

**FILED**

**SEP 24 2015**

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY A. JESSEN  
DEPUTY CLERK

1 BENJAMIN B. WAGNER  
United States Attorney  
2 BRIAN DELANEY  
Assistant United States Attorney  
3 2500 Tulare Street, Suite 4401  
Fresno, CA 93721  
4 (559) 497-4000  
(559) 497-4099 FAX

5 VANITA GUPTA  
Principal Deputy Assistant Attorney General  
6 SAMANTHA TREPEL  
Trial Attorney  
7 Civil Rights Division  
8 U.S. Department of Justice  
9 950 Pennsylvania Ave. NW  
Washington, DC 20530  
10 (202) 514-3204  
(202) 514-8336 FAXJ

11 Attorneys for Plaintiff  
United States of America

12  
13 IN THE UNITED STATES DISTRICT COURT  
14 EASTERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,  
16  
17 Plaintiff,  
18 v.  
19 JUSTIN WHITTINGTON,  
20 Defendant.

CASE NO. **1:15 CR 00265 AWIBAM**  
42 U.S.C. § 3631 – Interference with Housing Rights  
18 U.S.C. § 924(c) – Use of a Firearm During a  
Crime of Violence  
26 U.S.C. § 5861 – Unlawful Possession of a Firearm  
18 U.S.C. § 1001 – False Statements

21  
22 **INDICTMENT**

23 **INTRODUCTION:**

24 At all times relevant to this Indictment:

- 25 1. Defendant JUSTIN WHITTINGTON lived in Oildale, California.  
26 2. J.N. a Latino man, lived with his wife and children in Oildale, California.

27 ///

28 ///

1 **COUNT ONE: [42 U.S.C. § 3631 – Interference with Housing Rights]**

2 The Grand Jury further charges that on or about December 19, 2012, in the County of Kern, State  
3 and Eastern District of California, the defendant,

4 JUSTIN WHITTINGTON,

5 by force and threat of force, willfully intimidated and interfered with, and attempted to injure,  
6 intimidate, and interfere with J.N. because of his race, color, and national origin and because he was  
7 occupying a dwelling. Specifically, defendant WHITTINGTON, while shouting racist slurs at J.N.,  
8 fired a shotgun while J.N. and his family were standing outside their home.

9 All in violation of Title 42, United States Code, Section 3631(a).

10 **COUNT TWO: [18 U.S.C. § 924(c) – Use of a Firearm During a Crime of Violence]**

11 The Grand Jury further charges that on or about December 19, 2012, in the County of Kern, State  
12 and Eastern District of California, the defendant,

13 JUSTIN WHITTINGTON,

14 knowingly used, discharged, carried, and brandished a firearm, namely a short-barreled shotgun, during  
15 and in relation to a crime of violence, specifically the willful intimidation and interference with, and  
16 attempted intimidation and interference with J.N., by force and threat of force, because of his race, color,  
17 and national origin and because he was occupying a dwelling, in violation of 42 U.S.C. § 3631(a), as  
18 charged in Count One of this Indictment.

19 All in violation of Title 18, United States Code, Section 924(c).

20 **COUNT THREE: [26 U.S.C. § 5861(d) – Unlawful Possession of a Prohibited Firearm]**

21 The Grand Jury further charges that on or about December 19, 2012, in the County of Kern, State  
22 and Eastern District of California, the defendant,

23 JUSTIN WHITTINGTON,

24 knowingly possessed a firearm, specifically a shotgun having a barrel or barrels of less than 18 inches in  
25 length, which was not registered to defendant WHITTINGTON in the National Firearms Registration  
26 and Transfer Record.

27 All in violation of Title 26, United States Code, Section 5861(d).

28 ///

1 **COUNT FOUR: [18 U.S.C. § 1001 – False Statements]**

2 The Grand Jury further charges that on or about April 18, 2014, in the County of Kern, State and  
3 Eastern District of California, the defendant,

4 JUSTIN WHITTINGTON,

5 knowingly and willfully made false, fictitious, and fraudulent statements to a Special Agent of the  
6 Federal Bureau of Investigation (FBI) concerning facts material to a matter being investigated by the  
7 FBI, an agency of the United States. Specifically, defendant WHITTINGTON claimed that on the  
8 evening of December 19, 2012:

- 9
- 10 (1) a person known to Whittington as “Charlie” offered WHITTINGTON \$1000 to keep  
11 “Charlie’s” sawed-off shotgun in the trunk of defendant WHITTINGTON’s vehicle; and
- 12 (2) defendant Whittington accepted a sawed off shotgun from “Charlie” and placed the  
13 shotgun into the trunk of Whittington’s vehicle.

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

1 These statements were false, in that defendant WHITTINGTON knew at the time he made the  
2 statements to the FBI, that in fact on the evening of December 19, 2012:

- 3 (1) defendant Whittington was already in possession of a sawed off shotgun; and  
4  
5 (2) defendant Whittington did not receive a sawed off shotgun from a person named  
6 "Charlie"

7 All in violation of Title 18, United States Code, Section 1001.  
8

9 Dated this 24th day of September, 2015.

10 A TRUE BILL.

***/s/ Signature on file w/AUSA***

11  
12 

---

FOREPERSON

13 BENJAMIN B. WAGNER  
United States Attorney

**Mark E. Cullers**

14  
15 By:

---

MARK E. CULLERS  
Assistant U.S. Attorney  
Chief, Fresno Office

18  
19 VANITA GUPTA  
Principal Deputy Assistant Attorney General

20  
21 By:

---

/s/ SAMANTHA TREPEL  
SAMANTHA TREPEL  
Trial Attorney  
Civil Rights Division

No. \_\_\_\_\_

**SEALED**

**UNITED STATES DISTRICT COURT** **FILED**

*Eastern District of California*

**SEP 24 2015**

*Criminal Division*

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY A. JESSEN  
DEPUTY CLERK

THE UNITED STATES OF AMERICA

vs.

