

Honorable John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,

v.

PARK HUNG QUAN,
Defendant.

NO. CR19-148JCC

**UNITED STATES' SENTENCING
MEMORANDUM**

Sentencing Date: October 13, 2020

The United States of America, by and through Brian T. Moran, United States Attorney for the Western District of Washington, and Andrew C. Friedman and Steven T. Masada, Assistant United States Attorneys for said District, files this Sentencing Memorandum in anticipation of the sentencing hearing in this case. Sentencing, which will be held by videoconference, currently is scheduled for October 13, 2020.

I. INTRODUCTION

The Defendant, Park Hung Quan, comes before the Court for sentencing on his guilty plea to one count of *Felon in Possession of a Firearm*, contained in Count 1 of the Indictment, in violation of Title 18, United States Code, Section 922(g)(1). For the reasons set forth below, and as set forth in the parties' Plea Agreement, the United States

1 respectfully recommends that the Court impose a sentence of **48 months** in custody, to be
 2 followed by three years of supervised release. The United States Probation & Pretrial
 3 Services Office (the Probation Office) and Quan also recommend a custodial sentence of 48
 4 months.

5 As discussed below, Quan has multiple prior felony convictions for unlawful
 6 weapons possession, including a federal conviction and 10-year sentence in this District
 7 arising from his participation in a murder-for-hire plot, as well as a near five-year federal
 8 sentence for possession of 10 machineguns and a silencer. Undeterred by those convictions
 9 and sentences, Quan again amassed an arsenal of firearms, ammunition, and explosive
 10 material at his residence in South Seattle. In short, another custodial sentence of some
 11 significance is warranted. The United States submits that the jointly-recommended
 12 sentence adequately accounts for the various sentencing factors and is appropriate under the
 13 totality of the circumstances.

14 II. BACKGROUND

15 A. Quan's Criminal History

16 Quan has at least three prior felony convictions, all related to the illegal possession or
 17 attempted possession of weapons. One of those weapons convictions stemmed from his
 18 involvement in an attempted murder-for-hire plot here in Western Washington. More
 19 specifically,

20 • In about 1973, while enlisted in the Army and stationed at Fort Lewis
 21 in Western Washington, Quan was convicted by court-martial of (i) *Soliciting the Theft of*
 22 *Military Weapons* and (ii) of *Attempting to Steal Military Weapons*. According to the
 23 Probation Office, Quan was sentenced to five years in custody at Fort Leavenworth. The
 24 convictions further resulted in his dishonorable discharge from the military.

25 • On about November 4, 1983, Quan was convicted of *Felon in*
 26 *Possession of Explosives*, in this District. This conviction arose from Quan's involvement
 27 in a contract murder plot, as described in an old Seattle Times article:
 28

Three charged with attempted truck bombing

Three Seattle-area men linked to an attempted truck bombing in Ocean Shores in 1990 have been charged with conspiring to make a firearm out of stolen explosives.

Dick F. Ingils, 55, a self-employed log broker from Bellevue; Jack W. Karr, 64, self-employed, of Seattle; and Park Hung Quan, 31, a West Seattle grocery-store employee, were ordered held on \$50,000 bail each yesterday by a federal magistrate in Tacoma.

Named as unindicted co-conspirators in the same indictment

were Michael John Shimmitt and Barbara Neyman. The conspiracy allegedly occurred between April 1983 and July 5, 1980.

The investigation began when Richard A. Conner, a former Seattle resident, found a four-stick dynamite bomb under his pickup truck when he returned from an Ilwaco fishing trip. The device had malfunctioned, according to the federal Bureau of Alcohol, Tobacco and Firearms.

The motive for the attempted truck bombing was not clear, but a source indicated that it was relat-

ed to the fact that Neyman and Conner were once married.

The indictment said Ingils accompanied Neyman to her Mercer Island bank in June 1980, when she withdrew \$1,000. Two days later, she gave the money to Karr, according to the indictment.

Next, Shimmitt transferred stolen explosives to Quan, alias "Harry," according to the indictment. In addition to the conspiracy charge, Quan, who has a criminal record, is charged with knowingly receiving explosives which had been shipped across state lines and which he knew or should have known were stolen.

