

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

vs.

Case No. 3:20-mj-1058-PDB

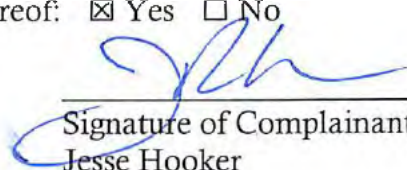
D.K. JOHNSON

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 5, 2020, in the Middle District of Florida, the defendant,

knowing that he had previously been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, that is, attempted murder, on or about August 7, 1992, did knowingly possess, in and affecting interstate and foreign commerce, a firearm, that is, a Sig Sauer .40 caliber pistol, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2). I further state that I am a Special Agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, 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


Signature of Complainant
Jesse Hooker

Sworn to before me and subscribed in my presence,

on February 5, 2020

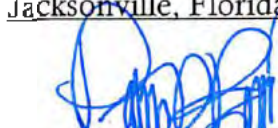
at

Jacksonville, Florida

PATRICIA D. BARKSDALE

United States Magistrate Judge

Name & Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

I, Jesse Hooker, being duly sworn, depose and state:

I. INTRODUCTION

Identity of Affiant

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), U.S. Department of Justice, and have been so employed since February of 2001. Currently, I am assigned to the Jacksonville I Field Office. Prior to my employment with ATF, I was employed as an Immigration Inspector for the United States Immigration and Naturalization Service, U.S. Department of Justice, for four years. I am a graduate of the Federal Law Enforcement Training Center and the ATF National Academy. My duties as an ATF special agent are to investigate violations of federal law relating to alcohol, tobacco, firearms, explosives and controlled substances.

2. I have participated in many investigations involving the unlawful possession of firearms. In some of these investigations I have been the case agent, while in others I have acted in an undercover capacity dealing directly with the targets of the investigation. In the course of my duties as a special agent of the ATF, I have been investigating the unlawful possession of firearms and ammunition by D. K. JOHNSON. This affidavit relates to that investigation.

3. The information in this affidavit is based on my personal knowledge as well as information, knowledge, observations, and investigations of other federal, state, and local law enforcement officers.

4. This affidavit does not contain all information discovered during this investigation, rather only that believed necessary to provide a legal basis for the requested warrant.

Requested Criminal Complaint

5. Based upon the information in this affidavit, I request that a criminal complaint be issued for D.K. JOHNSON for violating the provisions of Title 18, United States Code, Section 922(g)(1).

Federal Law

6. I am familiar with federal law including Title 18, United States Code, Section 922(g)(1), which prohibits the unlawful possession of firearms and ammunition by a person who knows he has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year.

II. INVESTIGATIVE ACTIVITY

7. On January 27, 2020, I received a phone call from an individual who identified himself as using a name with the initials C.S. and stated he is the owner of a company. C.S. advised me that on January 25, 2020, he fired one of his employees, who is an individual named D. K. JOHNSON. C.S. stated that JOHNSON was his Vice President and had worked for the company since 2018. C.S. stated that he fired

JOHNSON for lack of professionalism. C.S. stated that JOHNSON was a convicted felon and had made some general threats to C.S. since JOHNSON was fired. C.S. stated that JOHNSON told him he better not send the sheriff to his house or he would take care of him. C.S. stated that he considered that a threat to himself and his family since JOHNSON knew where C.S. lives.

8. C.S. stated that he had a copy of JOHNSON's Florida driver license from his employment record and provided the number to me. C.S. stated that JOHNSON previously told him he was a convicted felon, that he had been charged federally, and that he had spent ten (10) years in federal prison.

