

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JOSHUA RODNEY MEECH,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

**ADDENDUM TO THE
PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT
OF APPEALS FOR THE NINTH CIRCUIT**

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SUBMITTED: May 24, 2022

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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOSHUA RODNEY MEECH,

Defendant-Appellant.

No. 21-30025

D.C. Nos.

2:20-cr-00013-DLC-1

2:20-cr-00013-DLC

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Dana L. Christensen, District Judge, Presiding

Argued and Submitted December 6, 2021
Seattle, Washington

Before: McKEOWN, CHRISTEN, and MILLER, Circuit Judges.

Joshua Meech appeals his conviction and sentence for making a false statement during a firearms transaction, in violation of 18 U.S.C. § 922(a)(6). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.¹

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

¹ Because the parties are familiar with the facts, we recite only those facts necessary to decide this appeal.

1. Meech argues: (1) that his indictment was defective because it failed to specify what protection order it was premised upon; and (2) that *United States v. Bramer*, 956 F.3d 91 (2d Cir. 2020), “arguably” establishes that such specification is required. Neither argument is persuasive.

“An indictment is sufficient if it contains the elements of the charged crime in adequate detail to inform the defendant of the charge and to enable him to plead double jeopardy.” *United States v. Buckley*, 689 F.2d 893, 896 (9th Cir. 1982) (citing *Hamling v. United States*, 418 U.S. 87, 117 (1974)); *see also United States v. Resendiz-Ponce*, 549 U.S. 102, 108 (2007). A “bare bones” indictment—“one employing the statutory language alone”—is “entirely permissible so long as the statute sets forth fully, directly and clearly all essential elements of the crime to be punished.” *United States v. Crow*, 824 F.2d 761, 762 (9th Cir. 1987) (citing *United States v. Matthews*, 572 F.2d 208, 209 (9th Cir. 1977)). The model jury instruction for 18 U.S.C. § 922(a)(6) identifies four elements: (1) the seller was a licensed firearms dealer; (2) the defendant made a false statement in connection with acquiring or attempting to acquire a firearm from the seller; (3) the defendant knew the statement was false; and (4) the false statement was material, meaning capable of influencing or having a natural tendency to influence the seller into believing the firearm could be lawfully sold to the defendant. *See Manual of*

Model Criminal Jury Instructions for the District Courts of the Ninth Circuit § 8.58 (2010 ed., updated Sept. 2021).

Meech’s indictment contained adequate detail to provide notice of the elements of the charged offense and to allow him to plead double jeopardy. *See Crow*, 824 F.2d at 762. In connection with attempting to purchase a firearm, Meech falsely stated that he was not subject to a qualifying protection order. Meech was on notice that he was subject to a qualifying protection order because he signed the stipulated order of protection while represented by an attorney. Finally, although the indictment in *United States v. Bramer*, 956 F.3d 91 (2d Cir. 2020), identified a particular protection order at issue in that case,² *Bramer* did not hold that such specification is required, *see generally id.* at 92–99. The district court did not err by declining to dismiss Meech’s indictment.

2. Meech argues that the district court misidentified the elements of § 922(a)(6) by failing to account for “the basic law of attempt” and omitting “an expanded knowledge requirement” pursuant to *Rehaif v. United States*, 139 S. Ct. 2191 (2019), and *United States v. Door*, 996 F.3d 606 (9th Cir. 2021). We disagree. Meech was indicted for committing a completed offense, not an

² Meech’s motion for judicial notice of the indictment in *Bramer*, ECF No. 4, is **DENIED**.

attempted offense. *See* 18 U.S.C. § 922(a)(6). Further, the applicable knowledge requirement was satisfied here. *Rehaif* and *Door* emphasized the presumption that a scienter requirement applies to “each of the statutory elements that criminalize otherwise innocent conduct.” *Rehaif*, 139 S. Ct. at 2195 (quoting *United States v. X-Citement Video, Inc.*, 513 U.S. 64, 72 (1994)); *Door*, 996 F.3d at 615 (explaining that, pursuant to *Rehaif*, the scienter requirement extended to “all the elements listed” in the statute). The elements of § 922(a)(6) do not require showing that a defendant was subject to a protection order, but they do require showing that the defendant made a false statement in connection with purchasing a firearm. *See* Manual of Model Criminal Jury Instructions for the District Courts of the Ninth Circuit § 8.58 (2010 ed., updated Sept. 2021). Here, the government charged Meech with falsely stating on Form 4473 that he was not subject to a protection order. The district court ruled the government was required to prove that Meech knew his statement was false, and the court correctly ruled that the government met this burden. The district court relied on the applicable model jury instruction, correctly identified the elements of § 922(a)(6), and applied the appropriate scienter requirement, *see United States v. Williams*, 685 F.2d 319, 321 (9th Cir. 1982).

