

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

FILED BY MB D.C.

Sep 30, 2024

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - FTP

United States of America

v.

MICHAEL JOHN PELLICIONE,

Case No.

24-MJ-00113-SMM

Defendant(s)**CRIMINAL COMPLAINT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 9/8/2021 until or about 9/5/2023 in the county of St. Lucie in the
Southern District of Florida, the defendant(s) violated:*Code Section*18 U.S.C. § 922(b)(5)
18 U.S.C. § 922(t)*Offense Description*Willful Sale of Firearms without Proper Record Keeping
Knowingly conducting Transfer of Firearms Without A Background Check

This criminal complaint is based on these facts:

-SEE ATTACHED AFFIDAVIT-

☒ Continued on the attached sheet.

Complainant's signature

Nicole Canavan, Special Agent, ATF

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by videoconference.

Date: September 30, 2024

Judge's signature

City and state: Fort Pierce, Florida

Shaniek Mills Maynard, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT OF
NICOLE K CANAVAN, SPECIAL AGENT
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES (ATF)
IN SUPPORT OF AN APPLICATION FOR A CRIMINAL COMPLAINT**

I, Nicole K Canavan, being duly sworn, depose and state the following:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), in Fort Pierce, Florida, and have been employed since July 2020. I am a graduate of the Federal Law Enforcement Training Center and the ATF National Academy in Glynco, Georgia. Prior to my employment with ATF, I was employed as a Police Officer for the Supreme Court of the United States Police Department, in Washington D.C. from 2015 to 2020. I have received training in the investigation and enforcement of federal criminal laws and have participated in numerous search warrants and seizures of firearms.

2. I am a law enforcement officer within the meaning of Title 18, U.S.C. § 2510 (7). That is, I am an officer of the United States, who is empowered by law to conduct investigations and to make arrest of the offenses enumerated in Title 18, U.S.C. § 922.

3. This Affidavit is being submitted for the sole purpose of establishing probable cause that Michael John PELLICIONE ("PELLICIONE"), who solely owns and operates Mikes Gun Shop, a Federal Firearms Licensee (FFL), willfully sold firearms without proper record keeping in violation of Title 18, U.S.C. § 922(b)(5), and knowingly conducted a transfer of firearms without a background check in violation of Title 18 U.S.C. § 922(t). For the purposes of this affidavit and the firearm transactions that take place within, PELLICIONE is operating in an FFL capacity.

4. The information set forth in this affidavit was obtained by me through my own

participation in this investigation, including witness interviews and record reviews, as well as from conversations with others, ATF Industries Operation Inspectors and ATF Special Agents, and other law enforcement personnel. This affidavit is intended to show merely that there is sufficient probable cause for violations, Title 18, U.S.C. § 922 (b)(5) and Title 18, U.S.C. § 922 (t). This Affidavit does not include each and every fact known to me, but rather contains sufficient facts to establish probable cause that PELLICIONE committed the offenses set forth herein.

5. Based upon my experience and training as an ATF Special Agent, I am aware that a Firearms Transaction Record, ATF Form 4473, is a seven-page form, required to be completed when a person attempts to purchase a firearm from a Federal Firearms License (FFL) holder, such as an individual authorized to sell firearms.. The Transferee (Buyer) must complete, sign and date Section A of the Firearms Transaction Record or ATF Form 4473, used for over-the-counter firearms sales, prior to delivery of the firearm(s). I am further aware that the FFL must verify the identity of the buyer and must complete and sign Section B of ATF Form 4473. The buyer must be present for the completion of ATF Form 4473, which has been issued by a government entity containing the Buyer's name, residence address, date of birth, and photograph.

6. When an FFL is conducting a transaction for a pawn redemption, they must utilize line number 7 on ATF Form 4473 which states "Check if any part of this transaction is a pawn redemption." When an FFL is conducting a transaction for a private party transfer, they must utilize line number 8 on ATF Form 4473 which states "Check if any part of this transaction is to facilitate a private party transfer." When an FFL conducts either a pawn redemption or a private party transfer, the buyer must still complete the required ATF Form

4473 and the FFL must still conduct a background check of the purchaser, prior to delivering the firearm.

7. As part of its required business records, pursuant to 27 CFR 478.129(b), as amended, all ATF Forms 4473, to include those where a sale, delivery, or transfer did not take place, must be retained until business or licensed activity is discontinued. They can keep the forms on paper or electronically, but the electronic version must be in an unalterable format.

8. Based upon my experience and training as an ATF Special Agent, I am also aware that an FFL is required to keep a firearms acquisition and disposition (A&D) record, also known as a "bound book," which is a permanently bound book or an orderly arrangement of loose-leaf pages which must be maintained at the business premises. The format must follow that prescribed in the regulations and the pages must be numbered consecutively. An FFL is required to record in the A&D book all of the firearms that the FFL receives or makes and then shows where each of those firearms are – whether they are still in the FFL's inventory or where they went if they were sold or transferred. This includes firearms acquired for service or repair, consignment, or firearms acquired as part of that FFL's business inventory to be resold. The requirements of the A&D book include recording the type of firearm, the make, model, caliber, serial number, the date and from whom the firearm was received, that person's address, as well as the name, date, and address of the person to whom the firearm was sold or transferred.

