

AF Approval

ABF
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Chief Approval

AB
For RM

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 5:21-cr-41-JA-PRL

KEO IBUA MIKE

PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by Roger B. Handberg, United States Attorney for the Middle District of Florida, and the defendant, Keo Idua Mike, and the attorney for the defendant, Mark O'Brien, Esquire, mutually agree as follows:

A. Particularized Terms

1. Count Pleading To

The defendant shall enter a plea of guilty to Count One of the Indictment. Count One charges the defendant with possession of a firearm and ammunition affecting commerce by a convicted felon, in violation of 18 U.S.C. § 922(g)(1).

2. Maximum Penalties

Count One carries a maximum sentence of not more than 10 years' imprisonment; a fine of not more than \$250,000; a term of supervised release of not more than 3 years; and a special assessment of \$100. With

Defendant's Initials

Km

respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offenses, and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense, or to the community, as set forth below.

3. Elements of the Offense

The defendant acknowledges understanding the nature and elements of the offense with which defendant has been charged and to which defendant is pleading guilty. The elements of Count One are:

First: That the defendant knowingly possessed a firearm and/or ammunition in or affecting interstate or foreign commerce, as charged;

Second: That before the defendant possessed the firearm and /or ammunition, the defendant had been convicted in a court of a crime punishable by imprisonment for a term in excess of one year (commonly referred to as a "felony"); and

Third: At the time he possessed the firearm and/or ammunition, the Defendant knew he had been convicted of a crime punishable by imprisonment for more than one year.

4. No Further Charges

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge defendant with committing any other federal criminal offenses known to the

United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

5. Concurrent Sentencing Recommendation

The United States agrees to recommend to the Court that any sentence imposed in this federal case run concurrently with the defendant's prison term for his Florida conviction in Hillsborough County Circuit Court case number 18-CF-012886-A. The defendant understands that this recommendation is not binding upon the Court, and should the Court reject it, the defendant will not be allowed to withdraw his guilty plea in this case.

6. Acceptance of Responsibility - Three Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will recommend to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG § 3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

Further, at the time of sentencing, if the defendant's offense level prior to operation of subsection (a) is level 16 or greater, and if the defendant complies with the provisions of USSG § 3E1.1(b) and all terms of this Plea

Agreement, including but not limited to, the timely submission of the financial affidavit referenced in Paragraph B.5., the United States agrees to file a motion pursuant to USSG § 3E1.1(b) for a downward adjustment of one additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that the defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

7. Forfeiture of Assets

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture, pursuant to 18 U.S.C. § 924(d), and 28 U.S.C. § 2461(c), whether in the possession or control of the United States, the defendant or defendant's nominees.

The assets to be forfeited specifically include, but are not limited to, the following: a Jimenez Arms firearm; a Nodak Spud firearm; Norinco ammunition, Winchester ammunition, CCI ammunition, Federal Cartridge Company ammunition, and Aguila Ammunition Company ammunition; and a privately made, AR-15 style pistol with no manufacturer markings. All of

these assets were seized by law enforcement from the defendant on November 7, 2019, at 1310 NW 8th Avenue, Ocala, Florida. These assets constitute instrumentalities of the crime charged in Count One of the indictment.

The defendant agrees and consents to the forfeiture of these assets pursuant to any federal criminal, civil judicial or administrative forfeiture action. The defendant also agrees to waive all constitutional, statutory and procedural challenges (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture described herein constitutes an excessive fine, was not properly noticed in the charging instrument, addressed by the Court at the time of the guilty plea, announced at sentencing, or incorporated into the judgment.

The defendant admits and agrees that the conduct described in the Factual Basis below provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government. Pursuant to Rule 32.2(b)(4), the defendant agrees that the preliminary order of forfeiture will satisfy the notice requirement and will be final as to the defendant at the time it is entered. In the event the forfeiture is omitted from the judgment, the defendant agrees that the forfeiture order may be incorporated into the written judgment at any time pursuant to Rule 36.