3. Meech argues that the evidence was insufficient to support his conviction. Evidence is sufficient to support a conviction if, “viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *United States v. Temkin*, 797 F.3d 682, 688 (9th Cir. 2015) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)).

Meech argues the evidence was insufficient to prove he “attempted to acquire” a firearm and insufficient to prove he knew he was subject to a qualifying protection order pursuant to 18 U.S.C. § 922(g)(8). But from the evidence presented, a rational finder of fact could have decided: (1) Meech spent about an hour discussing various firearms with store employees before selecting one; (2) Meech knew he was subject to a protection order because he signed the stipulated order of protection having had the benefit of advice from counsel; (3) Meech made a false statement in connection with attempting to acquire a specific firearm when he completed Form 4473; (4) Meech waited in the store for the results of the background check; and (5) Meech never indicated that he changed his mind about purchasing the firearm.

Meech also asserts that it was unreasonable for the store employees to run the NICS background check because they knew he had not read Form 4473.

Meech cites no legal authority supporting this argument, and we know of none.

See United States v. Graf, 610 F.3d 1148, 1166 (9th Cir. 2010) (“Arguments made in passing and not supported by citations to the record or to case authority are generally deemed waived.” (citing *United States v. Williamson*, 439 F.3d 1125, 1138 (9th Cir. 2006))).

Meech asserts that the two protection orders to which he was subject do not alone or in combination fit the profile of “court order” as defined in 18 U.S.C. § 922(g)(8). Again, we disagree. Section 922(g)(8) provides that a qualified order is one that issues after a “proceeding of which the defendant has ‘actual notice’ and the ‘opportunity to participate.’” *United States v. Young*, 458 F.3d 998, 1005–06 (9th Cir. 2006) (quoting 18 U.S.C. § 922(g)(8)). The district court did not err by determining the stipulated order of protection qualified.

Unlike ex parte protection order proceedings: (1) Meech was personally served with the temporary protection order that informed him of the date, time, and location of the hearing on the subject order; (2) Meech had the opportunity to object to the entry of the order of protection or otherwise contest the petitioner’s request for the order, *see id.* at 1009; and (3) Meech stipulated to the entry of the protection order, including vacating the hearing, and he did so with the benefit of counsel.

Meech finally asserts that his answer to Question 11.h on Form 4473 was immaterial because the NICS check would have independently prevented him from acquiring a firearm. Within the meaning of the subject statute, a false statement is “material” if it “had a natural tendency to influence, or was capable of influencing [the seller] into believing that the [firearm] could be lawfully sold to the [buyer].” Manual of Model Criminal Jury Instructions for the District Courts of the Ninth Circuit § 8.58 (2010 ed., updated Sept. 2021); *see also Abramski v. United States*, 573 U.S. 169, 189 (2014) (explaining a false response is material if the sale of the firearm could not have proceeded under the law had the would-be buyer been truthful in completing Form 4473). The store employees testified that they would not have run the NICS background check had Meech truthfully answered Question 11.h because his answer would have made him ineligible to buy a firearm. Thus, a rational finder of fact could have decided that Meech’s false answer to Question 11.h was material.

AFFIRMED.

487 F.Supp.3d 946
United States District Court, D. Montana,
Butte Division.

UNITED STATES of America, Plaintiff,
v.
Joshua Rodney MEECH, Defendant.

CR 20–13–BU–DLC
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Signed 09/14/2020

Synopsis

Background: Defendant, who had been charged with making a false statement during a firearms transaction, moved for court to dismiss indictment, alleging that it lacked specificity and failed to state offense.

Holdings: The District Court, [Dana L. Christensen, J.](#), held that:

[1] indictment was sufficiently specific to apprise defendant of charges against him;

[2] issue of whether defendant's allegedly false statement to dealer was material was for jury; and

[3] protective order was admissible.

Motion denied.

Procedural Posture(s): Pre-Trial Hearing Motion.

West Headnotes (17)

[1] **Indictments and Charging Instruments** 🔑 Requisites and Sufficiency of Accusation

Courts review an indictment in its entirety and with common sense and practicality.

1 Cases that cite this headnote

[2] **Indictments and Charging Instruments** 🔑 Sufficiency of accusation

In determining whether to dismiss indictment for lack of specificity, the test is not whether the indictment could have been framed in a more satisfactory manner, but whether it conforms to the minimal constitutional standards. [U.S. Const. Amend. 6](#); [Fed. R. Crim. P. 7\(c\)\(1\), 12\(b\)\(3\)\(B\) \(iii\)](#).

