

AO 91 (Rev. 11/10) Criminal Complaint

UNITED STATES DISTRICT COURT
for the
Middle District of Florida

United States of America)
v.)
Malcolm Jerome Straughter)
)
)
)
)
)
Defendants:

Case No.
5:20-mj-1045-PRL

SEALED

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.
On or about the date(s) of March 19, 2020 in the county of Marion in the
Middle District of Florida, the defendant(s) violated:

Code Section
18 U.S.C. Sec 922(g)(1)

Offense Description
Felon in Possession of a Firearm Affecting Commerce

This criminal complaint is based on these facts:
See attached affidavit.

Continued on the attached sheet.


Complainant's signature

Brendan Ferguson, ATF Task Force Officer
Printed name and title

Sworn to before me and signed in my presence.

Date: 4/6/20


Judge's signature

City and state: Ocala, FL

Philip R. Lammens, U.S. Magistrate Judge
Printed name and title

STATE OF FLORIDA

MDFL CASE NO. 5:20-mj-1045-PRL

COUNTY OF MARION

AFFIDAVIT OF ATF TASK FORCE OFFICER BRENDAN
FERGUSON IN SUPPORT OF A CRIMINAL COMPLAINT

I, **Brendan Ferguson**, being duly sworn, do hereby state the following:

INTRODUCTION

1. I am a sworn Law Enforcement Officer with the City of Ocala Police Department (OPD). I have been employed by this agency in that role for over five years. I am also a federal Task Force Officer (TFO) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Prior to my current assignment, I was a Detective with OPD, assigned to the Intelligence Unit of the Investigative Services Bureau. I have also spent time assigned to the Community Policing Bureau as a police officer. Prior to being assigned to Investigations, I held the title of Field Training Officer. In that role, I was responsible for the training and certification of new Law Enforcement Officers with OPD. Throughout my tenure as a law enforcement officer, I have been involved in numerous firearm and narcotics investigations.

2. As a result of my training and experience as an ATF Task Force Officer, I am familiar with the following federal criminal statute:

18 U.S.C. § 922(g)(1): It shall be unlawful for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce or possess in or

affecting commerce, any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

PURPOSE OF THE AFFIDAVIT

3. I am submitting this affidavit in support of a Criminal Complaint charging the defendant, MALCOLM JEROME STRAUGHTER (STRAUGHTER), with the federal criminal offenses listed above. I have obtained the information set forth in this affidavit from reports and affidavits drafted by the Officer(s) and/or Detective(s) involved. As the affidavit is intended only to show that there is probable cause for the arrest of STRAUGHTER, it does not contain all of my knowledge about this investigation.

PROBABLE CAUSE

4. In the early morning hours on or about March 19, 2020, Officer Mitchell Graham (OPD) conducted a traffic stop on a silver Ford Fusion for speeding - a violation of Florida traffic laws. The traffic stop was made in the 300 block of Southeast 36th Avenue in Marion County, Florida.¹ The driver, sole occupant, and registered owner of the vehicle was STRAUGHTER. During Officer Graham's investigation, he smelled the odor of marijuana coming from within the Ford Fusion.

5. Given the odor, Officer Graham asked STRAUGHTER to exit the Ford Fusion prior to it being searched. STRAUGHTER, however, was hesitant to exit the

¹ This location is within the Middle District of Florida.

vehicle and continued to talk on his cellular telephone, ignoring the officer's commands. Therefore, Officer Graham opened the driver-side door. When he did, Officer Graham could see a silver handgun under the driver's seat. The firearm was visible in the gap between the door frame and the driver's seat.

6. Once STRAUGHTER was removed from the vehicle, Officer Graham retrieved the firearm from underneath the driver's seat. The firearm was a Jimenez 9mm semi-automatic handgun. It was loaded with 10 rounds of ammunition, including a round in the chamber. The serial number of the firearm had been defaced by scratching, making it very difficult to read. The damage to the serial number on the firearm is readily apparent and easily visible. It is located directly over the trigger on the handgun's right side. It would be apparent to anyone holding the firearm. The firearm and its obliterated serial number are displayed below:



Images of the recovered firearm

7. While searching STRAUGHTER's vehicle, Officer Graham also located six bags of marijuana (with a total packaged weight of 45 grams) and a digital scale.

