

UNITED STATES DISTRICT COURT

for the

District of Minnesota

UNITED STATES OF AMERICA

v.

BENJAMIN JEHL ZWACK

**FILED UNDER SEAL
PURSUANT TO ORDER**

Case No. 23-mj-421 (DJF)

CRIMINAL COMPLAINT

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

Count 1: On or about March 7, 2023, in the State and District of Minnesota, the defendant, BENJAMIN JEHL ZWACK, did knowingly possess machineguns, namely, eleven (11) machinegun conversion devices (MCDs) designed to convert a semiautomatic AR-Type weapon to be fired as a fully automatic weapon by a single function of the trigger, knowing it had characteristics that made it a machinegun as defined by Title 26, United States Code, Section 5845(b), all in violation of Title 18, United States Code, Sections 922(o)(1) and 924(a)(2).

Count 2: On or about March 30, 2023, in the State and District of Minnesota, the defendant, BENJAMIN JEHL ZWACK, having been previously convicted of Third Degree Possession of a Controlled Substance, in 2022, in Dakota County, Minnesota, which was punishable by imprisonment for a term exceeding one year, and knowing he had been convicted of at least one crime punishable by imprisonment for a term exceeding one year, did knowingly possess, in and affecting interstate and foreign commerce, a firearm, that is, a Girsan-Regard, 9mm semi-automatic pistol, bearing serial number T636822A03160, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(8).

I further state that I am an ATF Special Agent and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No


Complainant's signature

Subscribed and Sworn to before me by
reliable electronic means (FaceTime)
pursuant to Fed. R. Crim. P. 41(d)(3)

Joshua Szondy, Special Agent
ATF

Printed name and title

Date: 5/10/23


Judge's Signature

City and State: Minneapolis, MN

The Honorable Dulce J. Foster
United States Magistrate Judge

Printed Name and Title

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 23-mj-421 (DJF)

UNITED STATES OF AMERICA,

Plaintiff,

v.

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A
COMPLAINT**

BENJAMIN JEHLE ZWACK,

Defendant.

I, Joshua A. Szondy, being duly sworn, depose and state as follows:

1. I am a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and have been so employed since May of 2014. I am currently assigned to the St. Paul Field Office and am also a candidate in the ATF's Certified Explosive Specialist program. Prior to being employed by ATF, I served in the Minnesota Army National Guard as a Senior Non-Commissioned Officer and in the Air Force Reserve as an Explosive Ordnance Disposal Technician. As an ATF special agent, my responsibilities include conducting criminal investigations of individuals and organizations related to the violations of Federal laws, including prohibited persons in possession of firearms, firearms trafficking, and violations of the National Firearms Act (NFA).

1. This affidavit is submitted in support of a Complaint and Arrest Warrant against BENJAMIN JEHLE ZWACK, charging him with felon in possession of a firearm, in violation of Title 18, United States Code, Section 922(g)(1), and unlawful possession of a

machine gun, in violation of Title 18, United States Code, Section 922(o). The facts set forth in the Affidavit are based on your Affiant's training, experience, personal knowledge, and observations in this investigation; upon his discussions with other law enforcement officers and agents directly involved in this investigation; and upon his review of official reports submitted in relation to this investigation. Further, this affidavit contains information to support probable cause, but is not intended to convey all the facts of the entire investigation.

2. In March of 2023, an ATF Special Agent talked to a Dakota County Drug Task Force (DCDTF) confidential informant (CI). The CI stated that a man whom the CI identified by name as BENJAMIN ZWACK was an employee of Atomic Tactical Inc., and was selling 3D-printed machinegun conversion devices, commonly known as a “switches” or “auto sears.” These devices enable firearms to be fired as fully automatic weapon by a single function of the trigger, and qualify as machineguns under federal law.

