restraint of defendant ENRIQUE SOSA ALVAREZ, for the above-listed crimes.

Complainant therefore requests that the defendant(s) be dealt with according to law.

I certify under penalty of perjury that the above is true and correct.

Executed on June 10, 2003, in SANTA CLARA County, California.

Ryan 2802
(Hober 2638)
SJPD (408) 277-4166 031570811 R
BRAKER/ D378/ FELONY/ dg