

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA * CRIMINAL DOCKET NO: 11-179

v. * SECTION: "F"

RAYMOND L. POLK *

* * *

FACTUAL BASIS

If this case was to proceed to trial, the government would prove the defendant **RAYMOND L. POLK** guilty beyond a reasonable doubt of a two-count Indictment, which charges **POLK** with violations of the Federal Gun Control Act under 18 U.S.C. §§ 922(g)(1) and 924(a)(2). The government would establish through credible and competent witnesses and evidence the following facts:

RAYMOND L. POLK KNOWINGLY POSSESSED FIREARMS

On or about July 26, 2009 in the Eastern District of Louisiana, within the city of New Orleans, Louisiana, New Orleans police officers responded to a disturbance call at 8914 Pear Street. Police Officers Cloud and Finneman met with Sandra Polk (sister of the defendant)

who informed the officers that she and her brother, Polk had an altercation. She informed the officers that Polk went to his mother's house located at 4208 General Ogden. Cloud and Finneman along with an additional officer, Sgt. Marshall proceeded to 4208 General Ogden and made contact with Ms. Ethel Lacy (Polk's mother and resident of the dwelling). Ms. Lacy led the officers into the home in order for the officers to speak to Polk about the earlier disturbance with his sister, Sandra Polk. As Ms. Lacy escorted the officers into the rear of the house, Sgt. Marshall observed Polk remove an object from his waistband. This object appeared to be a handgun that Polk removed prior to walking out of a rear room of Ms. Lacy's residence. For officer safety, Sgt. Marshall entered the room and immediately retrieved the handgun Polk had discarded. The weapon Polk removed from his waistband was described as a Cobra Enterprises, model CA380, .380 caliber pistol bearing a serial number of CP014108.¹

On or about October 8, 2010, New Orleans Police Daniel Rogers responded to call for assistance at the "Big Time Tips Bar" located at 8801 Edinburgh Street, New Orleans, LA. Rogers was alerted by police dispatch of a slim, black man wearing a white shirt with blue stripes that was carrying a firearm. As Officer Rogers pulled up to the Big Time Tips Bar he noticed the defendant Raymond L. Polk who was dressed in a white polo shirt with blue stripes, fleeing on foot from the bar. Rogers pursued Polk and ordered him to stop. Polk refused and Rogers continued to pursue Polk on foot. Rogers engaged his taser and subdued

¹ The .380 caliber pistol seized from Raymond Polk was not reported as stolen.

Polk. Roger conducted a search of Polk for officer safety and incident to his arrest and found in Polk's pants pocket a loaded Smith and Wesson, model SW9F, .9mm pistol bearing a serial number of PAC3388 and a Taurus International, model PT22, .22 caliber pistol bearing a serial number of 92030652.²

PRIOR TO THE POSSESSION OF THE FIREARMS
RAYMOND L. POLK HAD PRIOR CONVICTIONS FOR CRIMES
PUNISHABLE BY IMPRISONMENT EXCEEDING ONE YEAR

Pursuant to Federal Rules of Evidence 803(8) and 902(4) the Government would produce court documents at trial from the Orleans Parish Criminal District Court for the Parish of Orleans in the State of Louisiana that on or about October 23, 2003, Polk pleaded guilty to Possession of Crack in case number 442524 "B", in violation of La.R.S. 40:967(C)(2). As a result of Polk's guilty plea, he was sentenced to three (3) at the Louisiana Department of Corrections. The three (3) year sentence was suspended and Polk was placed on two (2) years of probation. In addition, similar evidence will reveal that Raymond L. Polk also pleaded guilty on or about June 24, 2005 to Possession with Intent to Distribute Cocaine in Orleans Parish Criminal District Court in case No. 444517 "C" in violation of La.R.S. 40:967(B)(1). As a result of Polk's plea, he was sentenced to five (5) years of incarceration with Louisiana Department of Corrections. However, he had three (3) years suspended and was placed on probation. Thus, Polk was convicted of crimes punishable by imprisonment for a term exceeding one year prior to the possession the Cobra Enterprise, model CA380,

² The .9 mm pistol and the .22 caliber pistol that were seized from Raymond Polk were not reported as stolen.

.380 caliber pistol, the Smith and Wesson, model SW95, .9mm pistol and the Taurus International, model PT22, .22 caliber pistol.

**THE FIREARM POSSESSED BY RAYMOND L. POLK TRAVELED IN OR
AFFECTED INTERSTATE COMMERCE**

Alcohol, Tobacco, Firearms and Explosives Special Agent Marlin Ford examined the Cobra Enterprises, Model CA380, .380 caliber pistol bearing a serial number of CP014108, Smith and Wesson, Model SW9F, .9mm pistol bearing serial number PAC3388 and the Taurus International, Model PT22, .22 caliber pistol bearing a serial number of 92030652 that Polk possessed on July 26, 2009 and October 8, 2010. SA Ford has experience and knowledge in determining the origin of firearms and ammunition. Ford's examination of the aforementioned firearms that was based upon his experience and knowledge revealed that the firearms were not manufactured in the State of Louisiana. Ford would testify that because the firearms Polk possessed were not manufactured in the state of Louisiana the firearms had to have traveled in or affected interstate commerce by virtue of their presence in Louisiana on July 26, 2009 and October 8, 2010.

Moreover, Ford's opinion was inclusive of the fact that the firearms met the federal statutory definition of a firearm as defined in 18 U.S.C. § 921(a)(3).

RAYMOND L. POLK, THE UNDERSIGNED DEFENDANT HEREBY AGREES BY SIGNING THIS FACTUAL BASIS THAT THE FACTS CONTAINED THEREIN ARE TRUE, AND THAT IN FACT HE UNLAWFULLY AND KNOWINGLY POSSESSED

FIREARMS (AS MORE FULLY DESCRIBED HEREIN) AND HE UNLAWFULLY AND KNOWINGLY POSSESSED THE FIREARMS THAT HAD BEEN SHIPPED AND TRANSPORTED IN INTERSTATE COMMERCE AND SAID POSSESSION OF THE AFOREMENTIONED FIREARMS OCCURRED AFTER POLK PLEADED GUILTY TO CRIMES WHICH ARE CRIMES PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING ONE YEAR.

APPROVED AND ACCEPTED:

RAYMOND L. POLK Date
Defendant

VALERIE JUSSELIN Date
Attorney for Defendant

ABRAM McGULL II Date
Attorney for the United States of America