

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

* CRIMINAL NO. 19-37

v.

* SECTION: "D"

BRIAN STEPHENS
a/k/a "Toomer"

*

*

* * *

FACTUAL BASIS

The above-named defendant, **BRIAN STEPHENS**, has agreed to plead guilty to Counts One through Three of the Indictment in the above-captioned case. Should this matter have proceeded to trial, the United States of America would have proven beyond a reasonable doubt, through the introduction of relevant, competent, and admissible testimonial, physical and demonstrative evidence, the following facts. Unless stated otherwise, these acts occurred in the Eastern District of Louisiana:

JULY 2017

On or about July 16, 2017, Louisiana State Police ("LSP") Troopers Tanwar and Senegal observed a black Nissan Maxima with a fraudulent Motor Vehicle Inspection sticker and dark tinted windows. The troopers conducted a traffic stop at the intersection of Franklin Avenue and North Villere Street. There were three individuals in the vehicle: **BRIAN STEPHENS a/k/a "Toomer" (STEPHENS)** was driving, W.R. was the front right passenger, and T.T. was the rear passenger. The troopers asked **STEPHENS** to step out of the vehicle and provide identification. **STEPHENS** provided a Louisiana identification card but no driver's license.

AUSA UC
Defendant BS
Defense Counsel JA

Trooper Tanwar spoke with **STEPHENS** near the driver's side of the vehicle while Trooper Senegal stood by the passenger's side. Trooper Tanwar asked **STEPHENS** for paperwork for the vehicle. **STEPHENS** leaned inside of the vehicle and opened the glove box. Trooper Senegal observed in plain view a black and chrome handgun inside of the glove box. Trooper Senegal observed **STEPHENS** attempt to close the glove box in a hurry. At that point, body camera footage captures Trooper Senegal telling Trooper Tanwar to handcuff **STEPHENS**. When Trooper Tanwar attempted to handcuff **STEPHENS**, **STEPHENS** fled on foot. Trooper Tanwar engaged in a foot pursuit but was unsuccessful in apprehending **STEPHENS**.

Trooper Senegal confiscated the handgun from the glove box, which was a Smith and Wesson model SW40GVE .40 caliber handgun with an obliterated serial number and an extended magazine with 27 live rounds. Troopers gave *Miranda* warnings to the other two occupants of the vehicle. W.R. and T.T. both stated that they did not have any knowledge that there was a handgun inside the vehicle.

OCTOBER 2018

On October 3, 2018, NOPD officers went to the 1300 block of Frenchman Street to execute an arrest warrant for R.L. When NOPD Officers Nunez, Bridges, Carradine, and Roger arrived, they observed R.L. sitting on the steps of 1322 Frenchman Street, with **STEPHENS**, who was counting cash. When Officers Carradine and Roger exited a marked police vehicle to make contact with R.L., **STEPHENS** fled on foot. Officers Carradine and Roger notified Officers Nunez and Bridges about the fleeing subject.

Officers Nunez and Bridges turned onto the 1300 block of Frenchmen Street in their

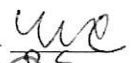
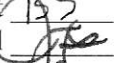

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Defendant B.S.
Defense Counsel JRS

marked police vehicle, and observed **STEPHENS** running towards them. **STEPHENS** was using his left hand to grip an object underneath his shirt in his center waistband. While **STEPHENS** was running, the officers observed him produce a black handgun with his left hand. **STEPHENS** ran down an alleyway. Officer Nunez exited the vehicle and pursued **STEPHENS** on foot. Officer Nunez observed **STEPHENS** discard a firearm onto the side alleyway of 1319 Frenchman Street as he scaled a fence. Body worn camera captured Nunez shouting, “He dropped it! He dropped a 95! He dropped a 95!” If this case proceeded to trial, an officer would testify that “a 95” is shorthand for a firearm. The body camera footage then depicts Officer Nunez jumping over a chain link fence and retrieving a black firearm. The firearm was a Glock Model 22, .40 caliber pistol, serial number PEH209, with an extended magazine with 22 live rounds. This firearm was reported stolen from a vehicle on October 18, 2016.

