

Dept. No. 12  
11/14/2014

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA,  
RENE C. DAVIDSON COURTHOUSE

PEOPLE OF THE STATE OF CALIFORNIA

NO. 599681  
FIRST  
AMENDED  
COMPLAINT

**ENDORSED  
FILED  
ALAMEDA COUNTY**

NOV 14 2014

**CLERK OF THE SUPERIOR COURT  
By Terri Turner, Deputy**

v.

**KAMAU JAWHAR BERLIN**

PFN: BKH042

CEN: 4341884

Defendant(s).

RESTITUTION

The Undersigned, being sworn says, on information and belief, that KAMAU JAWHAR BERLIN did, in the County of Alameda, State of California, on or about September 19, 2014, commit a Felony, to wit: MURDER, a violation of section 187(a) of the PENAL CODE of California, in that said defendant(s) did unlawfully, and with malice aforethought, murder NANCY JO MCCLELLAN, a human being.

"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 provide specimens and samples pursuant to Penal Code section 296. Willful refusal to provide the specimens and samples is a crime."

**SPECIAL CIRCUMSTANCE - FELONY MURDER IN THE COURSE OF ROBBERY CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged as to count one, that the murder of NANCY JO MCCLELLAN was committed by defendant KAMAU JAWHAR BERLIN while the said defendant was engaged in the commission and attempted commission of the crime of ROBBERY, within the meaning of Penal Code section 190.2(a)(17)(A).

**SPECIAL CIRCUMSTANCE - FELONY MURDER IN THE COURSE OF CARJACKING CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged as to count one, that the murder of NANCY JO MCCLELLAN was committed by defendant KAMAU JAWHAR BERLIN while the said defendant was engaged in the commission and attempted commission of the crime of CARJACKING, within the meaning of Penal Code section 190.2(a)(17)(L).

**SPECIAL CIRCUMSTANCE - FELONY MURDER IN THE COURSE OF RAPE CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged as to count one, that the murder of NANCY JO MCCLELLAN was committed by defendant KAMAU JAWHAR BERLIN while the said defendant was engaged in the commission and attempted commission of the crime of RAPE, within the meaning of Penal Code section 190.2(a)(17)(C).

**USE OF DEADLY WEAPON CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged as to count one, that in the commission and attempted commission of the above offense, the said defendant KAMAU JAWHAR BERLIN, personally used a deadly and dangerous weapon(s), to wit: KNIFE, said use not being an element of the above offense, within the meaning of Penal Code Section 12022(b)(1) and causing the above offense to be a serious felony within the meaning of Penal Code section 1192.7(c)(23).

**GBI - ELDERLY VICTIM CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged pursuant to Penal Code section 12022.7(c) as to count one, that in the commission of the above offense the said defendant KAMAU JAWHAR BERLIN, personally inflicted great bodily injury upon NANCY JO MCCLELLAN, not an accomplice, who was 70 years of age and older.

"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: This offense is a serious felony and a violent felony within the meaning of Penal Code sections 1192.7(c)(8) and 667.5(c)(8)."

**NOTICE OF STATE PRISON ELIGIBILITY- VIOLENT FELONY CLAUSE AS TO DEFENDANT KAMAU BERLIN**

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 KAMAU JAWHAR BERLIN did, in the County of Alameda, State of California, on or about September 19, 2014, commit a Felony, to wit: ATTEMPTED SECOND DEGREE ROBBERY, a violation of section 211 of the PENAL CODE of California, in that said defendant(s) did unlawfully, and by means of force and fear take and attempt to take personal property from the person, possession, and immediate presence of NANCY JO MCCLELLAN.

"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)."

**USE OF DEADLY WEAPON CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged as to count two, that in the commission and attempted commission of the above offense, the said defendant KAMAU JAWHAR BERLIN, personally used a deadly and dangerous weapon(s), to wit: KNIFE, said use not being an element of the above offense, within the meaning of Penal Code Section 12022(b)(1) and causing the above offense to be a serious felony within the meaning of Penal Code section 1192.7(c)(23).

**GBI - ELDERLY VICTIM CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged pursuant to Penal Code section 12022.7(c) as to count two, that in the commission of the above offense the said defendant KAMAU JAWHAR BERLIN, personally inflicted great bodily injury upon NANCY JO MCCLELLAN, not an accomplice, who was 70 years of age and older.

"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: This offense is a serious felony and a violent felony within the meaning of Penal Code sections 1192.7(c)(8) and 667.5(c)(8)."

**NOTICE OF STATE PRISON ELIGIBILITY- VIOLENT FELONY CLAUSE AS TO DEFENDANT KAMAU BERLIN**

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.

**THIRD COUNT**

The Undersigned further deposes and says on Information and belief, that said KAMAU JAWHAR BERLIN did, in the County of Alameda, State of California, on or about September 19, 2014, commit a Felony, to wit: **ATTEMPTED CARJACKING WITH DEADLY WEAPON**, a violation of section 215(a) of the PENAL CODE of California, in that said defendant(s) did unlawfully take and attempt to take a motor vehicle in the possession of NANCY JO MCCLELLAN from his or her person and immediate presence and from the person and immediate presence of a passenger of said motor vehicle, against the will and with the intent to permanently and temporarily deprive the person in possession of the motor vehicle of the possession and accomplished by means of force and fear.

