

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. <u>12-168</u>
v.	:	DATE FILED: <u>4/17/12</u>
TYRON ELLERBE	:	VIOLATION:
LAMIA SMITH	:	18 U.S.C. § 922(g)(1) (possession of a
	:	firearm by a convicted felon - 2 counts)
	:	18 U.S.C. § 924(a)(1)(A) (false statements
	:	to a federal firearms licensee - 2 counts)
	:	18 U.S.C. § 2 (aiding and abetting)
	:	Notice of forfeiture

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. The Shooter Shop, 2001 E. Allegheny Avenue, Philadelphia, PA, possessed a federal firearms license ("FFL") and was authorized to deal in firearms under federal laws.
2. FFL holders are licensed, among other things, to sell firearms and ammunition. Various rules and regulations, promulgated under the authority of Chapter 44, Title 18, United States Code, govern the manner in which FFL holders are permitted to sell firearms and ammunition.
3. The rules and regulations governing FFL holders require that a person seeking to purchase a handgun fill out a Firearm Transaction Record, ATF Form 4473. Part of the Form 4473 requires that the prospective purchaser certify that all his or her answers on Form 4473 are true and correct. Question 11(a) of ATF Form 4473 requires that the prospective

purchaser certify truthfully, subject to penalties of perjury, that he or she is the actual buyer of the firearm. The ATF Form 4473 contains language warning that “You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you.” The Form 4473 also includes a certification by the buyer of the firearm(s) that “I understand that answering ‘yes’ to question 11(a) if I am not the actual buyer of the firearm is a crime punishable as a felony.”

4. A person who purchases a firearm for another person and falsely completes the Form 4473 is a “straw purchaser.”

5. FFL holders are required to maintain a record, in the form of a completed Form 4473, of the identity of the actual buyer of firearms sold by the FFL holder, including the buyer’s home address and date of birth, to ensure that the person is not prohibited from purchasing a firearm.

6. Convicted felons are persons prohibited by law from purchasing firearms.

7. On or about September 7, 2011, defendant LAMIA SMITH straw purchased a Taurus, PT145 Pro, .45 caliber handgun, serial number NAO61572, from The Shooter Shop, at the direction of defendant TYRON ELLERBE, a convicted felon.

8. On or about September 7, 2011, in Philadelphia, in the Eastern District of Pennsylvania, defendants

**TYRON ELLERBE and
LAMIA SMITH**

knowingly made a false statement and representation, and aided, abetted and willfully caused the making of a false statement and representation, with respect to information required by the provisions of Chapter 44, Title 18, United States Code, to be kept in the FFL holder’s records in

connection with the acquisition of a Taurus, PT145 Pro, .45 caliber handgun, serial number NAO61572, from Shooter Shop, in that defendant LAMIA SMITH certified on the Form 4473 that she was the actual buyer of the firearm, when in fact, as defendant SMITH knew, this statement was false and fictitious, in that defendant TYRON ELLERBE instructed her to purchase the gun for himself.

In violation of Title 18, United States Code, Sections 924(a)(1)(A), and 2.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 7, 2011, in Philadelphia, in the Eastern District of Pennsylvania, defendant

TYRON ELLERBE,

having been convicted in a court of the Commonwealth of Pennsylvania of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate commerce a firearm, that is, a Taurus, PT145 Pro, .45 caliber handgun, serial number NAO61572.

In violation of Title 18, United States Code, Section 922(g)(1).

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. Firing Line, Inc, 1532 South Front Street, Philadelphia, PA, possessed a federal firearms license (“FFL”) and was authorized to deal in firearms under federal laws.
2. Paragraphs 2 through 6 of Count One of this indictment are incorporated here.
3. On or about September 8, 2011, defendant LAMIA SMITH straw purchased a Ruger, Model P89, 9 mm handgun, serial number 310-90369 from Firing Line, Inc., at the direction of defendant TYRON ELLERBE, a convicted felon.
4. On or about September 8, 2011, in Philadelphia, in the Eastern District of Pennsylvania, defendants

TYRON ELLERBE and LAMIA SMITH

knowingly made a false statement and representation, and aided, abetted and willfully caused the making of a false statement and representation, with respect to information required by the provisions of Chapter 44, Title 18, United States Code, to be kept in the FFL holder’s records in connection with the acquisition of a Ruger, Model P89, 9 mm handgun, serial number 310-90369 from Firing Line, Inc., in that defendant LAMIA SMITH certified on the Form 4473 that she was the actual buyer of the firearm, when in fact, as defendant SMITH knew, this statement was false and fictitious, in that defendant TYRON ELLERBE instructed her to purchase the gun for himself.

In violation of Title 18, United States Code, Sections 924(a)(1)(A), and 2.

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 8, 2011, in Philadelphia, in the Eastern District of Pennsylvania, defendant

TYRON ELLERBE,

having been convicted in a court of the Commonwealth of Pennsylvania of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate commerce a firearm, that is, a Ruger, Model P89, 9 mm handgun, serial number 310-90369.

In violation of Title 18, United States Code, Section 922(g)(1).

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

As a result of the violations of Title 18, United States Code, Section 922(g)(1), set forth in this indictment, defendants

**TYRON ELLERBE and
LAMIA SMITH**

shall forfeit to the United States of America the firearms involved in the commission of these offenses, including, but not limited to, a Taurus, PT145 Pro, .45 caliber handgun, serial number NAO61572, and a Ruger, Model P89, 9 mm handgun, serial number 310-90369.

All pursuant to Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 924(d).

A TRUE BILL:

GRAND JURY FOREPERSON

ZANE DAVID MEMEGER
United States Attorney