

ELECTRONICALLY
FILED
8/5/2022 1:50 PM

1 DAN DOW
DISTRICT ATTORNEY
2 STATE BAR # 237986
COUNTY OF SAN LUIS OBISPO
3 COURTHOUSE ANNEX, 4TH FLOOR
SAN LUIS OBISPO, CA 93408
4 TELEPHONE: (805) 781-5800

SAN LUIS OBISPO SUPERIOR COURT

By: S. Pudas,
Deputy Clerk

DV Case
 BOOKING REQ

5
6 *In CUSTODY*

7
8 SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO
9 DEPARTMENT

10
11 THE PEOPLE OF THE STATE OF
CALIFORNIA

Plaintiff,

COURT CASE NO. 22F-04872

COMPLAINT

12
13 vs.

14 **JOSE FRANCIS HERNANDEZGARCIA**
DOB: 02/26/1996
15 ID NO. D000413950
CII: A32355883
16 AKA JOSE HERNANDEZ, JOSE
FRANCISCO HERNANDEZ

DA CASE NO. 079-678986

17
18 Defendant.

Appearance Date:

19
20
21 The District Attorney of San Luis Obispo County, California, hereby accuses the
22 above named defendant of the following criminal offenses:

23 Count 1

24 On or about July 21, 2022, in the County of San Luis Obispo, State of California, the crime
25 of Rape By Use Of Drugs in violation of PC261(a)(3), a Felony, was committed in that
26 JOSE FRANCIS HERNANDEZGARCIA did unlawfully have and accomplish an act of
27 sexual intercourse with a person, to wit, Confidential Victim, not his/her spouse, where said
28 person was prevented from resisting by an intoxicating, anesthetic, and controlled

PAGE - 1 -

COMPLAINT
DA CASE NO. 079-678986

1 substance, and this condition was known, and reasonably should have been known by the
2 defendant (FIRST OCCURRENCE).

3 NOTICE: The above offense is a serious felony within the meaning of Penal Code Section
4 1192.7(c).

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

8 NOTICE: Conviction of this offense will require you to register pursuant to Penal Code
9 section 290. Willful failure to register is a crime.

10 NOTICE: Being charged with this criminal offense can result in mandatory pre-conviction
11 HIV/AIDS testing and disclosure of the results to a victim and the Chief Medical Officer of
12 the jail or prison facility where you are incarcerated pursuant to Penal Code Section
13 1524.1 and Health and Safety Code section 121055 following a probable cause hearing
14 resulting in a court order.

15 NOTICE: Adjudication as a ward of the court for this offense and a disposition to the
16 California Youth Authority will require you to provide specimens and samples pursuant to
17 Penal Code section 296. Willful refusal to provide the specimens and samples is a crime.

18 Count 2

19 On or about July 21, 2022, in the County of San Luis Obispo, State of California, the crime
20 of Rape By Use Of Drugs in violation of PC261(a)(3), a Felony, was committed in that
21 JOSE FRANCIS HERNANDEZGARCIA did unlawfully have and accomplish an act of
22 sexual intercourse with a person, to wit, Confidential Victim, not his/her spouse, where said
23 person was prevented from resisting by an intoxicating, anesthetic, and controlled
24 substance, and this condition was known, and reasonably should have been known by the
25 defendant (SECOND OCCURRENCE).

26 NOTICE: The above offense is a serious felony within the meaning of Penal Code Section
27 1192.7(c).

1 NOTICE: Penal Code 1203.065(a) prohibits a grant of probation for this offense.

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

5 NOTICE: Conviction of this offense will require you to register pursuant to Penal Code
6 section 290. Willful failure to register is a crime.

7 NOTICE: Being charged with this criminal offense can result in mandatory pre-conviction
8 HIV/AIDS testing and disclosure of the results to a victim and the Chief Medical Officer of
9 the jail or prison facility where you are incarcerated pursuant to Penal Code Section
10 1524.1 and Health and Safety Code section 121055 following a probable cause hearing
11 resulting in a court order.

12 **Count 3**

13 On or about July 21, 2022, in the County of San Luis Obispo, State of California, the crime
14 of Rape By Use Of Drugs in violation of PC261(a)(3), a Felony, was committed in that
15 JOSE FRANCIS HERNANDEZGARCIA did unlawfully have and accomplish an act of
16 sexual intercourse with a person, to wit, Confidential Victim, not his/her spouse, where said
17 person was prevented from resisting by an intoxicating, anesthetic, and controlled
18 substance, and this condition was known, and reasonably should have been known by the
19 defendant (THIRD OCCURRENCE).

20 NOTICE: The above offense is a serious felony within the meaning of Penal Code Section
21 1192.7(c).

22 NOTICE: Penal Code 1203.065(a) prohibits a grant of probation for this offense.

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

26 NOTICE: Conviction of this offense will require you to register pursuant to Penal Code
27 section 290. Willful failure to register is a crime.

