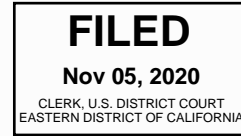


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7
8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 JOHNNIE EARL ROSS JR., and
VIN WHEALEN GAINES JR.,

15 Defendants.
16
17

CASE NO. 2:20-cr-0208-JAM

18 U.S.C. § 371 – Conspiracy to Deal Firearms
Without a License; 18 U.S.C. § 922(a)(1)(A) –
Dealing Firearms without a License; 26 U.S.C.
§ 5861(d) – Possession of an Unregistered
Machinegun; 18 U.S.C. § 922(g)(1) – Felon in
Possession of Firearm (2 counts); 21 U.S.C.
§ 841(a)(1) – Distribution of Methamphetamine; 21
U.S.C. § 853(a), 18 U.S.C. § 924(d)(1), 26 U.S.C.
§ 5872, 28 U.S.C. § 2461(c), and 49 U.S.C. § 80303 –
Criminal Forfeiture

18
19 INDICTMENT

20 COUNT ONE: [18 U.S.C. § 371 – Conspiracy to Deal Firearms Without a License]

21 The Grand Jury charges: T H A T

22 JOHNNIE EARL ROSS JR., and
23 VIN WHEALEN GAINES JR.,

24 beginning on a date uncertain, but no later than on or about October 10, 2019, and continuing through on
25 or about October 22, 2020, in San Joaquin County, State and Eastern District of California, the District
26 of Nevada, and elsewhere, did knowingly conspire with persons known and unknown to the Grand Jury
27 to willfully engage in the business of dealing in firearms without a license, in violation of Title 18,
28 United States Code, Section 922(a)(1)(A).

1 In furtherance of the conspiracy and to accomplish its objects, the following overt acts, among
2 others, were committed in the State and Eastern District of California and elsewhere:

3 (a) On or about the dates listed below, ROSS JR. and GAINES JR. sold the following firearms
4 to an undercover agent (“UC”) or confidential source (“CS”) from the Bureau of Alcohol,
5 Tobacco, and Firearms (“ATF”):

No.	Date Sold	Make, Model, and Serial Number	Amount	Seller
1	October 10, 2019	Glock 23GEN4, .40 caliber pistol, BBUV364	\$1,300	ROSS JR.
2	October 10, 2019	Glock 19, 9mm caliber machinegun pistol, BAZK124	\$2,000	ROSS JR.
3	October 28, 2019	DLN Model DTI-15 5.56 caliber pistol, DTI-S199280	\$1,300	ROSS JR.
4	October 29, 2019	Glock 21, .45 caliber pistol, XZN191	\$900	ROSS JR.
5	October 29, 2019	HS Product XD40 Sub-Compact, .40 caliber pistol, XD331272	\$800	ROSS JR.
6	October 30, 2019	Romarm/Cugir Micro Draco, 7.62 caliber pistol, PMD-13547-19	\$3,000	ROSS JR.
7	October 30, 2019	IO Inc. Sporter, 7.62 caliber rifle, 027290		ROSS JR.
8	January 13, 2020	Smith & Wesson M&P 5.56 caliber rifle, TK33556	\$2,000	GAINES JR.
9	January 13, 2020	Glock 31, .357 caliber pistol, ULM545	\$1,200	ROSS JR.
10	January 13, 2020	Glock 19, 9mm caliber pistol, BR190US	\$1,200	ROSS JR.
11	January 22, 2020	Taurus 9mm caliber pistol, TMR16214	\$1,000	ROSS JR.
12	January 27, 2020	Glock 22, .40 caliber pistol, NCZ698	Fronted	ROSS JR.
13	February 20, 2020	Del Ton Inc. Model DTI, 5.56 caliber rifle, DTI-S199269	\$1,500	GAINES JR.

22 (b) On or about the dates listed below, another member of the conspiracy, Co-Conspirator 1,
23 made “straw purchases” of the identified firearms, which were later sold by or seized from
24 ROSS JR. and GAINES JR. As used herein, a “straw purchase” means that the purchaser of
25 record from a Federal Firearm License (“FFL”) dealer is not the actual end purchaser of the
26 firearm, but instead purchases the firearm on behalf of another. In making the straw
27 purchases, Co-Conspirator 1 falsely represented that s/he was the “actual transferee/buyer” of
28 the firearms on the ATF Form 4473’s that Co-Conspirator 1 completed at the time of

1 purchase. An ATF Form 4473 is required whenever a non-licensee purchases a firearm from
 2 an FFL and requires the firearm transferee to certify that his or her answers are true, correct,
 3 and complete:

Purchase Date	Make, Model, Serial Number	Date Obtained by Law Enforcement	How Obtained by Law Enforcement
October 25, 2019	DLN Model DTI-15 5.56 caliber pistol, DTI-S199280	October 28, 2019	CS purchase from ROSS JR.
January 27, 2020	FN Five-Seven .57 caliber pistol, 386373235	January 27, 2020	Search of ROSS JR.'s Residence
January 27, 2020	Del Ton Inc. Model DTI, 5.56 caliber rifle, DTI-S199269	February 20, 2020	CS Purchase from GAINES JR.

