


Approved:


MICHAEL R. HERMAN
Assistant United States Attorney

23 Mag. 2202

Before:

THE HONORABLE KATHARINE H. PARKER
United States Magistrate Judge
Southern District of New York

UNITED STATES OF AMERICA

- v. -

JASON FLEMING,

Defendant.

COMPLAINT

Violation of
18 U.S.C. § 922(g)(1)

COUNTY OF OFFENSE:
New York

SOUTHERN DISTRICT OF NEW YORK, ss.:

DIANNA OGLIO, being duly sworn, deposes and says that she is a Special Agent with the Department of Homeland Security, Homeland Security Investigations (“HSI”), and charges as follows:

COUNT ONE

(Possession of a Firearm After a Felony Conviction)

1. On or about March 16, 2023, in the Southern District of New York and elsewhere, JASON FLEMING, the defendant, knowing he had previously been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess firearms, to wit, (1) a Hi-Point carbine rifle; and (2) a Smith and Wesson Magnum .357 revolver, and the firearms were in and affecting commerce.

(Title 18, United States Code, Section 922(g)(1).)

The bases for my knowledge and for the foregoing charge are, in part, as follows:

2. I am a Special Agent with HSI, and I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation, my examination of reports and records, and my conversations with other law enforcement agents and other individuals. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. Based on my participation in this investigation, including my personal observations, my review of law enforcement records and surveillance videos, and my conversations with other law enforcement officers, I have learned the following, in substance and in part:

a. As captured on surveillance video, on or about March 16, 2023, in the afternoon, a man, later identified as JASON FLEMING, the defendant, followed another man into a bodega located at 252 10th Avenue, New York, New York (the “Bodega”) after an apparent verbal dispute. FLEMING was holding a black bag containing what appears to be an alcohol beverage.

b. The surveillance video shows that FLEMING then continued arguing with the man inside of the Bodega, which was crowded with other people including a female child.¹ FLEMING then walked towards and stood in the doorway of the Bodega and flashed a handgun, as the child attempted to leave the Bodega. The child then took off running away from the store when she was able to pass by FLEMING onto the sidewalk.

c. The surveillance video then shows FLEMING outside the Bodega and pulling back his coat momentarily to reveal a rifle that had been swung over his shoulder.

d. Based on my conversations with other officers and my review of law enforcement reports, I know that, shortly thereafter, a witness called 911 to report, in sum and substance, that someone had a rifle and was holding a beer in his hand. Responding police officers approached FLEMING, who was still carrying the beer, and FLEMING then took off running down the sidewalk.

e. As captured by surveillance video, while running, FLEMING brandished a semiautomatic carbine rifle in broad daylight while frightened civilians began running away from him. Screenshots from the surveillance videos of FLEMING running with the rifle are below:



¹ Based on my familiarity with the neighborhood surrounding the Bodega, I know that there are two schools, including a public elementary school, within an approximate two block radius of the Bodega.

f. Based on my conversations with other law enforcement officers, I know that witnesses observed FLEMING throw the rifle over a fence near where customers were dining at a restaurant's outdoor dining shed. Law enforcement officers recovered the rifle and found that it was a loaded semiautomatic Hi-Point carbine rifle (the "Rifle"). A photograph of the Rifle near where it was recovered on the street is below:



g. Meanwhile, as captured by surveillance video, after throwing the rifle, FLEMING brandished a revolver and continued running down the street, with police officers in foot pursuit. A nearby civilian, seeing FLEMING running down the street with a revolver in his hand, stood in FLEMING's way and pushed him into a nearby fence and then held onto him until police officers, who were still in pursuit, placed FLEMING under arrest and handcuffed him. A screenshot of FLEMING, brandishing the revolver, after the civilian made contact with him, is below:



h. Police officers recovered a loaded Smith and Wesson Magnum .357 revolver (the “Revolver”) on the ground near where FLEMING was apprehended. A photograph of the Revolver, where it was recovered on the street, is below:



i. After he was arrested, FLEMING waived his *Miranda* rights and agreed to speak with other law enforcement officers and me. During the interview, FLEMING stated, in substance and in part, that (i) his name was “Jason Fleming;” (ii) the Rifle and the Revolver that he possessed were his; (iii) that he knew he was not permitted to possess firearms because of his prior felony convictions; and (iv) he could get other guns.

4. Based on my communications with a Special Agent of Alcohol, Tobacco, Firearms and Explosives (“ATF”), which maintains data regarding the manufacture of firearms, I have learned, in substance and in part, that the Rifle and the Revolver, described above, were not manufactured in the State of New York and must therefore have previously traveled in interstate commerce.

5. Based on my review of criminal history records regarding JASON FLEMING, the defendant, I have learned, in substance and in part, that (i) on or about May 7, 2018, FLEMING was convicted in New York County Supreme Court of criminal possession of a firearm, in violation of New York Penal Law Section 265.01-B, a felony, and was sentenced to a term of imprisonment of between 18 months and three years; and (ii) on or about May 5, 2009, FLEMING was convicted of possession of a pistol or revolver without a license or permit, in violation of Rhode Island General Laws Section 11-47-8(a), a felony, for which he was sentenced to five years’ probation.

WHEREFORE, I respectfully request that JASON FLEMING, the defendant, be imprisoned or bailed, as the case may be.

DIANNA OGLIO
Special Agent
Homeland Security Investigations

Sworn to before me this 17th day of March, 2023.

THE HONORABLE KATHARINE H. PARKER
United States Magistrate Judge
Southern District of New York