The defendant agrees to take all steps necessary to identify and locate all property subject to forfeiture and to transfer custody of such property to the United States before the defendant's sentencing. The defendant agrees to be interviewed by the government, prior to and after sentencing, regarding such assets and their connection to criminal conduct. The defendant further agrees to be polygraphed on the issue of assets, if it is deemed necessary by the United States. The defendant agrees that Federal Rule of Criminal Procedure 11 and USSG § 1B1.8 will not protect from forfeiture assets disclosed by the defendant as part of the defendant's cooperation.

The defendant agrees to take all steps necessary to assist the government in obtaining clear title to the forfeitable assets before the defendant's sentencing. In addition to providing full and complete information about forfeitable assets, these steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and signing of any other documents necessary to effectuate such transfers. To that end, the defendant agrees to make a full and complete disclosure of all assets over which defendant exercises control directly or indirectly, including all assets held by nominees, to execute any documents requested by the United States to obtain from any other parties by lawful means any records of assets owned by the defendant, and to consent to the release of the defendant's tax returns for

the previous five years. The defendant agrees to be interviewed by the government, prior to and after sentencing, regarding such assets and their connection to criminal conduct.

The defendant agrees that the United States is not limited to forfeiture of the property specifically identified for forfeiture in this Plea Agreement. If the United States determines that property of the defendant identified for forfeiture cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty; then the United States shall, at its option, be entitled to forfeiture of any other property (substitute assets) of the defendant up to the value of any property described above. The Defendant expressly consents to the forfeiture of any substitute assets sought by the Government. The defendant agrees that forfeiture of substitute assets as authorized herein shall not be deemed an alteration of the defendant's sentence.

Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon the defendant in addition to forfeiture.

The defendant agrees that, in the event the Court determines that the defendant has breached this section of the Plea Agreement, the defendant may be found ineligible for a reduction in the Guidelines calculation for acceptance of responsibility and substantial assistance, and may be eligible for an obstruction of justice enhancement.

The defendant agrees that the forfeiture provisions of this plea agreement are intended to, and will, survive the defendant, notwithstanding the abatement of any underlying criminal conviction after the execution of this agreement. The forfeitability of any particular property pursuant to this agreement shall be determined as if the defendant had survived, and that determination shall be binding upon defendant's heirs, successors and assigns until the agreed forfeiture, including satisfaction of any preliminary order of forfeiture for proceeds.

B. Standard Terms and Conditions

1. Restitution, Special Assessment and Fine

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, shall order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663A, for all offenses described in 18 U.S.C. § 3663A(c)(1); and the Court may order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. §

3663, including restitution as to all counts charged, whether or not the defendant enters a plea of guilty to such counts, and whether or not such counts are dismissed pursuant to this agreement. The defendant further understands that compliance with any restitution payment plan imposed by the Court in no way precludes the United States from simultaneously pursuing other statutory remedies for collecting restitution (28 U.S.C. § 3003(b)(2)), including, but not limited to, garnishment and execution, pursuant to the Mandatory Victims Restitution Act, in order to ensure that the defendant's restitution obligation is satisfied.

On each count to which a plea of guilty is entered, the Court shall impose a special assessment pursuant to 18 U.S.C. § 3013. The special assessment is due on the date of sentencing. The defendant understands that this agreement imposes no limitation as to fine.

2. Supervised Release

The defendant understands that the offense to which the defendant is pleading provides for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

3. Immigration Consequences of Pleading Guilty

The defendant has been advised and understands that, upon conviction, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

4. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count to which defendant pleads, to respond to comments made by the defendant or defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

5. Financial Disclosures

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P. 32(d)(2)(A)(ii), the defendant agrees to complete and submit to the United States Attorney's Office within 30 days of execution of this agreement an affidavit reflecting the defendant's financial condition. The defendant

promises that his financial statement and disclosures will be complete, accurate and truthful and will include all assets in which he has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, dependent, nominee or other third party. The defendant further agrees to execute any documents requested by the United States needed to obtain from any third parties any records of assets owned by the defendant, directly or through a nominee, and, by the execution of this Plea Agreement, consents to the release of the defendant's tax returns for the previous five years. The defendant similarly agrees and authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court. The defendant expressly authorizes the United States Attorney's Office to obtain current credit reports in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

6. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement,

or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

7. Defendant's Waiver of Right to Appeal the Sentence

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground

that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by 18 U.S.C. § 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by 18 U.S.C. § 3742(a).

