United States District Court
District of New Jersey

ORIGINAL FILED
JUN 11 2007
MADELINE COX ARLEO
U.S. MAG. JUDGE

UNITED STATES OF AMERICA	:	**CRIMINAL COMPLAINT**
v.	:	
ERIC HAYES, a/k/a "Frank White"	:	**Magistrate No. 07-8074**

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about February 6, 2007, on or about June 6, 2007 and on or about June 7, 2007, in the District of New Jersey and elsewhere, defendant ERIC HAYES, a/k/a "Frank White" did

SEE ATTACHMENT A

in violation of Title 18, United States Code, Sections 922(g)(1) and 2.

I further state that I am a Special Agent for the Bureau of Alcohol, Tobacco, Firearms and Explosives (hereinafter "ATF") and that this complaint is based on the following facts:

SEE ATTACHMENT B

Continued on the attached page and made a part hereof.

Robert Caprioglio, Special Agent ATF

Sworn to before me and subscribed in my presence,

June 11, 2007
Date

Newark, New Jersey
City and State

Madeline Cox Arleo

HON. MADELINE COX ARLEO
United States Magistrate Judge

ATTACHMENT A

Count I

On or about February 6, 2007, at Newark, in the District of New Jersey and elsewhere, the defendant, ERIC HAYES, a/k/a "Frank White," having been convicted of a crime punishable by imprisonment for a term exceeding one year in a court in the State of New Jersey, did knowingly possess in and affecting commerce a firearm, namely a Norinco (North China Industries) 7.62 caliber semi-automatic assault rifle, Model SKS, in violation of Title 18, United States Code, Sections 922(g)(1) and 2.

Count II

On or about June 6, 2007, at Newark, in the District of New Jersey and elsewhere, the defendant, ERIC HAYES, a/k/a "Frank White," having been convicted of a crime punishable by imprisonment for a term exceeding one year in a court in the State of New Jersey, did knowingly possess in and affecting commerce a firearm and ammunition, namely a Mossberg 12 Gauge shotgun, Model 500A, bearing serial number P749087 loaded with seven rounds of 12 Gauge ammunition, in violation of Title 18, United States Code, Sections 922(g)(1) and 2.

Count III

On or about June 8, 2007, at Newark, in the District of New Jersey and elsewhere, the defendants, ERIC HAYES, a/k/a "Frank White," having been convicted of a crime punishable by imprisonment for a term exceeding one year in a court in the State of New Jersey, did knowingly possess in and affecting commerce a firearm and ammunition, namely a Chinese Type 56, AK-47 fully automatic assault rifle bearing serial number 512690 with one magazine containing 21 rounds of 7.62 caliber ammunition, in violation of Title 18, United States Code, Sections 922(g)(1) and 2.

ATTACHMENT B

I, Robert Caprioglio, am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (hereinafter "ATF") and have been involved with this long term investigation of the 9-3 set of the Bloods street gang operating in parts of Newark, New Jersey. I am familiar with the facts set forth herein through my personal participation in the investigation and through oral and written reports from other federal agents and law enforcement officers. Where statements of others are related herein, they are related in substance and part. Since this complaint is being submitted for a limited purpose, I have not set forth each and every fact that I know concerning this investigation. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

Count I

February 6, 2007, Sale of One Firearm

1. Prior to February 6, 2007, a cooperating witness (hereinafter "CW") and a separately charged co-conspirator (hereinafter "CC-7") had numerous conversations concerning the sale of a SKS assault rifle. CC-7 told the CW that the assault rifle would cost the CW $1200.00 but that the CW should tell his buyer that the gun would cost $1350.00 and that the CW and CC-7 would split the extra $150.00 evenly.

2. On or about February 6, 2007, the CW received a telephone call from CC-7 stating that he could not be present for the gun deal, but that the CW should meet up with another individual, defendant ERIC HAYES, a/k/a "Frank White," to complete the purchase. Shortly thereafter, the CW met with the defendant ERIC HAYES, a/k/a "Frank White," at a Burger King restaurant, located at the corner of Franklin Avenue and Heller Parkway, in Newark, New Jersey and purchased one Norinco (North China Industries) 7.62 caliber semi-automatic assault rifle, Model SKS for $1200 in cash. After the CW purchased the assault rifle, the CW received a telephone call from CC-7 who inquired how the deal went, apologized for not being able to be present for the deal, and inquired about the $75.00. Following this call, the CW went to CC-7's residence and paid him the $75 in cash.