NOPD officers established a perimeter in the area to attempt to find **STEPHENS**. Shortly thereafter, officers located **STEPHENS** on a rooftop of a shed at 2123 Urquart Street and arrested him. **STEPHENS** was transported to the Fifth District police station. **STEPHENS** was advised of his *Miranda* rights and signed a written waiver. He then gave an audio- and video-recorded statement to NOPD detectives and to ATF Special Agent Lawrence Dickens. During his interview, **STEPHENS** stated that he purchased the firearm from an unknown “dope fiend” for \$150.

DECEMBER 2018

While **STEPHENS** was out on bond on or about December 20, 2018, the U.S. Marshals went to **STEPHENS**’s home at 3520 Edenborn Ave Apartment 208 in Metairie, Louisiana, to execute outstanding arrest warrants. **STEPHENS** lived at this residence with his girlfriend, B.R. While the Marshals were arresting **STEPHENS**, they observed a firearm. Jefferson Parish

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search warrant. During the search, they located one loaded Bushmaster .223 caliber rifle model KM15-E2S, serial number BFI689632 on the top shelf of a hall closet, with two magazines. In the kitchen, officers located one Ruger 9mm model SR9C firearm, serial number 333-53294, with an extended magazine. The Ruger firearm was stolen. Also in the kitchen, officers located a white Walmart shopping bag with various types of ammunition.

B.R. was advised of her *Miranda* rights. She stated that both firearms belonged to **STEPHENS**. **STEPHENS** was arrested and advised of his *Miranda* rights. He signed a written waiver of his rights. He then gave an audio- and video-recorded statement to NOPD Detective Chad Cockerham and ATF Special Agent Lawrence Dickens. During the interview, he claimed ownership over both firearms that were found in the residence.


At the time that **STEPHENS** possessed and exercised control over the firearms charged in this Indictment, **STEPHENS** was aware that he had previously been convicted of a crime punishable by more than one year. Specifically, **STEPHENS** had a conviction on or about December 2, 2010, in Case Number 493-468, in Orleans Parish Criminal District Court, State of Louisiana, for aggravated battery, a violation of La. R.S. § 14:34. Additionally, **STEPHENS** was aware that he had a conviction on or about October 25, 2002 in Case Number 433-800, in Orleans Parish Criminal District Court, State of Louisiana, for possession with the intent to distribute crack cocaine, a violation of La. R.S. § 40:967(B)(1); a conviction on or about March 7, 2003 in Case Number 436-800, in Orleans Parish Criminal District Court, State of Louisiana, for possession with the intent to distribute crack cocaine a violation of La. R.S. § 40:967(B)(1); and a conviction on or about January 21, 2009 in Case Number 473-829, in Orleans Parish Criminal District Court, State of Louisiana, for aggravated assault on a peace officer with a firearm, a violation of La. R.S. § 14:37.2. **STEPHENS'** acknowledges these firearms charged in Count One through Three of

AUSA *unc*
Defendant *BS*
Defense Counsel *[Signature]*

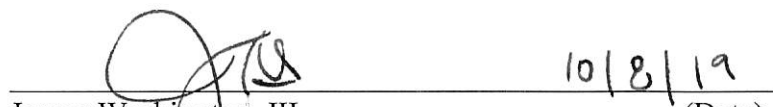
the Indictment traveled in and effected interstate commerce before he possessed them. Specifically, the firearms were manufactured outside of the state of Louisiana before he possessed them in the state of Louisiana.

Limited Nature of Factual Basis

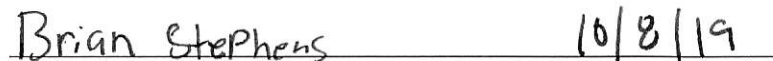
This proffer of evidence is not intended to constitute a complete statement of all facts in this matter. The limited purpose of this Factual Basis is to demonstrate that there exists a sufficient legal basis for **STEPHENS's** plea of guilty to Counts One through Three of the Indictment in the above-captioned case.



Maria M. Carboni (Date)
Assistant United States Attorney



James Washington, III (Date)
Counsel for Brian Stephens



Brian Stephens (Date)
Defendant