8. STRAUGHTER did not make any statements to Officer Graham. He subsequently was transported to the Marion County Jail.

JAIL PHONE CALLS

9. The Marion County Jail uses a third party application called "Securus." This program provides inmates the capability to make phone and video calls while at the jail. Prior to any call, the inmate is provided a pre-recorded disclaimer, warning them the phone call will be monitored and recorded. Inmates must also provide their name at the beginning of each call to notify the recipient of who is calling them. "Securus" also maintains and stores the phone calls the inmates make. Law enforcement personnel are able to retrieve and examine these phone calls.

10. While investigating STRAUGHTER, I accessed "Securus" to see if he made any phone calls while in jail. Using his full name, I located one phone call he made to 352-XXX-7236. At the beginning of the call, the male on the phone identified himself as Malcolm STRAUGHTER. STRAUGHTER is heard talking to a female. The contents of the phone call appeared to be a continuation of a previous conversation.

11. Given the possibility that STRAUGHTER had made more than that one call, I researched on the “Securus” system any outgoing calls made to the specific phone number that STRUAGHTER had dialed. This inquiry revealed several calls made from the jail to that phone number.

12. For example, on or about March 19, 2020, at 2:00 a.m., a call was made from the booking section at the jail to the aforementioned phone number. This time and date corresponded to STRAUGHTER’s booking at the jail for the events described above. At the beginning of that call, STRAUGHTER identified himself as “Malcolm.” The caller’s voice matched STRAUGHTER’s voice from the first call. The recipient’s voice also was the same as the previous call. During the call, STRAUGHTER discussed the severity of his pending criminal charges. He commented, “I got caught with a gun; I’m a felon.”

13. At 4:00 a.m. on or about March 19, 2020, STRAUGHTER called the same number from the jail. Once again, STRAUGHTER identified himself as “Malcolm.” During this call, STRAUGHTER described his pending charges, including possession of marijuana. The female recipient of the call then asked, “Did you have a lot?” STRAUGHTER replied, “Yeah.”

CRIMINAL HISTORY

14. Using STRAUGHTER’s unique identifiers (name, date of birth, social security number), I researched his criminal history. It revealed that STRAUGHTER has three felony convictions in the State of Florida, which are as follows:

Possession of a short-barreled shotgun

Possession of cocaine

Marion County Circuit Court Case No.
422005CF001593CFAXXX

Date of Conviction: May 4, 2006

Sentence: 4 months and 19 days' county jail

Robbery with a firearm

Marion County Circuit Court Case No.
422006CF000027CFAXXX

Date of Conviction: July 3, 2006

Sentence: 10 years' state prison

15. Accordingly, STRAUGHTER knew that he previously had been convicted of an offense punishable by a term of imprisonment in excess of one year (a felony). As stated above, STRAUGHTER also admitted this fact during his jail phone calls. The Florida Office of Executive Clemency has no record of STRAUGHTER ever having his civil rights restored.

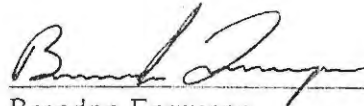
NEXUS

16. As seen in the photographs above, the Jimenez pistol has a manufacturer stamp on the left side of the slide with the words "JIMENEZ ARMS INC." and "LAS VEGAS, NV USA." This stamp indicates the place of manufacture for the firearm—Las Vegas, Nevada. Because the firearm was not made in Florida, has crossed state lines and affected interstate commerce.

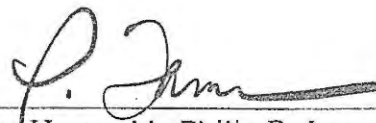
CONCLUSION

17. Based on the foregoing, I respectfully submit that there is probable cause to believe that STRAUGHTER has committed a violation of 18 U.S.C. § 922(g)(1).

This concludes my affidavit.


Brendan Ferguson
Task Force Officer, ATF

Subscribed and sworn to before me
on this 6 day of April, 2020.


The Honorable Philip R. Lammens
United States Magistrate Judge