1 Cases that cite this headnote

[3] **Indictments and Charging Instruments** 🔑 Enabling defendant to prepare for trial

Indictments and Charging Instruments 🔑 Protection against subsequent prosecution

An indictment meets constitutional and procedural muster if it states the elements of the offense charged with sufficient clarity to apprise a defendant of the charge against which he must defend and enable him to plead double jeopardy. [U.S. Const. Amend. 6](#); [Fed. R. Crim. P. 7\(c\)\(1\)](#).

1 Cases that cite this headnote

[4] **Indictments and Charging Instruments** 🔑 Necessity and sufficiency of using statutory language

As long as the applicable statute clearly sets out the crime's essential elements, the use of a bare bones information—that is one employing the statutory language alone—is quite common and entirely permissible in the Ninth Circuit. [U.S. Const. Amend. 6](#); [Fed. R. Crim. P. 7\(c\)\(1\)](#).

[5] **Indictments and Charging Instruments** 🔑 Necessity and sufficiency of using statutory language

The language of the statute may be used in the general description of an offense in indictment, as long as it is accompanied with such a statement of the facts and circumstances as will inform the accused of the specific offense with

which he is charged. U.S. Const. Amend. 6; Fed. R. Crim. P. 7(c)(1).

[6] **Indictments and Charging**

Instruments 🔑 Matters appearing on face of charging instrument

The district court is bound by the four corners of the indictment in ruling on a pre-trial motion to dismiss for failure to state an offense. Fed. R. Crim. P. 12(b)(3)(B)(v).

[7] **Indictments and Charging**

Instruments 🔑 Sufficiency of accusation

Indictments and Charging

Instruments 🔑 Presumptions and burden of proof

Distinguished from pre-trial motions to dismiss premised on other grounds—where the court may take evidence and make factual determinations—the court considering a motion to dismiss for failure to state an offense must accept the truth of the allegations in the indictment; the indictment either states an offense or it does not. Fed. R. Crim. P. 12(b)(3)(B)(v).

[8] **Indictments and Charging**

Instruments 🔑 Sufficiency of accusation

To ensure that the respective provinces of the judge and jury are respected, a motion to dismiss for failure to state an offense cannot be used as a device for a summary trial of evidence. Fed. R. Crim. P. 12(b)(3)(B)(v).

[9] **Indictments and Charging**

Instruments 🔑 Matters appearing on face of charging instrument

Court considering motion to dismiss for failure to state an offense should not consider evidence not appearing on the face of the indictment. Fed. R. Crim. P. 12(b)(3)(B)(v).

[10] **Weapons** 🔑 Manufacture, sale, transfer

Indictment, which charged defendant with making a false statement during a firearms transaction, was sufficiently specific to apprise defendant of charges against him in order to enable him to prepare defense and to allow defendant to plead jeopardy against later prosecution; although indictment had relatively bare bones nature, it charged defendant with violating statute that made it crime for person, in connection with attempted acquisition of firearm, to knowingly make false statement intended or likely to deceive dealer with respect to fact material to lawfulness of sale, which clearly set out crime's essential elements, and while indictment contained no reference to any particular restraining order that defendant failed to disclose, it alleged that defendant falsely responded to question regarding whether he was subject to restraining order. 18 U.S.C.A. § 922(a)(6).

1 Cases that cite this headnote

[11] **Indictments and Charging**

Instruments 🔑 Enabling defendant to prepare for trial

Indictments and Charging

Instruments 🔑 Protection against subsequent prosecution

A valid indictment serves two central purposes: (1) it sufficiently apprises the defendant of the charges against him in order to enable him to prepare a defense; and (2) it allows him to plead jeopardy against a later prosecution.

[12] **Weapons** 🔑 Manufacture, sale, gift, loan, receipt, transfer

Issue of whether defendant's allegedly false statement to firearms dealer that he was not subject to any court-ordered restraining order at time he attempted to purchase firearm was material, and thus whether defendant violated statute prohibiting person, in connection with attempted acquisition of firearm, to knowingly make false statement intended or likely to

deceive licensed dealer with respect to any fact material to lawfulness of sale, was for jury, not for District Court. 🚩 18 U.S.C.A. § 922(a)(6).

1 Cases that cite this headnote

[13] Indictments and Charging Instruments 🔑 Defenses

Pretrial motions to dismiss, pursuant to Federal Rule of Criminal Procedure, are limited to considerations of such matters as former jeopardy, former conviction, former acquittal, statute of limitations, immunity, and lack of jurisdiction. Fed. R. Crim. P. 12(b).

[14] Weapons 🔑 Manufacture, sale, transfer

Protective order to which defendant was subject was admissible in prosecution for making a false statement during a firearms transaction, which arose after defendant, in attempting to acquire firearm, indicated to dealer that he was not subject to any protective orders; although defendant sought to exclude such order in limine and argued it did not qualify as restraining order, he advanced no argument as to why order should have been deemed inadmissible, and instead only asked court to resolve factual dispute about point at which he lied. 🚩 18 U.S.C.A. § 922(a)(6).