JUSTIN WHITTINGTON

INDICTMENT

1:15 CR 00265 AWIBAM

**VIOLATION(S):** 42 U.S.C. § 3631 – Interference with Housing Rights  
18 U.S.C. § 924(c) – Use of a Firearm During a Crime of Violence  
26 U.S.C. § 5861 – Unlawful Possession of a Firearm  
18 U.S.C. § 1001 – False Statements

*A true bill.*

\_\_\_\_\_  
*15/*  
*Foreman.*

Filed in open court this \_\_\_\_\_ day

of \_\_\_\_\_, A.D. 20 \_\_\_\_\_

\_\_\_\_\_  
*Clerk.*

**NO BAIL WARRANT**

Bail, \$ \_\_\_\_\_

\_\_\_\_\_  
*Jerry A. Be...*

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION -- IN U.S. DISTRICT COURT**

BY  COMPLAINT  INFORMATION  INDICTMENT  
 SUPERSEDING: Case No.

Name of District Court, and/or Judge/Magistrate Judge Location (City)  
Fresno, California

**OFFENSE CHARGED**

- Petty
- Minor
- Misdemeanor
- Felony

Place of offense  
County of Kern

U.S.C. Citation  
See Indictment

**DEFENDANT -- U.S. vs.**  
Justin Whittington

Address

1: 15 CR 00265 AWIBAM

Birth Date

- Male  Alien
- Female (if applicable)

(Optional unless a juvenile)

**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

FBI/SA Coyle

person is awaiting trial in another Federal or State Court. give name of court

this person/proceeding is transferred from another district per FRCrP  20  21  40. Show District

this is a re prosecution of charges previously dismissed which were dismissed on motion of:

U.S. Att'y  Defense

this prosecution relates to a pending case involving this same defendant

SHOW  
DOCKET NO.

prior proceedings or appearance(s) before U.S. Magistrate Judge regarding this defendant were recorded under

MAGISTRATE  
JUDGE CASE NO.

Name and Office of Person  
Furnishing Information on  
THIS FORM

Sara Thomas

U.S. Att'y  Other U.S. Agency

Name of Asst. U.S.  
Att'y (if assigned)

Brian K. Delaney

**DEFENDANT**

**IS NOT IN CUSTODY**

- 1)  Has not been arrested, pending outcome of this proceeding  
If not detained, give date any prior summons was served on above charges
- 2)  Is a Fugitive
- 3)  Is on Bail or Release from (show District)

**IS IN CUSTODY**

- 4)  On this charge
- 5)  On another conviction
- 6)  Awaiting trial on other charges }  Fed'l  State  
If answer to (6) is "Yes," show name of institution

Has detainer  
been filed?

- Yes
- No

If "Yes,"  
give date  
filed

Mo. Day Year

DATE OF  
ARREST

Or ... if Arresting Agency & Warrant were not Federal

Mo. Day Year

DATE TRANSFERRED  
TO U.S. CUSTODY

This report amends AO 257 previously submitted

**ADDITIONAL INFORMATION OR COMMENTS**

**ADD FORFEITURE UNIT (Check if Forfeiture Allegation)**

Penalties: See Penalty Slip. Please issue No Bail Warrant.

*BFD*

**United States v. Whittington**  
**Penalties for Indictment**

**COUNT 1:**

VIOLATION: 42 U.S.C. § 3631 – Interference with Housing Rights

PENALTIES: A maximum of up to ten years in prison; or  
Fine of up to \$250,000; or both fine and imprisonment  
Supervised release of not more than three years

SPECIAL ASSESSMENT: \$100 (mandatory on each count)

**COUNT 2:**

VIOLATION: 18 U.S.C. § 924(c) – Use of a Firearm During a Crime of Violence

PENALTIES: Not less than 5 years up to life imprisonment to be served consecutively  
and if the firearm is brandished not less than 7 years up to life  
imprisonment to be served consecutively and if the firearm is discharged  
not less than 10 years up to life imprisonment to be served consecutively  
and a Fine of up to \$250,000; or both fine and imprisonment  
Supervised release of not more than 5 years.

SPECIAL ASSESSMENT: \$100 (mandatory on each count)

**COUNT 3:**

VIOLATION: 26 U.S.C. § 5861(d) – Unlawful Possession of a Prohibited Firearm

PENALTIES: A maximum of up to 10 years; or  
Fine of up to \$10,000; or both fine and imprisonment  
Supervised release of up to 3 years

SPECIAL ASSESSMENT: \$100 (mandatory on each count)

**COUNT 4:**

VIOLATION: 18 U.S.C. § 1001 – False Statements

PENALTIES: a maximum of up to 5 years in prison; or  
Fine of up to \$250,000; or both fine and imprisonment  
Supervised release of up to 3 years

SPECIAL ASSESSMENT: \$100 (mandatory on each count)