9. Based upon my experience and training as an ATF Special Agent, I am also aware that FFLs are required by law to conduct background checks on all buyers attempting to purchase a firearm to ensure that the buyer is not legally prohibited from owning a firearm.

Mikes Gun Shop

10. Mikes Gun Shop has been in business as a Federal Firearms Licensee (FFL #1-59-111-01-6K-43922) since 1993. Mikes Gun Shop is an FFL operating out of his personal residence, located at 2402 SE Trail Avenue, Port Saint Lucie, Saint Lucie County, Florida 34952.

11. As an FFL, Mikes Gun Shop is subject to inspection by the ATF. The last inspection by ATF Industry Operations was in March of 2024. Prior to closing out the inspection, ATF Industry Operations met with PELLICIONE and provided him with the Acknowledgement of Federal Firearms Regulations, which PELLICIONE signed and acknowledged. ATF Industry Operators must review Federal Firearms Regulations as a part of every inspection with an FFL and have them sign the acknowledgement.

PROBABLE CAUSE

12. On April 1, 2024, I reviewed an ATF ETRACE report and discovered two firearms traces, where one (1) firearm was recovered in Canada and one in Jamaica. ETRACE is an ATF website that traces the origin of a firearm after it has been recovered by law enforcement to the original purchaser using the identifying marks of the recovered firearm. The trace report for both international firearm recoveries showed the original purchaser, J.F., of Port Saint Lucie, Saint Lucie County, Florida. The firearm that was recovered in Canada was purchased at Mikes Gun Shop, on September 8, 2021. The firearm that was recovered in Jamaica was purchased on May 26, 2023, from Cash America Pawn, in Port Saint Lucie, Saint Lucie County, Florida and recovered on September 5, 2023, only 102 days later.

13. I reviewed all firearms traces in Jamaica that originated in Port Saint Lucie, Saint Lucie County, Florida, over the course of the last year, and discovered three other individuals, one being a law enforcement officer (LEO) with the Port Saint Lucie Police Department. ATF Special Agents interviewed the LEO, regarding the HS Productt Hellcat 9mm handgun bearing serial number BE210888, that was recovered in Jamaica. The LEO stated he sold the Hellcat 9mm handgun to Mikes Gun Shop for approximately \$300.00. The LEO stated he sold several firearms to Mikes Gun Shop, over the last ten (10) years. The LEO stated PELLICIONE assured him that the firearms would go to customers of the store, who would pass a background check. The LEO also stated he would call PELLICIONE and ask who purchased the Hellcat 9mm handgun, after he sold it to Mikes Gun Shop. The LEO followed up and stated PELLICIONE sold the firearm to K. B., a family member of J.F., one of his regular customers.

14. On April 3, 2024, ATF Special Agents interviewed PELLICIONE, at his residence where he also operates Mikes Gun Shop. PELLICIONE stated he was expecting us and provided Special Agents ATF Forms 4473 for K.B., V.W., D.F., as well as J.F. PELLICIONE stated that K.B., V.W., D.F., are close associates of J.F. and have all purchased firearms from Mikes Gun Shop. PELLICIONE claimed K.B. purchased the Hellcat 9mm handgun through a private sale and therefore he, PELLICIONE, did not have any documentation, related to the sale, including an ATF Form 4473 or background check.

15. I, along with Homeland Security (HSI) Special Agent Eric Urgo, interviewed J.F. who, after being advised of and waiving his *Miranda* warnings, admitted he purchased approximately 30 firearms from Mikes Gun Shop for others, located in the Fort

Lauderdale/Miami area. J.F. admitted that he would receive a phone call or text message stating where to meet these individuals to deliver the firearms. J.F. confessed to asking three female associates, K.B., V.W. and D.F., to purchase firearms on his behalf from Mikes Gun Shop. J.F. referred to PELLICIONE as "Uncle Mike." J.F. consented for Special Agents to conduct an extraction of his cellular phone.

16. According to ATF Forms 4473 obtained from Mikes Gun Shop, K.B., V.W., D.F., and J.F. purchased approximately 38 firearms.