[15] Criminal Law 🔑 Motions in limine

“Motions in limine” are procedural devices to obtain an early and preliminary ruling on the admissibility of evidence.

[16] Criminal Law 🔑 Motions in limine

A motion in limine should not be used to resolve factual disputes or weigh evidence, but instead is appropriate only where the evidence is inadmissible on all potential grounds.

2 Cases that cite this headnote

[17] Criminal Law 🔑 Motions in limine

District courts have broad discretion in considering and ruling on motions in limine.

2 Cases that cite this headnote

Attorneys and Law Firms

*948 Cyndee L. Peterson, U.S. Attorney's Office, Missoula, MT, for Plaintiff.

ORDER

DANA L. CHRISTENSEN, District Judge

On June 19, 2020, a Grand Jury charged Defendant Joshua Rodney Meech with making a false statement during a firearms transaction, in violation of 🚩 18 U.S.C. § 922(a)(6). (Sealed Doc. 1.) Specifically, the Indictment charges:

That on or about April 4, 2020, at Bozeman and within Gallatin County, in the State and District of Montana, [Meech], in connection with his acquisition and attempted acquisition of a firearm, namely a Sig Sauer, model P320, 9 mm semi-automatic pistol, from Bob Wards & Sons, Inc. Bozeman, Montana, a licensed dealer, knowingly made a false and fictitious written statement to Bob Wards & Sons, Inc., which statement was intended and likely to deceive Bob Wards & Sons, Inc., as to a fact material to the lawfulness of such sale and acquisition of said firearm to the defendant under Chapter 44 of Title 18, in that the defendant represented at item 11(h) on *949 ATF Form 4473, Firearms Transaction Form, dated April 4, 2020, the defendant was not subject to a court restraining order, all in violation of 🚩 18 U.S.C. § 922(a)(6).

(*Id.*) In short, the government alleges that Meech lied in answering Question 11.h on ATF Form 4473.

Citing [Federal Rules of Criminal Procedure 12\(b\)\(3\)\(B\)\(iii\) and \(v\)](#), respectively, Meech argues that the Indictment lacks specificity and fails to state an offense. (Doc. 25 at 3.) Consequently, he moves the Court to dismiss the Indictment and immediately release him from custody. (*Id.*) He goes on to contend that he did not lie, because the protective order against him fails to qualify as a “Restraining Order” as defined in ATF Form 4473. (*Id.* at 4.) The government opposes the motion. (Doc. 27.) For the following reasons, Meech’s motion is denied.

LEGAL STANDARDS

The Constitution provides those accused of a crime the right “to be informed of the nature and cause of the accusation[.]” [U.S. Const. amend. VI](#). To that end, the Federal Rules of Criminal Procedure require that a criminal indictment contain “a plain, concise, and definite written statement of the essential facts constituting the offense charged[.]” [Fed. R. Crim. P. 7\(c\)\(1\)](#).

I. Rule 12(b)(3)(B)(iii) Motion to Dismiss for Lack of Specificity

[1] [2] [3] Courts review an indictment “in its entirety” and with “common sense and practicality.” [United States v. Berger](#), 473 F.3d 1080, 1103 (9th Cir. 2007) (internal citations omitted). The test is not “whether [the indictment] could have been framed in a more satisfactory manner,” but “whether it conforms to the *minimal* constitutional standards.” [United States v. Awad](#), 551 F.3d 930, 935 (9th Cir. 2009) (emphasis added). An indictment meets constitutional and procedural muster if it “state[s] the elements of the offense charged with sufficient clarity to apprise a defendant of the charge against which he must defend and enable him to plead double jeopardy.” [United States v. Hinton](#), 222 F.3d 664, 672 (9th Cir. 2000).

[4] [5] Furthermore, as long as the applicable statute clearly sets out the crime’s essential elements, “[t]he use of a ‘bare bones’ information—that is one employing the statutory language alone—is quite common and entirely permissible” in the Ninth Circuit. [United States v. Woodruff](#), 50 F.3d

673, 676 (9th Cir. 1995) (quoting [United States v. Crow](#), 824 F.2d 761, 762 (9th Cir. 1987)). Consequently, “the language of the statute may be used in the general description of an offence,” as long as it is “accompanied with such a statement of the facts and circumstances as will inform the accused of the specific offence ... with which he is charged.” [Hamling v. United States](#), 418 U.S. 87, 117–18, 94 S.Ct. 2887, 41 L.Ed.2d 590 (1974).