9. C.S. stated that he had been to JOHNSON's home on many prior occasions. C.S. stated that JOHNSON lived at [REDACTED] Jacksonville, FL 32211. C.S. stated that JOHNSON has video cameras on his house and can see who approaches the home. C.S. stated that he was last at JOHNSON's home approximately one (1) month ago. C.S. stated that while he was inside JOHNSON's home, JOHNSON had his firearms displayed on a counter. C.S. stated that he observed a .25 caliber pistol, a .38/.357 caliber revolver, a Sig (Sauer) 9mm or .40 caliber pistol and an AR-15 rifle. C.S. also stated that he was present with JOHNSON several months ago when JOHNSON purchased the Sig (Sauer) 9mm or .40 caliber pistol from a gun show in Jacksonville, FL. C.S. stated that JOHNSON purchased the pistol and ammunition from a person conducting private gun sales at the gun show. C.S. stated that JOHNSON provided his driver's license

to the seller, but the seller did not conduct a background check on JOHNSON since it was a private sale. C.S. stated that JOHNSON told him his son, [REDACTED] gave the .38/.357 caliber revolver to JOHNSON.

10. C.S. stated that JOHNSON'S behavior had become erratic and troublesome in the recent past. C.S. stated that JOHNSON often talked about "taking care" of people that he believed had wronged him. I advised C.S. that I would conduct additional research on JOHNSON and contact him in the future.

11. On January 27, 2020, I obtained JOHNSON'S Florida driver license. The license indicated that JOHNSON is an eighty (80) year old black male, 6'6" tall and bald. According to his driver license, JOHNSON resides at [REDACTED] East, Jacksonville, FL 32211.

12. On January 27, 2020, I queried JOHNSON'S criminal history in NCIC, which is the National Crime Information Center. The NCIC query revealed that JOHNSON was issued FBI #564479RA7. The NCIC query also indicated that on August 7, 1992, JOHNSON was sentenced federally to ten (10) years in prison after being convicted of Attempted Murder, Assault, and Possession of a Firearm.

13. On January 27, 2020, I discussed the allegations against JOHNSON with Assistant United States Attorney (AUSA) Laura Cofer Taylor who advised that she would attempt to obtain JOHNSON'S federal conviction from the Eastern District of New York (EDNY). AUSA Taylor was unable immediately to obtain a copy of JOHNSON'S conviction, but provided documentation regarding

JOHNSON'S appeal of his conviction in *United States v. D. K. JOHNSON*, No. 948, Docket 92-1494, 994 F.2d 980 (2d Cir. 1993), *cert. denied D.K. JOHNSON v. United States*, 510 U.S. 959 (1993). The Second Circuit described in its opinion that D. K. JOHNSON had appealed a judgment entered on August 7, 1992, after a jury trial in the United States District Court, Eastern District of New York, convicting him of attempted murder, assault with attempt to commit murder, assault causing serious bodily harm and using and carrying a firearm during a crime of violence. The document discusses JOHNSON's appeals, but ultimately states that the judgment of the district court was affirmed, denying JOHNSON's appeal. Efforts to obtain information related to JOHNSON's previous federal conviction are ongoing.

14. On January 29, 2020, at 9:47 am, ATF Special Agent Chad Lifsey and I conducted an in-person interview of C.S. regarding allegations of the unlawful possession of firearms and ammunition by JOHNSON, a convicted felon. C.S. stated that he has known JOHNSON since approximately 2010. C.S. stated that JOHNSON has worked for [REDACTED] since 2018. C.S. stated that he fired JOHNSON for lack of professionalism on January 25, 2020. C.S. stated that after JOHNSON was fired, JOHNSON called C.S. and told C.S. you know what I can do. C.S. stated that he felt JOHNSON was threatening him, because JOHNSON previously told C.S. about his prior military service in Vietnam and his prior federal crime. In essence, C.S. stated that he felt JOHNSON was reminding him of his past actions and what JOHNSON was capable of doing to someone in the future.

15. C.S. discussed JOHNSON's prior federal conviction and stated that JOHNSON told him the person he shot, who C.S. believed was named "Robert," regularly picked on JOHNSON at work. JOHNSON told C.S. that one day he "lost his feelings" and he came into work and started shooting. C.S. stated that JOHNSON laughed about the injuries he caused to "Robert" and said "Robert" now walks with a limp. It should be noted that in the Second Circuit's opinion affirming JOHNSON's conviction, referenced above, the Court described that one of the victims that JOHNSON shot was named [REDACTED], and was JOHNSON's supervisor.