8. Middle District of Florida Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

9. Filing of Agreement

This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

10. Voluntariness

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and defendant's attorney and without promise of benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense or offenses to which defendant is pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation and advice received from defendant's undersigned counsel (if any). The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. The defendant further understands that if defendant pleads guilty, the Court may ask defendant questions about the offense or offenses to which defendant

pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel (if any), defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offenses to which defendant has pleaded and, if any of such offenses are felonies, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

11. Factual Basis

Defendant is pleading guilty because defendant is in fact guilty. The defendant certifies that defendant does hereby admit that the facts set forth in the attached "Factual Basis," which is incorporated herein by reference, are true, and were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt.

12. Entire Agreement

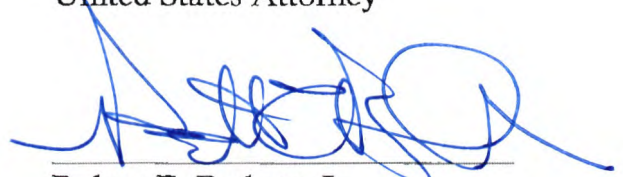
This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.

13. Certification

The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that defendant fully understands its terms.

DATED this 12 day of 08, 2022.

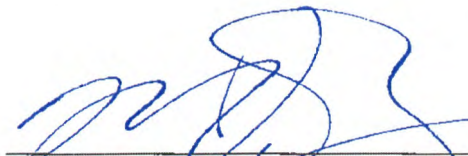
ROGER B. HANDBERG
United States Attorney



Robert E. Bodnar, Jr.
Assistant United States Attorney
Chief, Ocala Division



Keo Ibua Mike
Defendant



Mark O'Brien, Esquire
Attorney for Defendant



For Ilianys Miranda Rivera
Assistant United States Attorney
Criminal Chief

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 5:21-cr-41-JA-PRL

KEO IBUA MIKE

PERSONALIZATION OF ELEMENTS

Do you admit that on or about November 7, 2019, in the Middle District of Florida, you knowingly possessed a firearm and/or ammunition, that is, a Jimenez Arms firearm, a Nodak Spud firearm, Norinco ammunition, Winchester ammunition, CCI ammunition, Federal Cartridge Company ammunition, and Aguila Ammunition Company ammunition?

Do you acknowledge that the firearms and ammunition have traveled in or affected interstate and/or foreign commerce as they were manufactured outside of Florida before being recovered in the Middle District of Florida?

Do you admit that before you possessed the firearms and ammunition, you had been convicted in a court of a crime punishable by imprisonment for a term in excess of one year (commonly referred to as a "felony")?

Do you admit that at the time you possessed the firearms and ammunition, you knew you previously had been convicted of a felony?

Defendant's Initials Km

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 5:21-cr-41-JA-PRL

KEO IBUA MIKE

FACTUAL BASIS

On November 7, 2019, state drug investigators conducted a “knock and talk” at a residence on NW 8th Avenue in Ocala, Florida.¹ As the law enforcement officers approached the front door, they smelled the odor of marijuana coming from the house. Agents knocked on a front porch door, but no one answered.

While City of Ocala police officers secured the exterior of the house, drug agents drafted a state search warrant for the house based upon the odor of marijuana. While the warrant was being prepared, the defendant—KEO IBUA MIKE (MIKE)—exited the house. Officers immediately took him into custody on two outstanding state arrest warrants. At the time of his arrest, the officers noticed that MIKE had white home attic insulation on his person and in his clothing, as depicted below:

¹ Ocala is in Marion County, within the Middle District of Florida.



White insulation in MIKE's hair.

Once the drug agents obtained the state search warrant, they entered the house. Inside, investigators recovered substances consistent with methamphetamine, crack cocaine, and MDMA. Field-tests of the substances confirmed that all the substances were illegal drugs.

