

AO 91 (Rev. 11-11) Criminal Complaint

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FILED
7/23/2020THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURTUNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

DARRYL PHILLIPS
also known as "Shorty Durk"

CASE NUMBER: 20 CR 392

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about July 21, 2020, at Chicago, in the Northern District of Illinois, Eastern Division, the defendant violated:

*Code Section**Offense Description*Title 18, United States Code, Section
922(o)

possession of a machinegun

This criminal complaint is based upon these facts:

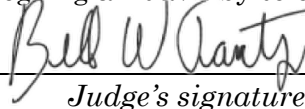
X Continued on the attached sheet.

/s/ Christopher J Labno (w/ permission BWJ)

CHRISTOPHER J. LABNO

Special Agent, Bureau of Alcohol, Tobacco,
Firearms & Explosives (ATF)

Pursuant to Fed. R. Crim. P. 4.1, this complaint is presented by reliable electronic means. The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone.

Date: July 23, 2020

 Judge's signature
City and state: Chicago, IllinoisBETH W. JANTZ, U.S. Magistrate Judge

Printed name and title

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

AFFIDAVIT

I, CHRISTOPHER J. LABNO, being duly sworn, state as follows:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) and have been so employed since approximately 2001. I am currently assigned to the Chicago Field Office, Organized Crime Drug Enforcement Task Force—Chicago I Enforcement Group. My responsibilities include the investigation of violations of law as they relate to federal firearms offenses, including the unlawful possession of firearms or ammunition by convicted felons, firearms trafficking, violent crime, and narcotics trafficking. I employ investigative tools such as the use of informants and witnesses, surveillance, controlled purchases of firearms and narcotics, firearms traces, telephone toll analysis, and the execution of both search warrants and arrests warrants.

2. This affidavit is submitted in support of a criminal complaint alleging that DARRYL PHILLIPS has violated Title 18, United States Code, Section 922(o). Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of a criminal complaint charging PHILLIPS with possession of a machinegun, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the complaint.

3. This affidavit is based on my personal observations, my training and experience, and information provided to me by other law enforcement agents.

FACTS SUPPORTING PROBABLE CAUSE

A. PHILLIPS' Possession of a Machinegun

4. On July 22, 2020, at approximately 3:00 a.m., ATF agents and task force officers and Chicago Police Department officers obtained a search warrant¹ issued by a Circuit Court of Cook County judge for DARRYL PHILLIPS' person and PHILLIPS' apartment located at 2718 West Flournoy Street, 2nd Floor, in Chicago. The search warrant authorized the seizure of, among other things, a semi-automatic handgun and handguns with automatic switches. At approximately 4:00 a.m., law enforcement officers executed the search warrant at the above listed location.

5. Specifically, law enforcement officers knocked on the door, announced their presence by stating, "police" and "search warrant," and demanded entry. After waiting a reasonable amount of time, law enforcement officers forced entry and conducted a protective sweep of the apartment, locating PHILLIPS alone in a bedroom. Once inside this room, law enforcement officers ordered PHILLIPS to the ground and detained him pursuant to the search warrant. After the apartment was secure, law enforcement officers conducted a systematic search of the apartment. Law enforcement officers recovered two firearms, suspect crack cocaine, narcotics packaging, a scale, an improvised grinder, a strainer and several bundles of cash from the bedroom where they found PHILLIPS.

¹ At the Court's request, the government will provide a copy of this search warrant.

6. Upon closer examination, I observed that one of the firearms, a Glock Model 19, 9x19mm pistol bearing serial number TTU553, was equipped with an auto-sear device, as pictured below.



Based upon my training and experience, I know that this auto-sear, also called a “Glock switch” or a “switch,” attaches to the slide of a handgun in place of the slide back plate. Once a switch is installed, it allows the firearm to function as a machinegun, meaning the firearm can automatically shoot more than one shot without manual reloading by a single press of the trigger. The switch installed on the Glock Model 19 found in PHILLIPS’ possession thus transformed this firearm from a semi-automatic pistol to a machinegun.²

² Pursuant to Title 26, United States Code, Section 5845(b), a machinegun is defined as “any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.”

7. During the search, law enforcement officers advised PHILLIPS of his *Miranda* rights. PHILLIPS waived his rights and agreed to speak to the law enforcement officers. He admitted that the two firearms recovered from the bedroom, as described above, were his and he told law enforcement officers where he stored the firearms – in his bedroom closet. Law enforcement officers then arrested PHILLIPS and transported him to the 11th District police station.

8. At the police station, law enforcement agents again advised PHILLIPS of his *Miranda* rights. PHILLIPS waived his rights by signing a written waiver and agreed to speak to law enforcement. The interview was audio recorded. During the interview, PHILLIPS admitted that he purchased the Glock pistol from Individual A for \$1,200³ with the switch already on it, that he has shot the firearm, and that it jams approximately every 20 rounds. PHILLIPS further admitted that this firearm functioned as a machinegun at the time he purchased it from Individual A, approximately one month prior to law enforcement executing the search warrant at his apartment.

B. Interstate Nexus and Field Test of the Glock Machinegun

9. I have received extensive training regarding the manufacture and origin of firearms. Based upon my training and experience, I know that the Gun Control Act of 1968 requires firearm manufacturers and importers to mark the frame or receiver

³ Based on my training and experience I know that \$1,200 is significantly more than the \$400-\$500 an individual would pay on the street for a Glock pistol and that this premium pricing indicates that PHILLIPS paid extra for the switch and the machinegun capability it affords.

of a firearm with a country of origin if the firearm is not manufactured in the United States, and a city and state of the licensed importer that imported the firearm. An examination of the Glock Model 19 described above revealed that the markings "Made in Austria," "Glock, Inc," and "Smyrna, GA" are engraved on the frame. In addition, based upon my training and experience, I know that Glock, Inc. does not manufacture firearms in Illinois, and that this firearm was manufactured outside of Illinois. Therefore, in order for the foregoing firearm to have been recovered in Illinois, it had to have moved in interstate or foreign commerce.

10. I, along with another ATF agent, conducted a field test of the Glock Model 19 described above. The test revealed that the firearm will function as a machinegun, that is, more than one round of ammunition can be fired with a single press of the trigger.

CONCLUSION

11. For all these reasons, there is probable cause to believe that PHILLIPS possessed a machinegun, in violation of Title 18, United States Code, Section 922(o).

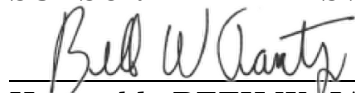
FURTHER AFFIANT SAYETH NOT.

/s/ Christopher J. Labno (w/ permission BWJ)

CHRISTOPHER J. LABNO

Special Agent, Bureau of Alcohol, Tobacco,
Firearms & Explosives

SUBSCRIBED AND SWORN to before me on July 23, 2020.



Honorable BETH W. JANTZ

United States Magistrate Judge