II. Rule 12(b)(3)(B)(v) Motion to Dismiss for Failure to State an Offense

[6] [7] [8] [9] “[T]he district court is bound by the four corners of the indictment” in ruling on a pre-trial motion to dismiss for failure to state an offense. [United States v. Boren](#), 278 F.3d 911, 914 (9th Cir. 2002). Distinguished from pre-trial motions to dismiss premised on other grounds—where the court may take evidence and make factual determinations—the court considering a motion for failure to state an offense “must accept the truth of the allegations in the indictment.” *Id.* “The indictment either states an offense or it doesn’t.” *Id.* To ensure that “the respective provinces of the judge and jury are respected,” a [Rule 12\(b\)\(3\)\(B\)\(v\)](#) motion to dismiss “cannot be used as a device for a *950 summary trial of evidence.” *Id.* To that end, “[t]he Court should not consider evidence not appearing on the face of the indictment.” *Id.*

DISCUSSION

Meech advances three arguments in support of his motion to dismiss the Indictment. He contends that the failure to “reference ... *any* particular restraining order to which [he] was subject” renders the Indictment constitutionally insufficient. (Doc. 26 at 2 (emphasis in original).) Meech next argues that the Indictment fails to state an offense, because his allegedly false answer “is not ‘material’ to the sale of the firearm.” (*Id.* at 5.) Finally, he insists that the government cannot prove that he lied, because the operative court order does not qualify as a “Restraining Order” as defined by ATF Form 4473 Question 11.h, and asks that the Court rule it inadmissible in advance of trial. (*Id.* at 6.) Taking each argument in turn, the Court is persuaded neither that it should dismiss the Indictment, nor that it should deem the operative protective order inadmissible.

I. The Indictment’s specificity sufficiently serves its constitutional purpose.

[10] Because the relevant statute “clearly sets out the crime’s essential elements,” the relatively “bare bones” nature of the Indictment is “entirely permissible.” See [Woodruff](#), 50 F.3d at 676. The Indictment charges Meech with violating [18 U.S.C. § 922\(a\)\(6\)](#). (*Sealed* Doc. 1.) In relevant part, [§ 922\(a\)\(6\)](#) makes it a crime for any person, in connection with the attempted acquisition of a firearm, to “knowingly [] make any false or fictitious oral or written statement ... intended or likely to deceive [] a licensed ... dealer ... with respect to any fact material to the lawfulness of the sale.” As Meech points out, the applicable model jury instruction provides the four essential elements of proof required for an offense charged under [§ 922\(a\)\(6\)](#): (1) the specified dealer was a licensed firearms dealer; (2) in connection with attempting to acquire the specified firearm from the specified dealer, the defendant made a false statement; (3) the defendant knew the statement was false; and (4) the false statement was material. Ninth Cir. Manual of Model Crim. Jury Inst. No. 8.58. The statutory language of [§ 922\(a\)\(6\)](#) clearly tracks the essential elements of proof of the crime. Therefore, standing alone, the Indictment’s minimalist style does not render it constitutionally infirm.

Furthermore, the Indictment accompanies the language of the statute with a statement of facts and circumstances that is sufficiently specific to inform Meech of the crime with which he is charged. See [Hamling](#), 418 U.S. at 117–18, 94 S.Ct. 2887. The Indictment alleges that Meech attempted to purchase a pistol by knowingly making a false statement to a firearms dealer about a fact material to the lawfulness of the sale. (*Sealed* Doc. 1.) It specifies that the Meech falsely responded to Question “11(h) on ATF Form 4463” by stating that he “was not subject to a court restraining order.” (*Id.*) It identifies the location and date of the charged activity and names the firearms dealer. (*Id.*) Down to make, model, and caliber, it describes in detail the gun Meech attempted to buy. (*Id.*)

[11] That the Indictment contains “no reference to *any* particular restraining order” (Doc. 26 at 2) is of no consequence. Again, a valid indictment serves two central purposes: (1) “[i]t ... sufficiently apprise[s] the defendant of the charges against him in order to enable him to prepare a defense”; and (2) it allows him to *951 plead jeopardy against a later prosecution. [Woodruff](#), 50 F.3d at 677. Here, the Indictment tracks the language of the statute and is

accompanied by sufficiently specific facts that: inform Meech of the crime charged and enable him to prepare a defense; and allow him to plead double jeopardy in the future. The Indictment has served its intended functions.

Therefore, the Court denies Meech’s motion to dismiss the Indictment for lack of specificity.

II. It is for the jury to decide whether the allegedly false statement was material.

[12] Meech supports his contention that the Indictment fails to state an offense by improperly asking the Court to make a factual determination as to whether Bob Wards & Sons, Inc. relied on the allegedly false statement. (Doc. 26 at 6.) That is, he urges the Court to decide whether the government has carried its burden of proof on an essential element of the crime: materiality. As the government points out, the Ninth Circuit decidedly put this determination out of district court judges’ hands in [United States v. Moore](#), 109 F.3d 1456 (9th Cir. 1997).