16. C.S. stated that JOHNSON has shown him crime scene photographs that JOHNSON represented to be related to his previous federal prosecution. C.S. stated that he remembers one photograph of an elevator with a large pool of blood on the floor. C.S. stated that JOHNSON feels that he was wrongfully convicted of his past federal crime and often complains that the prosecutor and judge were out to get him.

17. C.S. stated that JOHNSON lives alone at the residence that is listed on JOHNSON's Florida driver license ([REDACTED] Jacksonville, FL 32211). C.S. then provided me with a photocopy of JOHNSON's Florida driver's license that was retained by [REDACTED] when JOHNSON was hired. C.S. stated that he has been inside JOHNSON's home on fifty (50) or more occasions since he and JOHNSON have been associated with each other. C.S. stated that

JOHNSON has mobility and vision impairments and that C.S. has often helped complete odd jobs at JOHNSON's home.

18. C.S. stated that he was last inside JOHNSON's home in mid-December of 2019. C.S. stated that he went to JOHNSON's home to pick up mail for his company and to have coffee and cake with JOHNSON. C.S. stated that while he was inside JOHNSON's home, JOHNSON had four or five firearms and a ninety (90) round AR-15 ammunition magazine sitting on a counter. C.S. stated that JOHNSON did not explain why he had the firearms sitting on the counter. C.S. stated that he asked JOHNSON what would happen if he got caught with the firearms and JOHNSON replied that he would "go away" for ten (10) years. C.S. stated that JOHNSON has previously told him that he occasionally carries a .25 caliber pistol in his pocket.

19. C.S. stated that in August or September of 2019, he told JOHNSON that he was going to the gun show at the Jacksonville Fairgrounds. C.S. stated that JOHNSON asked to go with him and they agreed to meet at the gun show. C.S. stated that he and JOHNSON drove separate vehicles to the gun show. C.S. stated that JOHNSON approached an individual who was conducting "private gun sales" and purchased a Sig (Sauer), .40 caliber pistol, ammunition and a ninety (90) round AR-15 magazine. C.S. stated that JOHNSON provided his driver's license to the seller, but a background check was not conducted by the seller. C.S. stated that JOHNSON paid for the items he purchased in cash.

20. C.S. stated that he has seen large quantities of ammunition inside JOHNSON's home and asked JOHNSON why he was acquiring such large amounts of ammunition. JOHNSON stated that he purchased the ammunition in case things "broke loose" in this country.

21. C.S. stated that JOHNSON has a large gun safe inside his home and that JOHNSON keeps firearms inside the safe. C.S. described the safe as black in color with a digital keypad. C.S. stated that the safe is large enough to hold shotguns and rifles, and that he has seen JOHNSON's AR-15 rifle inside the safe on a prior occasion. C.S. stated that JOHNSON told him he purchased the safe from Costco and had it delivered to his home.

22. On January 29, 2020, I traveled to the Costco Wholesale Store located at 4901 Gate Parkway, Jacksonville, FL 32246. I met with a manager and explained that a federal criminal investigation was being conducted on an individual who allegedly purchased a gun safe from Costco. The manager agreed to assist me and I provided JOHNSON's Florida driver's license number to him. Using JOHNSON's driver's license number, the manager located JOHNSON's Costco ID number. The manager then queried JOHNSON's prior purchases and located a record indicating JOHNSON previously purchased a gun safe from Costco. The record indicated that on October 22, 2015, JOHNSON purchased a Heritage 10.8 cubic foot (gun) safe for \$374.49. The Costco manager then showed me images of the Heritage 10.8 cubic foot safe that contained a digital keypad and was described as a gun safe with the

capacity to store 14 firearms. Based on my open source research, this firearms safe weighs over 200 pounds and is more than four (4) feet tall.

23. On January 30, 2020, I queried JEA, the Jacksonville, Florida, utility company that provides water, electricity and sewer service to residents, to determine if JOHNSON had an account with them. The result of the query indicated that JOHNSON had an active account with JEA and was listed as the customer receiving utility service at [REDACTED] Jacksonville, FL 32211. The query indicated that JOHNSON activated his account at that location on December 29, 2014.