**SPEC ALLEG: USE OF WEAPON IN CARJACKING CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged that in the commission and attempted commission of the above offense, the said KAMAU JAWHAR BERLIN, personally used a deadly and dangerous weapon(s), to wit: KNIFE, said use not being an element of the above offense, within the meaning of Penal Code section 12022(b)(2) .

**GBI - ELDERLY VICTIM CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged pursuant to Penal Code section 12022.7(c) as to count three, that in the commission of the above offense the said defendant KAMAU JAWHAR BERLIN, personally inflicted great bodily injury upon NANCY JO MCCLELLAN, not an accomplice, who was 70 years of age and older.

"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: This offense is a serious felony and a violent felony within the meaning of Penal Code sections 1192.7(c)(8) and 667.5(c)(8)."

**NOTICE OF STATE PRISON ELIGIBILITY- VIOLENT FELONY CLAUSE AS TO DEFENDANT KAMAU BERLIN**

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.

**FOURTH COUNT**

The Undersigned further deposes and says on Information and belief, that said KAMAU JAWHAR BERLIN did, in the County of Alameda, State of California, on or about September 19, 2014, commit a Felony, to wit: ATTEMPTED FORCIBLE RAPE, a violation of section 261(a)(2) of the PENAL CODE of California, in that said defendant(s) did unlawfully attempt to have and accomplish an act of sexual intercourse with a person, to wit: NANCY JO MCCLELLAN, not his/her spouse, against said person's will, by means of force, violence, duress, menace and fear of immediate and unlawful bodily injury on said person and another.

"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 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."

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

**USE OF DEADLY WEAPON CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged as to count four, that in the commission and attempted commission of the above offense, the said defendant KAMAU JAWHAR BERLIN, personally used a deadly and dangerous weapon(s), to wit: KNIFE, said use not being an element of the above offense, within the meaning of Penal Code Section 12022(b)(1) and causing the above offense to be a serious felony within the meaning of Penal Code section 1192.7(c)(23).

**GBI - ELDERLY VICTIM CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged pursuant to Penal Code section 12022.7(c) as to count four, that in the commission of the above offense the said defendant KAMAU JAWHAR BERLIN, personally inflicted great bodily injury upon NANCY JO MCCLELLAN, not an accomplice, who was 70 years of age and older.

"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: This offense is a serious felony and a violent felony within the meaning of Penal Code sections 1192.7(c)(8) and 667.5(c)(8)."

**NOTICE OF STATE PRISON ELIGIBILITY- VIOLENT FELONY CLAUSE AS TO DEFENDANT KAMAU BERLIN**

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.

**FIFTH COUNT**

The Undersigned further deposes and says on Information and belief, that said KAMAU JAWHAR BERLIN did, in the County of Alameda, State of California, on or about September 19, 2014, commit a Felony, to wit: ELDER OR DEPENDENT ADULT ABUSE, RESULTING DEATH, a violation of section 368(b)(1) of the PENAL CODE of California, in that said defendant(s) did, under circumstances and conditions likely to produce great bodily harm and death, knowingly and willfully cause and permit the victim, NANCY JO MCCLELLAN, an elder and dependent adult, to suffer, and inflicted thereon, unjustifiable physical pain and mental suffering and willfully caused and permitted her to be placed in a situation in which her health was endangered. It is further alleged, pursuant to section 368(b)(3), that the defendant(s), proximately caused the death of said victim, age 72 years.

**GBI - ELDERLY VICTIM CLAUSE AS TO DEFENDANT KAMAU BERLIN**

It is further alleged pursuant to Penal Code section 12022.7(c) as to count five, that in the commission of the above offense the said defendant KAMAU JAWHAR BERLIN, personally inflicted great bodily injury upon NANCY JO MCCLELLAN, not an accomplice, who was 70 years of age and older.

"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: This offense is a serious felony and a violent felony within the meaning of Penal Code sections 1192.7(c)(8) and 667.5(c)(8)."

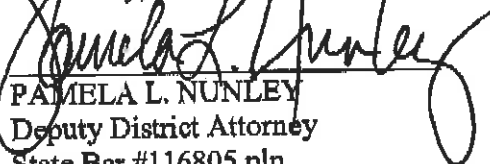
**NOTICE OF STATE PRISON ELIGIBILITY- VIOLENT FELONY CLAUSE AS TO DEFENDANT KAMAU BERLIN**

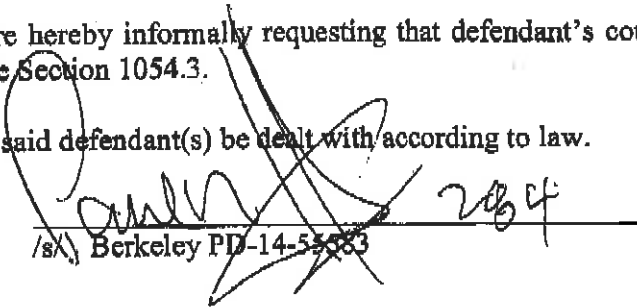
It is further alleged that the above offense is a violent felony within the meaning of Penal Code section 667.5(c) and that pursuant to Penal Code section 1170(h)(3) an executed sentence for the offenses herein charged shall be served in the state prison.

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.

Complainant therefore prays that a warrant issue and that said defendant(s) be dealt with according to law.

Subscribed and sworn to before me,  
Thursday, November 13, 2014

  
PAMELA L. NUNLEY  
Deputy District Attorney  
State Bar #116805 pln  
Alameda County, California

  
/s/ Berkeley PD-14-55083