1 NOTICE: Being charged with this criminal offense can result in mandatory pre-conviction
2 HIV/AIDS testing and disclosure of the results to a victim and the Chief Medical Officer of
3 the jail or prison facility where you are incarcerated pursuant to Penal Code Section
4 1524.1 and Health and Safety Code section 121055 following a probable cause hearing
5 resulting in a court order.

6
7 The People hereby give notice of the People's intent to admit evidence of prior sexual acts
8 pursuant to Evidence Code section 1108. These incidents include the prior incident(s)
9 described in the police report, chronological report, and/or tapes already provided, and
10 other alleged incidents of abuse, which will be provided as they are obtained by the
11 prosecution.

12
13 It is further alleged pursuant to Penal Code Section 1170(b)(2) that one or more of the
14 following factors in aggravation listed in California Rule of Court 4.421 may apply to the
15 defendant(s) or to conduct of the defendant(s):

16 4.421(a)(1) The crime involved great violence, great bodily harm, threat of great bodily
17 harm, and other acts disclosing a high degree of cruelty, viciousness and callousness.

18 4.421(a)(2) The defendant was armed with or used a weapon at the time of the
19 commission of the crime.

20 4.421(a)(3) The victim was particularly vulnerable.

21 4.421(a)(4) The defendant induced others to participate in the commission of the crime
22 and occupied a position of leadership and dominance of other participants in its
23 commission.

24 4.421(a)(5) The defendant induced a minor to commit and assist in the commission of the
25 crime.

1 4.421(a)(6) The defendant threatened witnesses, unlawfully prevented and dissuaded
2 witnesses from testifying, suborned perjury, and in any other way illegally interfered with
3 the judicial process.

4 4.421(a)(7) The defendant is charged with other crimes for which consecutive sentences
5 can be imposed but for which concurrent sentences shall be imposed.

6 4.421(a)(8) The manner in which the crime was carried out indicates planning,
7 sophistication, and professionalism.

8 4.421(a)(9) The crime involved an attempted or actual taking or damage of great monetary
9 value.

10 4.421(a)(10) The crime involved a large quantity of contraband.

11 4.421(a)(11) The defendant took advantage of a position of trust and confidence to commit
12 the offense.

13 4.421(a)(12) The crime constitutes a hate crime under section 422.55 of the Penal Code
14 and no hate crime enhancements under section 422.75 of the Penal Code shall be
15 imposed and the crime is not subject to sentencing under section 1170.8 of the Penal
16 Code.

17 4.421(b)(1) The defendant has engaged in violent conduct that indicates a serious danger
18 to society.

19 4.421(b)(2) The defendant's prior convictions as an adult and sustained petitions in
20 juvenile delinquency proceedings are numerous and of increasing seriousness.

21 4.421(b)(3) The defendant has served a prior term in prison and county jail under section
22 1170(h).

23 4.421(b)(4) The defendant was on probation, mandatory supervision, post release
24 community supervision, and parole when the crime was committed.

25 4.421(b)(5) The defendant's prior performance on probation, mandatory supervision, post
26 release community supervision, and parole was unsatisfactory.

27
28

1 All of which is contrary to the statute in such cases made and provided, and against
2 the peace and dignity of the People of the State of California.

3 I declare that an investigation has been conducted to determine if said Defendant(s)
4 did commit the stated crime, which reports are attached hereto and incorporated herein by
5 reference, and that the facts therein show probable cause that the said Defendant(s) did
6 commit the crime. Your declarant requests the issuance of a Warrant of Arrest either if
7 said Defendant(s) do not appear voluntarily in response to an appearance letter, or if no
8 appearance letter was issued.

9 **Discovery Request:** Pursuant to Penal Code Section 1054.5(b), the People are
10 hereby informally requesting that defense counsel provide discovery to the people as
11 required by Penal Code Section 1054.3.

12 On this day August 5, 2022, in the County of San Luis Obispo, I certify and declare
13 under penalty of perjury that the foregoing is true and correct.

14 Dated: August 5, 2022

15 DAN DOW
16 DISTRICT ATTORNEY

17
18
19 By: 
20 DAN DOW
21 DISTRICT ATTORNEY

22 Upon review of the reports attached and incorporated herein by reference, I find sufficient
23 probable cause to warrant the defendant(s) continued detention.

24 Dated: _____
25 _____
26 Judge of the Superior Court

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUMMARY PAGE					
Cnt	Charge	Range	Defendant(s)	Special Allegation	Effect
1	PC261(a)(3)		Jose Francis Hernandezgarcia		
2	PC261(a)(3)		Jose Francis Hernandezgarcia		
3	PC261(a)(3)		Jose Francis Hernandezgarcia		
4	EC1108		Jose Francis Hernandezgarcia		