24. On January 31, 2020, I spoke with C.S. regarding his knowledge and experience with firearms. C.S. told me that he was fifty four (54) years old and that he had been around firearms most of his life. C.S. told me that he started using firearms when he was a teenager for hunting and recreational shooting purposes. C.S. told me that he has a current Florida Concealed Weapons License and that he has had his concealed license for approximately twelve (12) years. C.S. also showed me his Florida Concealed Weapons License when he was interviewed by myself and Special Agent Lifsey on January 29, 2020. C.S. told me that he currently owns several firearms and shoots them on a regular basis. C.S. told me that when JOHNSON purchased the Sig (Sauer) pistol at the gun show in August or September of 2019, JOHNSON showed him the pistol. C.S. told me that he clearly saw that the pistol was manufactured by Sig (Sauer) and that he is 100% certain that the pistol

JOHNSON purchased was a Sig (Sauer) brand pistol.

25. On February 3, 2020, I applied for a federal warrant to search JOHNSON's home, which was issued the same day by U.S. Magistrate Judge Patricia D. Barksdale. *In the Matter of the Search of a residence located at [REDACTED] [REDACTED] Jacksonville, Florida 32211*, Case No. 3:20-mj-1049-PDB (M.D. Fla. Feb. 3, 2020).

26. On February 5, 2020, I and other agents of ATF executed the federal search warrant at JOHNSON's home. Inside of the residence, agents discovered ammunition, but no firearms. I and other agents observed two sheds on the piece of property where JOHNSON's home is located. Agents did not, at that time, search the sheds as they were not included in the scope of the search warrant. After discovering ammunition in JOHNSON's home, I conducted an audio recorded interview of JOHNSON. I provided JOHNSON with his Miranda rights, and JOHNSON agreed to answer my questions (I note that JOHNSON contacted an attorney that he has retained on a civil matter, who was made aware of my questioning of JOHNSON). In essence, JOHNSON admitted that he previously had possessed firearms, but claimed to have thrown them off of the Main Street Bridge approximately six months before. I asked JOHNSON for consent to search the sheds located on his property, and JOHNSON declined consent. After conducting this initial interview of JOHNSON, I contacted Assistant United States Attorney Laura Cofer Taylor and advised her of the foregoing facts, and AUSA Taylor

authorized the arrest of JOHNSON for being a convicted felon in possession of ammunition.

27. After speaking with AUSA Taylor, I approached JOHNSON for a second interview, which I also audio recorded. I informed JOHNSON that I did not believe that he had thrown his firearms off of the Main Street Bridge, advised him that it is a crime to lie to a federal agent, and asked him if he wished to revise his statement. At that point, JOHNSON admitted that he was in possession of firearms, and stated that they were located in one of the sheds. JOHNSON stated that one of these firearms was a sawed-off shotgun, and stated that it had been sold to him by C.S. At that point, JOHNSON provided consent to search the sheds. Upon searching the sheds, agents recovered multiple firearms, including a Sig Sauer, Model P229, .40 caliber pistol with serial number AL44523.

28. I have been designated as an interstate nexus expert by ATF for over sixteen (16) years and have been recognized by several United States District Courts as an expert regarding the interstate travel of firearms and ammunition. It is my opinion that the Sig Sauer pistol possessed by JOHNSON is a firearm as defined by federal law and was manufactured in Germany.

III. CONCLUSION

29. Based on the information in this Affidavit, I respectfully submit that there is probable cause to believe on or about February 5, 2020, JOHNSON knowingly was in possession of firearms and ammunition, knowing that he

previously had been convicted of a felony, in violation of Title 18, United States Code, Section 922(g)(1).

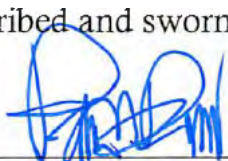
I state that the above information is true and correct to the best of my knowledge, and ask that the requested criminal complaint be issued.

Respectfully submitted,



Jesse Hooker, Special Agent
BUREAU OF ALCOHOL, TOBACCO,
FIREARMS & EXPLOSIVES (ATF)

Subscribed and sworn to before me this 5th day of February, 2020.



PATRICIA D. BARKSDALE
United States Magistrate Judge
Middle District of Florida