A search of the attic revealed white insulation consistent with the home insulation observed on MIKE's person and in his clothing. The white insulation only was present in the attic of the house. Agents also found three loaded firearms wrapped in a sheet sitting on the white insulation in the attic, as depicted below



Firearms in the attic surrounded by white insulation.

MIKE knowingly possessed all of these firearms and the ammunition loaded into them.

The recovered firearms consisted of a Nodak Spud AK-47 style rifle; a Jimenez Arms 9mm handgun; and an AR-15 style pistol that was devoid of any manufacturer information (make, model, serial number, place of manufacture/import, etc.). The AR-15 pistol was loaded with 19 rounds of Federal .223 caliber ammunition and 9 rounds of Aguila .223 caliber ammunition. The recovered firearms are depicted below:



The Nodak Spud AK-47 style rifle.



The Jimenez Arms 9mm handgun.



The AR-15 pistol of unknown manufacture.

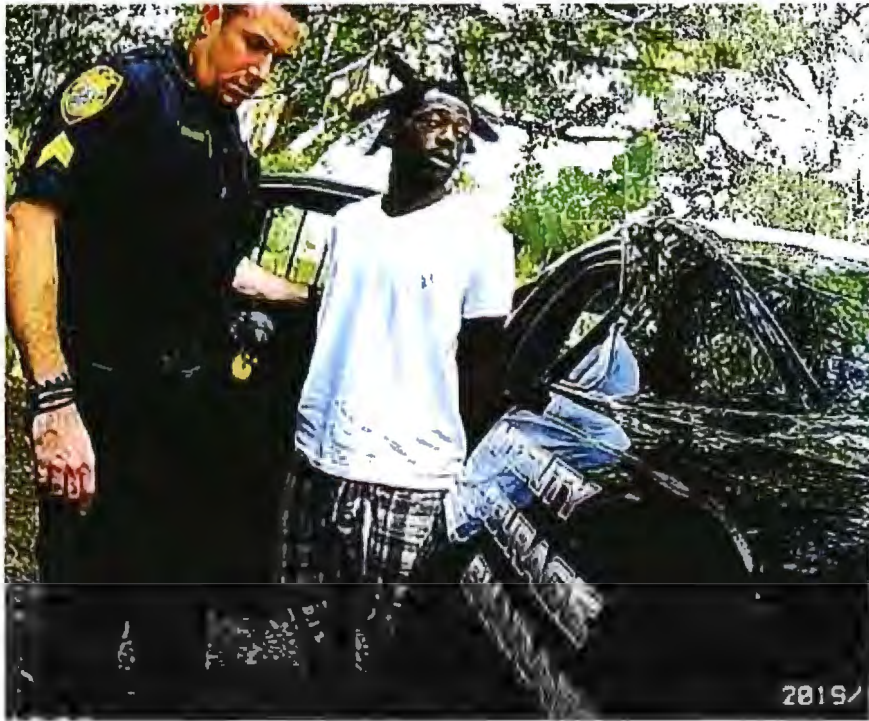
The same day as MIKE's arrest, agents located a photograph on MIKE's publicly posted social media account (Instagram). The photograph showed MIKE at the same residence holding the recovered AR-15 pistol. A caption on the photograph indicated that it had been posted within the "last 21 hours." Clothing worn by MIKE at the time of his arrest, as well as a shoe photographed in the house during the search warrant, matched the clothing worn by MIKE in the Instagram photograph depicting the AR-15 pistol, as shown below:



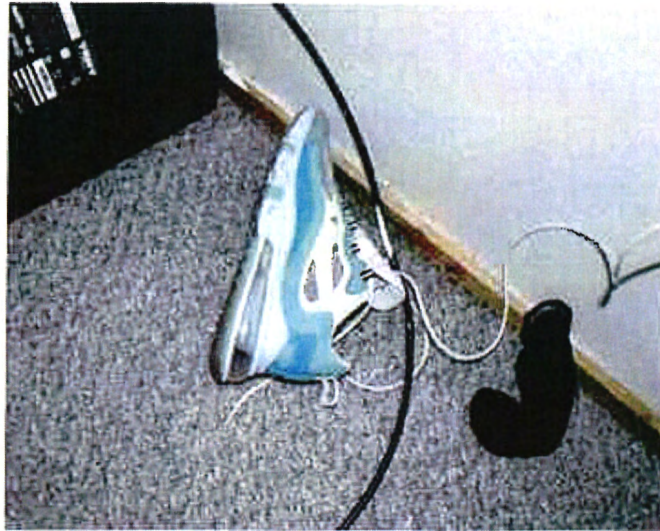
Instagram photo of MIKE in plaid pants/teal shoes with an AR-15 pistol.