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As set forth in the Presentence Report, Quan attached a bomb made from stolen explosives (sticks of dynamite) to the undercarriage of the intended target's vehicle. The attempted murder failed because the bomb malfunctioned. Quan cooperated with the government against his co-conspirators. As part of his plea arrangement, he was allowed to plead guilty to only the explosives possession charge. After receiving cooperation consideration, Quan received a 120-month (10-year) custodial sentence.

- On about May 23, 1991, Quan was convicted of *Unlawful Possession of Unregistered Firearm (Machine Gun and Silencers)*, in the United States District Court for the Southern District of Texas. As set forth in the presentence report, Quan was in possession of ten machineguns and a silencer. He was sentenced to 57 months in custody. Notably, Quan committed this firearm offense on about January 15, 1991 - shortly after his release from Bureau of Prisons (BOP) custody and while still on federal supervised release for his 1983 federal felony conviction.

B. Quan's Current Possession of Firearms and Explosive Material

The Presentence Report ("PSR") prepared by the Probation Office and the parties' Plea Agreement (Dkt. #48), provide an accurate overview of the offense conduct in this case.

On July 29, 2019, FBI agents searched Quan's South Seattle residence pursuant to a search warrant relating to the conduct of one of his housemates, related to computer

hacking. Five co-habitants, including Quan, resided in the modest three-bedroom residence. During the course of that search, and a second ensuing search based upon a follow-on warrant, agents located an arsenal of weapons, ammunition, high-capacity magazines, bump stocks, and explosive material, largely unsecured and accessible to his housemates. This was particularly troubling, because the housemate whose computer hacking had led to the search was the subject of one or more restraining orders and had made express threats to harm others and herself. In fact, in late May 2019, this housemate had threatened to “shoot up” the office of a California social media company.¹

The 12 firearms found in Quan’s bedroom included various assault rifles, a sniper-style rifle, and multiple semiautomatic pistols, as described in detail in the forfeiture section of this Sentencing Memorandum and depicted in the images below:



¹ The company is aware of and reported the threat.
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Some of the guns were loaded, including at least one of the semi-automatic assault rifles with the loaded high-capacity magazine shown below:



Each of these firearms were manufactured outside of the State of Washington.

As confirmed through subsequent investigation, Quan began acquiring these weapons after his release from federal custody in late 1997, and he has illegally possessed weapons for well over a decade. For instance, Quan acquired an assault rifle, specifically, the Steyr-Mannlicher, Model Steyr USR, .223 Remington caliber semi-automatic rifle, depicted above, in 2005 or 2006.

In addition to the dozen firearms, Quan also possessed the following items in his bedroom:

- Two bump stocks, designed to be attached to semiautomatic rifles in place of conventional stocks, enabling them to fire bullets more rapidly, mimicking a full automatic weapon;



- Two 37mm “flare launchers,” which can be used to shoot a variety of projectiles;



- High-capacity magazines and a large cache of ammunition;



- Various receivers and parts for multiple additional unassembled firearms;





- Multiple rifle scopes and a laser sight;
- Inert replica grenades;
- Three containers of Pyrodex, a low explosive black powder substitute, and chemical precursors.



In a post-arrest interview, Quan told agents that the bedroom and the firearms were his. He further acknowledged that he knew it was illegal for him to possess the items based on his prior felony convictions. Quan also stated that he had acquired the bump stocks before they became illegal (thereby implicitly confessing knowledge of his illegal possession).

In addition, while Quan and his housemates were temporarily restrained outside the residence, FBI agents heard Quan say that he had not yet gotten the chance to mix the precursors for "RDX," prompting one of the housemates to say, "shhhhh, shut up." Shortly thereafter, Quan said that he should have moved the acetone, prompting the same housemate to say, "Shut up, man." "RDX" is an explosive chemical compound (*see, e.g.,*

<https://en.wikipedia.org/wiki/RDX>), and acetone is a commonly-used precursor for explosives (see, e.g., https://en.wikipedia.org/wiki/Acetone_peroxide).

C. Procedural History & Plea Agreement

On July 31, 2019, Quan made his initial appearance, charged by complaint. Dkt. #1. Following a contested detention hearing, Quan was ordered detained pending the matter and is housed at the Federal Detention Center at SeaTac.

On August 8, 2019, Quan was indicted with a single count of *Felon in Possession of a Firearm*, relating to 12 firearms recovered from his bedroom.