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 10 (c) At no time have JOHNNIE EARLY ROSS JR., VIN WHEALEN GAINES JR., Co-
 11 Conspirator 1, nor any of the other known co-conspirators, had a license to engage in the
 12 business of dealing firearms under federal law;

13 all in violation of Title 18, United States Code, Sections 371 and 2.

14 COUNT TWO: [18 U.S.C. § 922(a)(1)(A) – Dealing Firearms without a License]

15 The Grand Jury further charges: T H A T

16 JOHNNIE EARL ROSS JR., and
 17 VIN WHEALEN GAINES JR.,

18 defendants herein, beginning on or about a date uncertain, but no later than on or about October 10,
 19 2019, and continuing through on or about October 22, 2020, in San Joaquin County, State and Eastern
 20 District of California and the District of Nevada, did knowingly engage in the business of dealing
 21 firearms without a license, in violation of Title 18, United States Code, Sections 922(a)(1)(A) and 2.

22 COUNT THREE: [26 U.S.C. § 5861(d) – Possession of an Unregistered Machinegun]

23 The Grand Jury further charges: T H A T

24 JOHNNIE EARL ROSS JR.,

25 defendant herein, on or about October 10, 2019, in San Joaquin County, State and Eastern District of
 26 California, did knowingly possess a firearm, as defined in 26 U.S.C. § 5845(a)(6), not registered to him
 27 in the National Firearms Registration and Transfer Record, specifically, a Glock 19, 9mm caliber
 28 machinegun pistol, BAZK124, in violation of Title 26, United States Code, Section 5861(d).

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1 COUNT FOUR: [18 U.S.C. § 922(g)(1) – Felon in Possession of Firearm]

2 The Grand Jury further charges: T H A T

3 VIN WHEALEN GAINES JR.,

4 defendant herein, on or about January 13, 2020, in San Joaquin County, State and Eastern District of
5 California, knowing that he had been convicted of a crime punishable by a term of imprisonment
6 exceeding one year, that is:

7 (1) Possession of a narcotic controlled substance, in violation of California Health and Safety
8 Code Section 11350(a), on or about April 2, 2008, in San Joaquin County, California;
9 and,

10 (2) Vehicle theft, in violation of California Vehicle Code § 10851(a), on or about September
11 15, 2009, in San Joaquin County, California,

12 did knowingly possess a firearm, specifically, a Smith & Wesson M&P 5.56 caliber rifle, with serial
13 number TK33556, in and affecting commerce, in that said firearm had previously been transported in
interstate and foreign commerce, in violation of Title 18, United States Code, Section 922(g)(1).

14 COUNT FIVE: [18 U.S.C. § 922(g)(1) – Felon in Possession of Firearm]

15 The Grand Jury further charges: T H A T

16 VIN WHEALEN GAINES JR.,

17 defendant herein, on or about February 20, 2020, in San Joaquin County, State and Eastern District of
18 California, knowing that he had been convicted of a crime punishable by a term of imprisonment
19 exceeding one year, that is:

20 (1) Possession of a narcotic controlled substance, in violation of California Health and Safety
21 Code Section 11350(a), on or about April 2, 2008, in San Joaquin County, California; and

22 (2) Vehicle theft, in violation of California Vehicle Code § 10851(a), on or about
23 September 15, 2009, in San Joaquin County, California,

24 did knowingly possess a firearm, specifically, a Del Ton Inc. Model DTI, 5.56 caliber rifle, with serial
25 number DTI-S199269, in and affecting commerce, in that said firearm had previously been transported
26 in interstate and foreign commerce, in violation of Title 18, United States Code, Section 922(g)(1).

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1 COUNT SIX: [21 U.S.C. § 841(a)(1) – Distribution of Methamphetamine]

2 The Grand Jury further charges: T H A T

3 VIN WHEALEN GAINES JR.,

4 defendant herein, on or about February 20, 2020, in San Joaquin County, State and Eastern District of
5 California, did knowingly and intentionally distribute methamphetamine, a Schedule II Controlled
6 Substance, in violation of Title 21, United States Code, Section 841(a)(1).

7 FORFEITURE ALLEGATION: [21 U.S.C. § 853(a), 18 U.S.C. § 924(d)(1), 26 U.S.C. § 5872, 28
8 U.S.C. § 2461(c), and 49 U.S.C. § 80303 - Criminal Forfeiture]

9 1. Upon conviction of one or more of the offenses alleged in Counts One, Two, Four, and
10 Five of this Indictment, defendants JOHNNIE EARL ROSS JR., and VIN WHEALEN GAINES JR.
11 shall forfeit to the United States pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28,
12 United States Code, Section 2461(c), any firearms and ammunition involved in or used in the knowing
13 commission of the offense.