In [Moore](#), the court applied the so-called [Gaudin](#) rule to offenses charged under [§ 922\(a\)\(6\)](#). The constitutional problem in [Gaudin](#) “arose because the district court handled the issue of materiality of [] alleged false statements—which is an essential element of the crime—as a matter for the court to decide, not the jury.” [Moore](#), 109 F.3d at 1463 (citing [United States v. Gaudin](#), 515 U.S. 506, 115 S.Ct. 2310, 132 L.Ed.2d 444 (1995)). The Supreme Court explained that such an approach violated the Fifth and Sixth Amendments, which together “require criminal convictions to rest upon a *jury* determination that the defendant is guilty of every element of the crime with which he is charged, beyond a reasonable doubt.” [Gaudin](#), 515 U.S. 506, 509–10, 522–23, 115 S.Ct. 2310, 132 L.Ed.2d 444 (emphasis added). And while [Gaudin](#) involved alleged violations of [18 U.S.C. § 1001](#), the Ninth Circuit equally applied its holding to the materiality element necessary to prove an offense under [§ 922\(a\)\(6\)](#)—the crime at issue here. [Moore](#), 109 F.3d at 1464. Therefore, under [Gaudin](#) and [Moore](#), the Court cannot decide whether or Meech’s “answering Question 11.h in the negative ... [was] ‘material’ to the sale of the firearm by the vendor” as Meech so urges. (Doc. 26 at 5.)

Furthermore, even if materiality was a matter for the Court to decide, whatever discovery reveals on this element is irrelevant to Meech's motion to dismiss the Indictment for failure to state an offense. As already set out, the Court "is bound by the four corners of the indictment" and "must accept the truth of the allegations" contained therein. *Boren*, 278 F.3d at 914. "The indictment either states an offense or it doesn't," *id.*, and Meech offers no argument that the Indictment here doesn't. Instead, he asks the Court to invade the province of the jury and conduct a summary trial without any evidentiary record. The Court declines the invitation and denies Meech's motion to dismiss the Indictment for failure to state an offense.

III. Without any argument as to why the protective order should be excluded *in limine*, Meech's motion to do so is denied.

[13] Meech admits that his third argument may raise a factual defense improperly included in a pretrial motion to dismiss. (Doc. 26 at 7.) It does. Rule 12(b) motions are limited to considerations of "such matters as former jeopardy, former conviction, former acquittal, statute of limitations, *952 immunity, and lack of jurisdiction." *United States v. Nukida*, 8 F.3d 665, 670 (9th Cir. 1993) (citation and alteration omitted).

[14] In contrast, Meech's final argument attacks whether the evidence supports the second element of proof under § 922(a)(6): whether he made a false statement. Specifically, he argues that the protective order to which he was subject does not qualify as a "Restraining Order" as defined by Question 11.h, nor as a "Court Order" as defined by a distinct firearms offense.¹ (Doc. 25 at 3.) Thus, the argument goes, Meech did not lie when he answered "no" to the question, "Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner?" (See Doc. 26 at 3.) If the Court finds, as it does, that a Rule 12(b) motion to dismiss is an improper vehicle for this argument, Meech asks that it be construed as a motion *in limine* to preclude the protective order's introduction at trial. (*Id.* at 7.) The Court grants his

request and considers his argument related to the protective order as a motion *in limine*. However, even so construed, the Court finds Meech's argument unpersuasive.

[15] [16] [17] "Motions *in limine* are procedural devices to obtain an early and preliminary ruling on the admissibility of evidence." *BNSF Ry. Co. v. Quad City Testing Lab., Inc.*, 2010 WL 4337827, *1 (D. Mont. Oct. 26, 2010). "Typically, a party moves *in limine* when it believes that mere mention of the evidence at trial would be highly prejudicial and could not be remedied by instruction to disregard." *Black's Law Dictionary*, 1109 (9th ed. 2009). A motion *in limine* "should not be used to resolve factual disputes or weigh evidence," but instead is appropriate only where "the evidence [is] inadmissible on all potential grounds." *United States v. King*, 2019 WL 1167834, *1 (D. Mont. Mar. 13, 2019). District courts have *953 broad discretion in considering and ruling on motions *in limine*. See *Luce v. United States*, 469 U.S. 38, 41 n.4, 105 S.Ct. 460, 83 L.Ed.2d 443 (1984).

Meech advances no reason why the protective order at issue here is inadmissible. Instead, he asks the Court to resolve a factual dispute about the point at which he allegedly lied. Specifically, he contends that he did not lie when he answered "no" to Question 11.h, because the protective order against him did not qualify as a "Restraining Order" as described by Question 11.h's instructions. (See Doc. 26 at 3–4.) At trial, the government bears the burden to prove him wrong. But Meech's request to exclude undisputedly relevant evidence from the jury's consideration simply because he believes it fails to support the government's case is denied.