17. In a post Miranda interview, PELLICIONE admitted to selling J.F. approximately forty (40) firearms. PELLICIONE admitted that it is standard practice for him to facilitate a private party transfer of firearms "off books." Based on my training and experience as an ATF Special Agent, "off books" refers to not documenting the firearm in the A&D book or requiring the buyer to fill out ATF Form 4473 or conduct a background check. PELLICIONE stated when a customer wanted to sell their used firearm, he contacted regular customers to see if they were interested in buying the used firearm. PELLICIONE claimed he then set up a date and a time for his customers to meet and conduct the firearm transfer. PELLICIONE claimed he also provided the bills of sale for the transaction. PELLICIONE said that the customers would meet across the street from his business, so that he was not involved in the transfer. PELLICIONE stated the only time he had possession of a customer's firearm and did not log it in his A&D book, was when the LEO left the Hellcat 9mm firearm at Mikes Gun Shop. PELLICIONE admitted that he did not log the Hellcat 9mm handgun in his A&D book, did not conduct a background check, or require the buyer to fill an ATF Form 4473 for the firearm.

18. I then showed PELLICIONE the bills of sale that were provided by the LEO, for two additional firearms that he sold to PELLICIONE, in June of 2023. J.F. was listed as the buyer on both bills of sale. Contrary to what PELLICIONE had previously stated, he then admitted that, in addition to the LEO Hellcat 9mm handgun, he did not properly document the other two firearms, from June of 2023, in his A&D book. He also did not require J.F., the buyer, to complete an ATF Form 4473. He also did not conduct a background check.

19. I asked PELLICIONE to bring any relevant documentation, to the interview, including his A&D books and ATF Form 4473s, from the last several years. I noticed an envelope labeled 2023 4473's with a number "13" handwritten underneath. After I asked PELLICIONE what the number "13" was for, PELLICIONE admitted to conducting 13 off-book sales in the year of 2023.

20. According to the cell phone extraction of J.F.'s phone, a text stream between J.F. and PELLICIONE reveals conversations regarding firearms purchases and sales, dating back to May 2021. PELLICIONE sent a total of five (5) texts to J.F. with pictures of firearms, descriptions and pricing and using the terms "OFF THE BOOKS," or "OTB," or "NO PAPER."

21. On January 23, 2024, PELLICIONE texted J.F. stating, "LT SELLING NEW 9MM SAINT W/ GOODIES\$1000 OTD," referring to the LEO selling a firearm to PELLICIONE. "OTD" stands for "Out the door." I contacted the LEO, who confirmed that he sold the Saint 9mm firearm to PELLICIONE. He stated that he has not received a receipt for the sale of the Saint 9mm firearm and believed that PELLICIONE had not yet sold it.

22. Nearly three months later, on or about April 17, 2024, the LEO received (3) bills of sale that were dropped off at his place of employment, on behalf of PELLICONE for firearms

the LEO has sold to PELLICIONE, in 2024. One (1) of the bills of sale was for the Saint 9mm firearm, with the listed transfer date of April 7, 2024.

23. On April 18, 2024, ATF and HSI Special Agents executed a federal search warrant on Mikes Gun Shop (Case No. 24-mj-00038-SMM). During the search, agents found the Springfield Armory model Saint 9mm rifle, bearing serial number ST558451. The Saint 9mm firearm was listed in PELLICIONE's A&D book, with an acquisition date of April 17, 2024. The person listed whom he received the firearm from is Chris Baker. However, as stated in paragraph 20, the Saint 9mm firearm had already been in PELLICIONE's possession, from the LEO, in January of 2024.

24. During an interview of PELLICIONE, following the execution of the search warrant, after being advised of and waiving his Miranda warnings, he admitted that customers dropped firearms off to him, he took pictures of the firearms and then sent them to other interested customers. I asked PELLICIONE why he would lie to law enforcement previously, and PELLICIONE replied, "What am I supposed to do, self-incriminate?"

25. Regarding the three (3) Bills of Sale the LEO received, mentioned in paragraph 21, PELLICIONE admitted he did not document the three (3) firearms in his A&D book, did not have the listed buyers fill out an ATF Form 4473, or conduct a background check. Following the interview, I could not locate the envelope labeled 2023 4473's with the "13" handwritten, mentioned in paragraph 19. When I asked PELLICIONE about the location of the envelope, he stated he threw it in the trash and replaced the 4473's with new envelopes.

26. On August 9, 2024, PELLICIONE relinquished his FFL License and turned in all related paperwork.

CONCLUSION

27. Based on all of the foregoing, I submit there is probable cause to believe Michael John PELLICIONE, who solely owned and operated Mikes Gun Shop FFL, willfully sold firearms without proper record keeping in violation of Title 18 U.S.C. § 922(b)(5), and knowingly conducted a transfer of firearms without a background check in violation of Title 18 U.S.C. § 922(t).

FURTHER YOUR AFFIANT SAYETH NAUGHT.



NICOLE K. CANAVAN

Special Agent

Bureau of Alcohol, Tobacco, and Firearms

Sworn to before me, by telephone and videoconference, in accordance with the requirements of Rule 4.1 of the Federal Rules of Criminal Procedure, this 30th day of September 2024, in Fort Pierce, Florida.





SHANIEK MILLS MAYNARD

UNITED STATES MAGISTRATE JUDGE