14 2. Upon conviction of the offense alleged in Count Three of this Indictment, defendant
15 JOHNNIE EARL ROSS JR. shall forfeit to the United States pursuant to Title 26, United States Code,
16 Section 5872, Title 28, United States Code, Section 2461(c), and Title 49, United States Code, Section
17 80303, any firearms involved in the commission of the offenses; any property used, or intended to be
18 used in the commission of the offenses; and any aircraft, vehicle, or vessel involved in the commission
19 of the offenses.

20 3. Upon conviction of the offense alleged in Count Six of this Indictment, defendant VIN
21 WHEALEN GAINES JR. shall forfeit to the United States pursuant to Title 21, United States Code,
22 Section 853(a), the following property:

23 a. All right, title, and interest in any and all property involved in violation of Title
24 21, United States Code, Sections 841(a)(1) for which defendant is convicted, and all property traceable
25 to such property, including the following: all real or personal property, which constitutes or is derived
26 from proceeds obtained, directly or indirectly, as a result of such offense; and all property used, or
27 intended to be used, in any manner or part to commit or to facilitate the commission of the offenses.
28

No. _____

UNITED STATES DISTRICT COURT

Eastern District of California

Criminal Division

THE UNITED STATES OF AMERICA

vs.

JOHNNIE EARL ROSS JR., **No Bail Warrant Pending Hearing**
VIN WHEALEN GAINES JR. **NO PROCESS NECESSARY**

INDICTMENT

VIOLATION(S):

- 18 U.S.C. § 371 – Conspiracy to Deal Firearms without a License;
- 18 U.S.C. § 922(a)(1)(A) – Dealing Firearms without a License;
- 26 U.S.C. § 5861(d) – Possession of an Unregistered Machinegun;
- 18 U.S.C. § 922(g)(1) – Felon in Possession of Firearm (2 counts);
- 21 U.S.C. § 841(a)(1) – Distribution of Methamphetamine;
- 21 U.S.C. § 853(a), 18 U.S.C. § 924(d)(1), 26 U.S.C. § 5872,
- 28 U.S.C. § 2461(c), and 49 U.S.C. § 80303 – Criminal Forfeiture

A true bill,

/s/ Signature on file w/AUSA

Foreman.

Filed in open court this 5th day
of November, A.D. 2020

/s/ Judy Streeter

Clerk.

Bail, § Ross - **No Bail Warrant Pending Hearing**
Gaines - **NO PROCESS NECESSARY**

Carol A. Delaney

United States Magistrate Judge

2:20-cr-0208-JAM

United States v. ROSS JR., et al.
Penalties for Indictment

Defendants

JOHNNIE EARL ROSS JR.
VIN WHEALEN GAINES JR.

COUNT 1: **ALL DEFENDANTS**

VIOLATION: 28 U.S.C. § 371 – Conspiracy to Deal Firearms Without a License

PENALTIES: Not more than 5 years in prison; or
A fine up to \$250,000; or both fine and imprisonment; and
Up to 3 years of supervised release

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

COUNT 2: **ALL DEFENDANTS**

VIOLATION: 26 U.S.C. § 5861(d) – Possession of an Unregistered Machinegun

PENALTIES: Not more than 120 months,
Not more than \$10,000 fine or both
A three-year term of Supervised Release

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

COUNT 3: **Defendant ROSS JR.**

VIOLATION: 26 U.S.C. § 5861(d) – Possession of an Unregistered Machinegun

PENALTIES: Not more than 120 months,
Not more than \$10,000 fine or both
A three-year term of Supervised Release

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

COUNTS 4-5: Defendant GAINES JR.

VIOLATION: 18 U.S.C. § 922(g) - Felon in possession of firearm

PENALTIES: Not more than 120 months,
Not more than \$250,000 fine or both
A three-year term of Supervised Release

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

COUNT 6: Defendant GAINES JR.

VIOLATION: 21 U.S.C. § 841(a)(1) – Distribution of Methamphetamine

PENALTIES: A maximum of up to 20 years in prison; or
Fine of up to \$1,000,000; or both fine and imprisonment
Supervised release of at least 3 years up to life

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

FORFEITURE ALLEGATION: ALL DEFENDANTS

VIOLATION: 21 U.S.C. § 853(a), 18 U.S.C. § 924(d)(1), 26 U.S.C. § 5872, 28 U.S.C. § 2461(c), and 49 U.S.C. § 80303 – Criminal Forfeiture

PENALTIES: As stated in the charging document