

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA, §
Plaintiff, §
v. § CIVIL ACTION NO. _____
§
43 FIREARMS AND §
491 ROUNDS of AMMUNITION, §
Defendants. §

**VERIFIED COMPLAINT FOR CIVIL FORFEITURE
IN REM AND NOTICE TO POTENTIAL CLAIMANTS**

The United States of America, Plaintiff, files this action for forfeiture *in rem* against the Defendant Properties. The United States alleges on information and belief as follows:

Jurisdiction and Venue

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1355 and 1395. Venue is proper because the Defendant Properties were found and seized in the Southern District of Texas.

2. Defendants *in rem* are forty-three (43) Firearms, and 491 Rounds of Ammunition. The firearms and ammunition are listed on Exhibits A and B, which were seized from the residence of Arturo GARCIA in Cypress, Texas, respectively, on January 3, 2022 and on January 20, 2022. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1355, 1391(b) and 1395(a) and (b).

The Defendant Property

3. The Defendant Properties are firearms and ammunitions seized from Arturo GARCIA's residence on January 3, 2022 (Exhibit A) and January 20, 2022 (Exhibit B), which are forty-three (43) Firearms ("Defendant Property 1") and 491 Rounds of Ammunition ("Defendant Property 2"), collectively "Defendant Properties."

Statutory Basis for Forfeiture

4. This is a civil forfeiture action *in rem* pursuant to 18 U.S.C. §924(d)(1). 18 U.S.C. § 924(d)(1) provides for the forfeiture of any firearm or ammunition involved in or used in any knowing violation of 18 U.S.C. §§ 922(a)(1)(A) and (a)(6).

5. Under 18 U.S.C. § 922(a)(1)(A), it is unlawful for any person, except a licensed dealer, to engage in the business of dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce.

6. Under 18 U.S.C. § 922(a)(6), it is unlawful for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed dealer to knowingly make any false or fictitious statement intended or likely to deceive such dealer with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of 18 U.S.C. Chapter 44 (the “Gun Control Act”).

Factual Basis

7. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) received information from multiple sales reports that Arturo GARCIA and his wife had purchased approximately fifty-eight (58) firearms from on or about April 27, 2020 through May 18, 2020 (acquired within a 23-day time frame). Many of the aforementioned firearms purchased by Arturo GARCIA and his wife are considered to be weapons-of-choice by Mexican Drug Trafficking Organizations (DTOs). It was also learned that on May 28, 2020, Arturo GARCIA was arrested for assault causing bodily injury to a family member and terroristic threats of family/household; a protection order was put into place subsequent to the aforementioned arrests (note: the charges have since been dismissed and the protection order has been lifted). Attempts were made to make contact with Arturo GARCIA and his wife to discuss the current status of their firearms purchasing

activity and to assess if Arturo GARCIA was in violation of his then current protection order (and possibly prohibited from acquiring/possessing firearms under Federal law). Both Arturo GARCIA and his wife were evasive and all attempts to meet met with negative results.

8. On or about December 27, 2021, ATF SA Park received information from ATF Nashville that Arturo GARCIA purchased two (2) fifty-caliber firearms (Barrett 82A1, 50BMG) within a two-month period. One of the firearms, purchased on October 12, 2021, had already been recovered in Zacatecas, Mexico on December 23, 2021 (72 days time-to-crime). ATF is aware that fifty-caliber firearms are in high demand among Mexican Drug Trafficking Organizations and that Zacatecas is an area of Mexico associated with violence related to drug trafficking. The second fifty-caliber firearm was shipped from Nashville to an FFL in Cypress, Texas, to be picked up by Arturo GARCIA.

9. It was confirmed that Arturo GARCIA does not possess a Federal Firearms License (FFL) and is prohibited from engaging in the business of selling firearms without a license.

10. On January 3, 2022, Arturo GARCIA went inside the FFL located in Cypress, Texas and filled out an ATF Form 4473 for two (2) Barrett .50 caliber rifles. Following the acquisition of the aforementioned rifles, ATF Agents made contact with Arturo GARCIA at the FFL. GARCIA confirmed that he had sold firearms in the past and specifically confirmed that he previously sold two (2) .50 caliber rifles at a gun show. He recalled the sales taking place around September to unknown individuals and indicated that he paid approximately \$9,000.00 per .50 Caliber rifle and sold the same rifles for \$9,500.00 each.

11. On January 3, 2022, Arturo GARCIA agreed to have ATF Agents confirm his current firearms inventory at his residence. Arturo GARCIA allowed Agents to inspect his firearms inventory in the garage of his residence. There were eighteen (18) firearms located in the

garage in total. Arturo GARCIA stated that an additional five (5) firearms were inside of his residence and one (1) firearm inside of his vehicle for personal protection; these six (6) additional firearms were not seized. It was then learned that the remainder of the Arturo GARCIA'S firearm inventory was enroute to the Arturo GARCIA residence from an unknown shop/garage. The additional fifteen (15) firearms were dropped off by an individual in a pick-up truck.