On June 12, 2020, Quan entered a guilty plea, pursuant to a Plea Agreement. Dkt. #48. In the Plea Agreement, the parties entered into certain stipulations. Most notably, the parties agreed to jointly recommend that the Court impose a term of imprisonment of 48 months. *Id.* at ¶ 11.

The parties also stipulated as to various sentencing factors, including the computation of Quan's criminal history and offense level under the U.S. Sentencing Guidelines. *Id.* at ¶¶ 9-10. Quan further agreed to forfeit and abandon any interest in the various firearms, ammunition and other accessories. *Id.* at ¶¶ 12-13.

The Plea Agreement also contained a limited waiver of appeal. *Id.* at ¶ 16. Assuming the Court imposes a term of incarceration within or below the Sentencing Guidelines range determined by the Court at the time of sentencing, the United States requests that the Court advise Defendant appropriately regarding his limited appellate rights, following imposition of sentence.

III. GUIDELINES CALCULATION

The government concurs with the Probation Office's application of the United States Sentencing Guidelines ("USSG"), which is consistent with the calculation stipulated to by the parties in the Plea Agreement.

Quan falls within a criminal history category of III. Quan possessed one or more of the firearms charged in this case within 15 years of his release from imprisonment for his 1983 (felon in possession of explosives) and 1991 (possession of unregistered machine gun

1 and silencers) convictions. PSR ¶¶ 27-28. Thus, each of those convictions receives three
 2 criminal history points. PSR ¶ 29.

3 Quan's Total Offense Level (TOL), assuming that the Court finds that he has
 4 sufficiently accepted responsibility at the time of sentencing, is 26. PSR ¶¶ 15-24. As set
 5 forth in the PSR and the parties' Plea Agreement, the following provisions apply:

- 6 1. a base offense level of 26, pursuant to U.S.S.G. § 2K2.1(a)(1) & n.10, because
 7 (A) the offense involved a semiautomatic firearm capable of accepting a large
 8 capacity magazine, and (B) the defendant possessed one or more of the firearms
 9 involved in the offense after sustaining two felony convictions for crimes of
 10 violence.
- 11 2. a 4-level increase, pursuant to USSG § 2K2.1(b)(1)(B), because the offense
 12 involved between 8 and 24 firearms.
- 13 3. a cap on defendant's offense level of 29, pursuant to USSG § 2K2.1(b),
 14 because the cumulative offense level determined by the application of section
 15 § 2K2.1(b)(1) through (4) cannot exceed level 29.
- 16 4. a 3-level decrease, pursuant to USSG § 3E1.1, based on acceptance of
 17 responsibility.²

18 Accordingly, and as set forth in the Presentence Report, Quan's advisory range of
 19 imprisonment, based upon a Criminal History Category of III and a Total Offense Level
 20 of 26, is **78 to 97 months**.

21 **IV. RECOMMENDATION AND JUSTIFICATION**

22 The government respectfully recommends a custodial sentence of **48 months**, to be
 23 followed by three (3) years of supervised release, subject to the recommended standard and
 24 special conditions. Quan and the U.S. Probation Office join in this recommendation. The
 25 government submits that this sentence is warranted by, and sufficient but not greater than
 26 necessary, in light of the United States Sentencing Guidelines (USSG), as well as the other
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28 ² The United States moves for the discretionary 1-level decrease pursuant to USSG § 3E1.1.(b).

factors set forth in 18 U.S.C. § 3553(a) for the reasons set forth below.

A. 18 U.S.C. § 3553(a) Factors

As the Ninth Circuit and the Supreme Court have made clear, the Sentencing Guidelines are “the ‘starting point and the initial benchmark’ . . . and are to be kept in mind throughout the process.” *United States v. Carty*, 520 F.3d 984, 996 (9th Cir. 2008) (internal citations omitted). 18 U.S.C. § 3553(a), sets forth factors for the Court to consider alongside the advisory guideline range. The United States submits that the recommended sentence is appropriate in light of these factors, which include “the nature and circumstances of the offense,” “the history and characteristics of the defendant,” and the need for the sentence “to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense,” and “to afford adequate deterrence to criminal conduct.” 18 U.S.C. §§ 3553(a)(1), (a)(2)(A) & (a)(2)(B).