ORDER

For the foregoing reasons, IT IS ORDERED that Meech's motion (Doc. 25) is DENIED.

All Citations

487 F.Supp.3d 946

Footnotes

1 Asserting that the terms of ATF Form 4473 “Question 11.h and § 922(g)(8) [] are functional equivalents,” Meech argues that the statutory language of § 922(g)(8), a separate firearms offense, should be incorporated into the government's burden of proof in this § 922(a)(6) case. (Doc. 25 at 3.) However, the case on which Meech relies for his incorporation argument is distinguishable. Although the defendant there, too, was charged with violating § 922(a)(6), the Second Circuit noted that “[t]he statutory language of § 18 U.S.C. 922(g)(8)(A) [was] relevant *because the parties agreed* that the government bore the burden of proving the [operative protective] order complied with its [§ 922(g)(8)(A)] language.” *United States v. Bramer*, 956 F.3d 91, 92 n.1 (2d Cir. 2020) (emphasis added). The *Bramer* court went on to explain why it took no issue with the parties’ agreement: the only difference it saw between the hearing requirement on ATF Form 4473 and the hearing condition contained in § 922(g)(8) is that the Form says that the operative court order must have been “issued after a hearing which the person received actual notice of and had an opportunity to participate in”, while the statutory language says the order must have been “issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate[.]” *Id.* at 94 n.4. While the Court agrees that there appears to be no functional difference between the language of Form 4473 and § 922(g)(8) as it relates to the hearing requirement, the parties here have not agreed—as they did in *Bramer*—that § 922(g)(8) should be incorporated to direct the government's burden of proof at trial. Contrary to Meech's sweeping assertion, *Bramer* does not stand for the proposition that the elements of § 922(g)(8) should be incorporated into all § 922(a)(6) cases. Absent any *Bramer*-like agreement between the parties to do so, the Court rejects Meech's efforts to inject the statutory language of § 922(g)(8) into this case. But if at trial the government fails to prove that the operative order qualifies as a “Restraining Order” under ATF Form 4473 Question 11.h, Meech remains free to move for a Rule 29 judgment of acquittal, like the *Bramer* defendant did. See *Bramer*, 956 F.3d at 95.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSHUA RODNEY MEECH,

Defendant.

CR 20–13–BU–DLC

FINDINGS OF FACT,
CONCLUSIONS OF LAW, and
ORDER

On June 19, 2020, a Grand Jury returned a single count Indictment charging Defendant Joshua Rodney Meech with Making a False Statement During a Firearms Transaction, in violation of 18 U.S.C. § 922(a)(6). (*Sealed* Doc. 1.) Meech waived his right to a jury on September 16, 2020. (Doc. 30.) Consequently, the Court conducted a bench trial on September 28, 2020, pursuant to its jurisdiction under 18 U.S.C. § 3231. For the following reasons, the Court finds Meech guilty of violating § 922(a)(6) and denies his Rule 29 motion for a judgment of acquittal.

INTRODUCTION

Meech was present, in person, throughout the trial and was represented by Federal Defender Michael Donahoe. Assistant U.S. Attorney Cyndee Peterson represented the government. Before the Court took any evidence, it determined in

open court and on the record that Meech's waiver of his right to a trial by jury was knowing and intelligent, in writing, and consented to by the government.

Accordingly, the Court approved Meech's jury trial waiver. (*See* Doc. 30.)

Additionally, the Court confirmed that the parties stipulated to the facts as indicated in the government's Trial Brief. (*See* Doc. 34 at 9.) After the Court's determinations concerning the jury trial waiver and the stipulation, the bench trial commenced. At the close of the government's evidence, Meech moved for a judgment of acquittal, pursuant to Federal Rule of Criminal Procedure 29, and rested his case. Because he also requested that the Court make specific findings of fact and conclusions of law, the Court took the entire matter under advisement.

Having carefully reviewed the testimony and evidence presented at trial, the applicable law, and the parties' arguments presented in their pre-trial briefs and at trial (*see* Docs. 34, 36), the Court makes and enters the following findings of fact and conclusions of law pursuant to Federal Rule of Criminal Procedure 23(c). Based on its findings and conclusions, the Court enters a guilty verdict against Meech and denies his Rule 29 motion to acquit.