3. ATF Agents determined that ZWACK was previously identified as having been convicted of a Third Degree Controlled Substance Possession, in Dakota County, Minnesota in 2022. This crime is punishable by imprisonment for a term exceeding one year. ZWACK received a stay of imposition of this felony offense and was advised by the Court that he “not possess or use firearms, ammunition, or explosives.”

4. On March 7, 2023, an ATF Special Agent, working undercover, purchased eleven 3D-printed machinegun conversion devices. The undercover agent bought the items from ZWACK inside the premise of Atomic Tactical Inc. These devices were non-serialized and unregistered. Atomic Tactical Inc. is a federally licensed dealers of firearms within the

meaning of Chapter 44, Title 18, United States Code. The purchase took place at the sales counter Atomic Tactical Inc. during regular business hours. During the purchase of the eleven machine gun conversion devices, the ATF undercover Special Agent observed a firearm present in ZWACK's waistband.

5. An investigation was also being undertaken by the Dakota County Drug Task Force (DCDTF), working with the ATF. Following the undercover purchase of machinegun conversion devices on March 7, 2023, DCDTF officers obtained state warrants to obtain location data for ZWACK's cell phone, and to obtain location data from ZWACK's registered vehicle, a Chevrolet Suburban. During the month of March, ZWACK was observed by electronic and physical surveillance traveling between his residence in Burnsville, a storage facility rented in ZWACK's name in Lake City Minnesota, and Atomic Tactical Inc.

6. On March 22, 2023, ZWACK was observed by electronic and physical surveillance being present at Atomic Tactical Inc. after advertised business hours. Atomic Tactical Inc. operated from 11:30 a.m. to 5:30 p.m. Monday through Friday according to their advertising at the time. Law Enforcement officers saw ZWACK's vehicle outside of Atomic Tactical Inc. They also saw that lights were on inside the shop of Atomic Tactical Inc. Location data from ZWACK's phone indicated that the phone had been inside Atomic Tactical Inc. during the night of March 22 (suggesting that ZWACK had spent the night there).

7. In March 2023, your Affiant sent images and descriptions of the eleven machinegun conversion devices purchased from ZWACK on March 7 to the ATF Firearms

and Ammunition Technology Division. The submitted images and descriptions were reviewed and determined by ATF Firearms and Ammunition Technology Division to be common machinegun conversion devices designed to convert a semiautomatic AR-Type weapon to shoot automatically. Under federal laws these machinegun conversion devices are classified as firearms and machineguns.

8. An inquiry of the National Firearms Registration and Transfer Record System indicated that no registrations of machineguns existed in ZWACK's name. Therefore, he is prohibited from possessing a machinegun under federal law.

9. On March 30, 2023, law enforcement officers obtained state warrants for ZWACK's residence and vehicle in Burnsville, Minnesota, and a storage unit rented by ZWACK's in Lake City, Minnesota. When law enforcement went to ZWACK's residence, ZWACK was observed as the sole occupant of a Chevrolet Suburban registered to him. ZWACK was directed to get out of the car. ZWACK complied and immediately stated, "my gun is in the center console." Officers recovered a Girsan-Regard, 9mm semi-automatic pistol, bearing serial number T636822A03160 and small amount of a substance that field tested positive for methamphetamine from the center console of the Chevrolet Suburban.

10. The search of ZWACK's residence resulted in the recovery of a shotgun and ammunition. The search of ZWACK's storage locker resulted in the recovery of additional firearms, suspected homemade silencers, ammunition, and a suspected destructive device.

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11. The Girsan-Regard, 9mm semi-automatic pistol, bearing serial number T636822A03160 is manufactured in Turkey. Therefore, the firearm traveled in interstate commerce before being recovered in ZWACK's possession.

Further your Affiant sayeth not.



Joshua Szondy, Special Agent
Bureau of Alcohol Tobacco and Firearms

SUBSCRIBED and SWORN before me
by reliable electronic means (FaceTime and
email) pursuant to Fed. R. Crim. P. 41(d)(3) on
May 10, 2023.



The Honorable Dulce J. Foster
United States Magistrate Judge