Here, the nature and circumstances of the offense are particularly egregious. Several aggravating factors distinguish Quan’s case from the typical felon-in-possession prosecution encountered in this District. These include factors:

- **The number and type of firearms:** Quan possessed 12 firearms (and unassembled parts of others), which included numerous semiautomatic assault rifles. Some of the weapons were loaded and accompanied by high-capacity magazines.
- **The ammunition accompanying the firearms:** In addition to the numerous guns, Quan also maintained an immense store of ammunition of various calibers for each firearm, which demonstrates, at minimum, an ability and willingness to use such weapons.
- **The accessories accompanying the firearms:** Quan also possessed various firearm accessories that increased their potential lethal potency. Such items include bump stocks, that is, replacement gun stocks designed to enable rapid, automatic-style firing of assault rifles. Following the 2017 mass shooting in

Las Vegas, where bump stocks allowed an active shooter to kill more than 50 people, they are illegal to possess. Quan also possessed multiple high-capacity magazines, capable of holding more, in some cases significantly more, than guns originally were designed to hold. He also possessed two 37mm “flare launchers” designed to be mounted on assault rifles, which are used to fire various projectiles at an intended target.

- **Explosive material:** In addition to firearms, ammunition, and accessories, Quan also possessed explosive powder and precursor chemicals used to make explosives. Quan’s post-arrest comments to his housemates suggest that Quan possessed these items for that very purpose.

In other words, Quan’s illegal firearms possession presents egregious and uniquely troubling circumstances, well beyond simply possessing a gun. He cannot credibly claim to have possessed this arsenal as a means of self-defense or home protection. Nor can he legitimately claim to have owned such weapons, along with his large cache of ammunition and accessories, solely as a benign collector or enthusiast.

The Court must also consider the history and characteristics of the defendant. This factor further weighs in favor of aggravation. Quan again presents unique circumstances, having faced at least three prior felony convictions and lengthy custodial sentences dating back to the 1970s. Moreover, each of his prior convictions involved serious offenses related to the unlawful possession of weapons, which illustrates the defendant’s strong affinity for deadly weapons and his staunch disobedience to the various laws prohibiting his possession of them. Most notably, his prior conviction in this District entailed the use of explosives in a murder plot, plainly demonstrating Quan’s willingness to employ weapons for a lethal purpose. Further, his 1991 conviction, also in federal court, involved the amassing of a similar arsenal of firearms, while still on supervised community release for his prior conviction in this District. The significance of this history cannot be understated.

The United States, however, also recognized certain mitigating factors in reaching the negotiated resolution that it did. Quan’s age, 67, and health concerns warrant attention.

1 He falls within the risk category for COVID-19 and was diagnosed with a form of prostate
 2 cancer while in BOP custody. Fortunately, the BOP is prepared to manage those risk
 3 factors and health conditions and provide him access to appropriate medical care, including
 4 procedures to which Quan may not otherwise have access.³ Moreover, Quan's prior
 5 convictions are old --- the most recent occurring in 1991 (for which he was sentenced to 57
 6 months in custody). And, while evidence establishes that he began to rebuild his weapons
 7 stash by no later than about 2006 (and thus was engaged in criminal activity for at least 13
 8 years before his July 2019 arrest), Quan also had no criminal arrests and, other than traffic
 9 citations, avoided the attention of authorities for nearly three decades. During that time,
 10 according to the presentence report, he also maintained legitimate employment in the
 11 community.

12 The government's recommendation also recognizes the seriousness of the offense
 13 and the need to deter this defendant and others, to protect the public, and to impose just
 14 punishment. Firearms laws play an important role in prohibiting certain individuals who
 15 pose established risks from possessing dangerous and potentially deadly weapons, and the
 16 meaningful enforcement of those laws promotes public safety and provides important
 17 deterrence. Quan's offense plainly warrants significant punishment in order to deter both
 18 this defendant and other like-minded others. Three felony convictions and custodial
 19 sentences totaling nearly 20 years (all for analogous criminal conduct) have proved an
 20 inadequate deterrent. Quan's decision to again stockpile firearms and ammunitions must
 21 have meaningful consequences in the form of another term of incarceration. That said, the
 22 United States recognizes factors that weigh in mitigation and agrees that a sentence below
 23 the advisory guideline range is appropriate under the circumstances.