Photograph of the residence on NW 8th Avenue.



MIKE wearing plaid pants during his arrest.



A teal shoe observed inside the residence during the search warrant.

On or about March 9, 2020, the FBI obtained a Federal DNA search warrant for MIKE. Federal agents subsequently obtained a sample of his DNA via buccal swabs. These buccal swabs subsequently were submitted to the FBI laboratory for analysis along with DNA swabs obtained from the three recovered firearms.

The FBI laboratory determined that MIKE's DNA matched the DNA profile developed from the swabs of the recovered Jimenez 9mm handgun, with a likelihood ratio of 270 million. This result showed "very strong support" for inclusion of MIKE's DNA as the source of the profile developed from that firearm. MIKE's DNA also matched the DNA profile developed from the Nodak Spud AK-47 rifle, with a likelihood ratio of 250 quadrillion. This result also showed "very strong support" for inclusion of MIKE's DNA

as the source of the profile developed from that firearm. MIKE's DNA also was found on the magazine for this rifle.

A criminal history records search on MIKE showed that he is a previously convicted felon. Furthermore, the Florida Office of Executive Clemency confirmed that MIKE has never had his civil right to keep and bear firearms restored following any of his felony convictions.

MIKE has the following felony convictions:

Aggravated Assault with a Firearm

Marion County Circuit Court Case No. 422008CF001516CFA

Disposition Date: May 14, 2009

Sentence: 3 years' state prison

Failure to Appear Felony Pretrial Conference

Marion County Circuit Court Case No. 422016CF002138CFA:

Disposition Date: January 22, 2018

Sentence: 180 days' county jail

**Possession of a Firearm and Ammunition Affecting Commerce
by a Convicted Felon**

United States District Court, Middle District of Florida

Case No. 5:13-cr-5-Oc-22PRL:

Disposition Date: February 27, 2014

Sentence: 37 months' federal prison

Based on the nature of MIKE's prior felony convictions, the recency of those convictions, and the multi-year prison dispositions imposed, MIKE knew in November 2019 that he already had been convicted of an offense punishable by more than a year of imprisonment (a felony).

The FBI also conducted an examination of the recovered firearms and ammunition for the purpose of making a nexus determination. The FBI determined that the Nodak Spud AK-47 style rifle was manufactured in Edina, Minnesota. The sixteen rounds of ammunition that were recovered with the rifle were manufactured by Norinco (China North Industries Corporation) in China. This rifle and ammunition, therefore, have affected interstate and/or foreign commerce.

The Jimenez Arms 9mm handgun is stamped with the manufacturer information indicating its place of manufacture as Nevada. A subsequent firearms trace conducted by ATF showed that the handgun had been shipped in 2013 by Jimenez Arms in Nevada to the gun range in Florida. The 9mm ammunition from the Jimenez handgun consisted of two separate brands—Winchester, made in East Alton, Illinois, and CCI, made in Lewiston, Idaho. Accordingly, this firearm and ammunition have crossed multiple state lines and affected interstate commerce.

The AR-15 style pistol is a privately made firearm that does not have any manufacturer markings. The FBI, therefore, could not determine whether this firearm ever had affected commerce. Two types of .223 caliber ammunition (with distinct manufacturer markings) had been loaded into the firearm—19 rounds made by the Federal Cartridge Company in either Anoka,

Minnesota, or Independence, Missouri; 9 rounds made by the Aguila Ammunition Company in Cuernavaca, Morales, Mexico. The Aguila ammunition would have been imported into the United States through Texas Armament and Technology in Conroe, Texas. Accordingly, the ammunition from the AR-15 pistol had traveled in or affected interstate and/or foreign commerce.