3. The Norinco (North China Industries) 7.62 caliber semi-automatic assault rifle, Model SKS sold to the CW by defendant ERIC HAYES, a/k/a "Frank White," and CC-7 on February 6, 2007, was manufactured in China.

4. A review of criminal history records revealed that prior to February 6, 2007, defendant ERIC HAYES had been convicted of a felony offense punishable by a term of imprisonment greater than one year in a court in the State of New Jersey. Refer to paragraph 4 in Count III for specific details.

Count II

June 6, 2007, Sale of One 12 Gauge Shotgun

1. On or about June 5, 2007, the CW met with defendant ERIC HAYES, a/k/a "Frank White," at the Fairview Homes housing complex in Newark, New Jersey and discussed the purchase of a 12 gauge shotgun and a .38 caliber revolver for $1,200.00. They agreed to do the deal the next day.

2. On or about June 6, 2007, the CW received a telephone call from defendant ERIC HAYES, a/k/a "Frank White," that he would bring the gun to the CW after he dropped off his children. Defendant HAYES informed the CW that he was bringing a brand new Mossberg shotgun with "shells" (ammunition) and said the price of the weapon was $500.00. Defendant HAYES also told the CW that he would need to bring a suitcase because the shotgun was long and uncut.

3. On or about June 6, 2007, at approximately 4:38 p.m., CW arrived at a parking lot in Branch Brook Park, in Newark, New Jersey and entered the defendant's vehicle. Inside the vehicle, the CW gave defendant ERIC HAYES $500 in cash in exchange for the shotgun. They then discussed a future purchase of possibly a 30-30 rifle, as well as a "Special K" SKS firearm for only $1,100.00 since the Special K was dirty. The term "dirty" is a street term for a weapon being used in a shooting, homicide or other violent crime. They agreed to meet the next day to purchase either one or both firearms.

4. The firearm the CW purchased from defendant ERIC HAYES on June 6, 2007 was a Mossberg 12 Gauge shotgun, Model 500A, bearing serial number P749087 loaded with seven rounds of 12 Gauge ammunition. This firearm was manufactured in the State of Connecticut.

5. A review of criminal history records revealed that prior to June 6, 2007, defendant ERIC HAYES had been convicted of a felony offense punishable by a term of imprisonment greater than one year in a court in the State of New Jersey. Refer to paragraph 4 in Count III for specific details.

Count III

June 7, 2007, Sale of One SKS Firearm

1. On or about June 7, 2007, the CW and defendant ERIC HAYES confirmed that they would meet at approximately 4:00 p.m. to purchase one or more firearms.

2. At approximately 4:10 p.m., CW arrived at the Branch Brook Park parking lot in Newark, New Jersey. At approximately 4:20 p.m., defendant ERIC HAYES entered the parking lot and the CW went to the back of defendant HAYES vehicle where he received a large brown box that contained an assault rifle. CW paid defendant HAYES $1,100 in cash for the firearm. Shortly thereafter, defendant HAYES left the parking lot and the CW brought the firearm to law enforcement agents.

3. The firearm the CW purchased from defendant ERIC HAYES on June 7, 2007 was a Chinese Type 56, AK-47 fully automatic assault rifle bearing serial number 512690 with one magazine containing 21 rounds of 7.62 caliber ammunition. This firearm was manufactured in China.

4. A review of criminal history records revealed that prior to June 7, 2007, defendant ERIC HAYES had been convicted of a felony offense punishable by a term of imprisonment greater than one year in a court in the State of New Jersey. Specifically, on or about October 31, 2002, defendant ERIC HAYES was convicted in New Jersey Superior Court, Essex County of Distribution of CDS within 1000 feet of School Property, in violation of N.J.S.A. 2C:35-7; and also on or about October 31, 2002, defendant ERIC HAYES was convicted in New Jersey Superior Court, Essex County of another unrelated Distribution of CDS within 1000 feet of School Property, in violation of N.J.S.A. 2C:35-7.

5. Based on my knowledge, training, and experience and that of other ATF agents who have worked on this case, it is my opinion that the three guns sold by defendant ERIC HAYES to the CW are firearms within the meaning of Title 18 U.S.C. Section 921(a)(3).