24 In fashioning a sentence, the Court also must consider the "need to avoid
 25 unwarranted sentence disparities" among "defendants with similar records who have been
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27
 28 ³ As noted in the U.S. Probation Office's recommendation report, "[Quan's] brother believes Mr. Quan's arrest is a blessing in disguise and he does not think Mr. Quan would have learned of his cancer otherwise."

found guilty of similar conduct.” 18 U.S.C. § 3553(a)(6). The government is unaware of any defendant, anywhere, similarly situated to Quan. As discussed above, Quan’s criminal history alone distinguishes him from most other felon-in-possession defendants prosecuted in this District, as does his impressive arsenal of weapons. Further, from a mitigation standpoint, Quan’s age and health concerns present unique circumstances. The advisory guidelines, which are designed by a specially-appointed Commission to ensure comparable sentences across similar cases, advise a custodial sentence of 78 to 97 months. In short, each case poses its own unique circumstances and the government offers this information merely to emphasize that the parties’ recommendation is consistent with disparity considerations, and to counter any disparity argument that may be offered by the defense.⁴

In sum, it is unfortunate that, despite numerous convictions and substantial sentences, Quan has once again resorted to firearms possession, possession that is particularly concerning given the arsenal assembled by Quan and Quan’s demonstrated history of willingness to resort to violence. The United States sincerely hopes that Quan finally learns his lesson and abides by the laws prohibiting his possession of firearms, ammunition, and explosives. But, Quan’s conduct in this case and history demonstrate that a 48-month term of imprisonment is both required and appropriate in this case.

B. Forfeiture

As set forth in the Preliminary Motion for Entry of Preliminary Order of Forfeiture (Dkt. #57), the following 12 firearms and ammunition are subject to forfeiture:

1. One Sig Sauer, Model P228, 9mm Parabellum caliber semi-automatic pistol, serial number B 304 183;
2. One Sig Sauer, Model P226, .40S&W caliber semi-automatic pistol, serial number U591698;

⁴ Given that parties do not have access to the presentence report and other material information related to other cases, the government believes that sentence disparity offers only limited value across separate cases.

3. One Kel-Tec, Model P F-9, 9mm Luger caliber semi-automatic pistol, serial number S2T97;
4. One FN, Model FNS-40, .40S&W caliber semi-automatic pistol, serial number GKU0004153;
5. One GSG, Model 522, .22LR caliber semi-automatic rifle, serial number A438065;
6. One Anderson, Model AM-15, 5.56 NATO/.223 Remington caliber AR-type semi-automatic rifle, serial number 14090370;
7. One TGI FPK, 7.62x54Rmm caliber Dragunov-type semi-automatic designated marksman rifle, serial number KR0694;
8. One GSG, Model GSG-5, .22LR caliber rifle, serial number A331021;
9. One Century Arms Inc., Model R1A1 Sporter, .308 Winchester caliber rifle, serial number CA33130;
10. One Steyr-Mannlicher, Model Steyr USR, .223 Remington caliber semi-automatic rifle, serial number 909USR637;
11. One FN, Model PS90, 5.7x28mm semi-automatic rifle, serial number FN092503;
12. One Bushmaster, Model XM15-E2S, 5.56 NATO/.223 Remington caliber AR-type semi-automatic rifle, serial number L435132; and,
13. All assorted ammunition.

On June 12, 2020, the Defendant entered a plea of guilty to Felon in Possession of a Firearm, in violation of 18 U.S.C. § 922(g)(1). Dkt. #48. In his Plea Agreement, Defendant Quan agreed to forfeit his interest in the above-identified property, which is subject to forfeiture pursuant to 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c), as it was involved or used in such offense. *Id.* ¶¶ 12a – m. Additionally, in his Plea Agreement, the Defendant agreed to abandon his interest in, among other things, contraband and firearm accessories that were in the Defendant’s direct or indirect control. *Id.* ¶ 13

Therefore, The United States respectfully requests that the Court enter the proposed order on file.

C. Fines and Restitution

The United States concurs in the recommendation of the Probation Office that the fine be waived based on the defendant's apparent inability to pay. However, the defendant is responsible for the mandatory Special Assessment of \$100.

V. CONCLUSION

For the reasons set forth above, the United States respectfully recommends that the Court sentence the defendant, Park Hung Quan, to a custodial term of 48 months, followed by three years of supervised release subject to the conditions recommend by the United States Probation Office. The United States further requests entry of the proposed preliminary order of forfeiture.

Dated this 6th day of October, 2020.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s).

s/ Elizabeth Gan

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