12. On January 3, 2022, Arturo GARCIA provided consent to search his phone. The text messages from his phone yielded information of at least two (2) potential buyers for his firearms. One individual readily admitted to being unable to legally possess a firearm and one (1) individual asked GARCIA about a specific firearm to resell to another individual. Arturo GARCIA showed ATF agents his purchase history using GunBroker.com. The purchase history revealed more than 200 firearms during the previous 90-day period. A total of thirty-three (33) firearms out of the at least two hundred (200) purchased firearm in the past ninety (90) days, were accounted for and seized on January 3, 2022. Agents explained to GARCIA that he cannot purchase firearms with the intent to sell guns and seized his firearms, and that he has been engaging in the business of selling firearms without a license and being untruthful when executing the ATF Form 4473s, when acquiring firearms for resale.

13. On January 11, 2022, Arturo GARCIA was presented with an ATF warning notice of unlicensed firearms dealing in violation of Federal Law. Arturo GARCIA signed and acknowledged receiving and understanding the notice.

14. It was learned that Arturo GARCIA had acquired an additional six (6) high-caliber rifles after being verbally advised on January 3, 2022 that he had been engaging in the business of selling firearms without a license. Arturo GARCIA explained to Agents on January 11, 2022, that the aforementioned firearms are currently in his possession and that he intends to keep them until

he is licensed to sell them. He agreed to relinquish the additional firearms on a later date to the ATF, but then refused to do so.

15. On January 19, 2022, ATF obtained a federal search warrant for Arturo GARCIA'S residence, to include the seizure of additional firearms possessed in violation of Title 18 U.S.C. §§ 922(a)(1)(A) and 922(a)(6).

16. During the execution of the federal search warrant at the GARCIA residence on January 20, 2022, five (5) firearms and assorted ammunition were located in Arturo GARCIA'S bedroom closet. An additional three (3) firearms and assorted ammunition were located inside a bag inside Arturo GARCIA'S bedroom.

17. During the execution of the federal search warrant on January 20, 2022, at the GARCIA residence, a black bag belonging to Arturo GARCIA and a Glock gun box was located in the hallway towards the garage. Two (2) firearms were located with assorted ammunition (one inside the Glock gun box and the second inside the black bag). Also located within the black bag was United States currency totaling \$5,995.00, seven (7) bills of sale documents for firearms, along with five (5) blank firearm bills of sale. Four (4) of the firearm bills of sale were partially filled out with a signature of the buyer, but no firearm information.

18. The six (6) additional high caliber rifles that Arturo GARCIA acquired on, or after January 3, 2022, were not located during the search warrant.

19. It was learned that six (6) firearm traces to date have been identified with Arturo GARCIA being the original purchaser of the firearms. Many of the aforementioned traces reflect a short time-to-crime (TTC), indicating a pattern of engaging in the business of firearms dealing, straw purchasing and/or firearms trafficking. The six (6) firearms traces indicate the following:

- Purchased: 05/18/20 Recovered: 01/31/22 (Houston) (623 days TTC)

- Purchased: 06/10/20 Recovered: 11/11/20 (Sugarland) (154 days TTC)
- Purchased: 08/22/21 Recovered: 11/13/21 (Mexico) (83 days TTC)
- Purchased: 10/12/21 Recovered: 12/23/21 (Mexico) (72 days TTC)
- Purchased: 10/24/21 Recovered: 12/24/21 (Mexico) (61 days TTC)
- Purchased: 11/05/21 Recovered: 12/05/21 (Houston) (30 days TTC)

Conclusion

20. The Defendant Properties are subject to forfeiture because they were involved in a knowing violation of 18 U.S.C. §§ 922(a)(1)(A) and/or (a)(6).

Notice to Any Potential Claimants

YOU ARE HEREBY NOTIFIED that if you assert an interest in the Defendant Properties which is subject to forfeiture and want to contest the forfeiture, you must file a verified claim which fulfills the requirements set forth in Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. A verified claim must be filed no later than thirty-five (35) days from the date this Complaint has been sent in accordance of Rule G(4)(b).

An answer or motion under Rule 12 of the Federal Rules of Civil Procedure must be filed no later than twenty-one (21) days after filing the verified claim. The claim and answer must be filed with the United States District Clerk for the Southern District of Texas, either electronically or at the United States Courthouse, 515 Rusk Avenue, Houston, Texas 77002. A copy must be served upon the undersigned Assistant United States Attorney at the United States Attorney's Office, 1000 Louisiana, Suite 2300, Houston, Texas 77002.

Requested Relief

Wherefore, the United States of America requests that judgement of forfeiture be entered against Defendant Properties in favor of the United States of America under 18 U.S.C. § 924(d)(1) in addition to such costs and other relief to which the United States of America may be entitled.

Respectfully submitted,

JENNIFER B. LOWERY
UNITED STATES ATTORNEY

By: *Yifei Zheng*

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Verification

I, Jae Park, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, declare under the penalty of perjury, as provided by 28 U.S.C. § 1746, that I have read the forgoing Verified Complaint for Civil Forfeiture In Rem and Notice to Potential Claimants, and that the facts stated in paragraphs seven through nineteen of the Complaint are based upon my personal knowledge, upon information obtained from other law enforcement personnel, or upon information I obtained in the course of my investigation. Those facts are true and correct to the best of my knowledge and belief.

Executed on May 12, 2022.



Jae Park
Special Agent
Bureau of Alcohol, Tobacco, Firearms, and Explosives