FINDINGS OF FACT

The following findings of fact are based upon the testimony of the following witnesses: (1) Henry Brunner, Bob Ward & Sons, Inc., Bozeman, Montana; (2)

Randy Karls, Bob Ward & Sons, Inc., Bozeman, Montana; (3) Deputy Thomas Pallach, Gallatin County Sheriff's Office, Bozeman, Montana; and (4) C.J. Cook, attorney at law, Bozeman, Montana. Additionally, the Court reviewed the following admitted trial exhibits: (1) Government Exhibit 1 (ATF Form 4473 completed by Meech); (2) Government Exhibit 2 (blank ATF Form 4473); Government Exhibit 3 (temporary restraining order dated January 10, 2020); Government Exhibit 4 (stipulated order of protection entered February 26, 2020); and Government Exhibit 5 (order terminating order of protection dated May 20, 2020).

I. Protective Orders Issue from State Court

1. On January 10, 2020, the state court for Gallatin County, Montana, issued a Temporary Restraining Order ("TRO") in Cause No. DR-19-72C. The TRO ordered Meech not to "threaten to commit or commit any acts of violence" against his wife, Erica Meech, and three minor children. Specifically, the TRO restrained Meech from "harass[ing], threaten[ing], abus[ing], follow[ing], stalk[ing], annoy[ing], or disturb[ing] the peace" of Erica Meech and three children. (Government Exhibit 3.)

2. The TRO set a hearing for January 29, 2020, and instructed Meech to appear, warning that if he failed to do so, an adverse judgment could be entered against him. (Government Exhibit 3.)

3. The same day it issued—January 10, 2020—Gallatin County Sheriff’s Deputy Thomas Pallach personally served Meech with the TRO.

4. Bozeman attorney C.J. Cook represented Meech in DR-19-72C.

5. The January 29, 2020 hearing on the TRO was continued to February 27, 2020.

6. On February 25, 2020, Meech and his then-wife—represented by their respective attorneys—filed a Stipulated Order of Protection and agreed to vacate the hearing on the TRO. While the Stipulated Order of Protection dissolved the TRO as it related to the minor children, it continued to proscribe Meech’s behavior as it related to his wife. To that end, the Stipulated Order of Protection prohibited Meech from committing or threatening to commit “any acts of violence” against her, specifying that he should not “harass, threaten, abuse, follow, stalk, annoy, or disturb [her] peace[.]” (Government Exhibit 4.)

7. Meech and C.J. Cook signed the Stipulated Order of Protection after they discussed its contents. The state court entered the Stipulated Order of Protection on February 26, 2020. The Stipulated Order of Protection stated that it would

remain effective until the parties mutually agreed to dissolve it or upon further order of the court. (Government Exhibit 4.)

8. On May 20, 2020, on Erica Meech's motion, the state court terminated the Stipulated Order of Protection. (Government Exhibit 5.)

9. Therefore, for the continuous period between January 10, 2020 and May 20, 2020, two consecutively issued court orders in DR-19-72C restrained Meech's conduct as it related to his wife.

II. Meech Shops for a Gun

10. On April 4, 2020, Meech entered Bob Ward & Sons, Inc. in Bozeman, Montana ("Bob Ward") and shopped for a firearm. The parties agree that at all relevant times, Bob Ward had a Federal Firearms License.

11. While he shopped, Meech spoke to two Bob Ward employees: Henry Brunner and Randy Karls. Brunner and Karls answered Meech's questions about various firearms and ammunition. In total, Meech spent about an hour at Bob Ward interacting with Brunner and Karls. Ultimately, Meech indicated he wanted to purchase a Sig Sauer pistol.

12. Accordingly, and pursuant to his training, Brunner handed Meech ATF Form 4473 in its entirety and took Meech's driver's license in turn.

13. The first section of ATF Form 4473 (“Section A”) asks the transferee or buyer of a firearm for personal identifying information. Additionally, it asks a series of yes-or-no questions, which, as text at the top of the same page explains, are used to “determine whether [the transferee or buyer] [is] prohibited from receiving a firearm.” Section A also contains warnings regarding the veracity and effect of the information the transferee or buyer provides, followed by a date and signature line to be completed by the transferee or buyer. Among the warnings that precede the transferee or buyer’s signature line in Section A is the following admonishment: “I [the firearm transferee or buyer] understand that a person who answers ‘yes’ to any of the questions 11.b through 11.i . . . is prohibited from purchasing or receiving a firearm.” (Government Exhibits 1, 2.)

14. The second section of ATF Form 4473 (“Section B”) asks for information to be provided by the firearm transferor or seller. (Government Exhibits 1, 2.)

15. Following Section B, ATF Form 4473 contains a purpose statement along with instructions for each Section. Relevant here, this portion of ATF Form 4473 provides the definitions for various terms contained in Section A (“Instructions”). (Government Exhibits 1, 2.)

16. Brunner and Karls watched Meech complete Section A of ATF Form 4473. (Government Exhibit 1.) Although neither Brunner nor Karls specifically urged

Meech to read the purpose and instructions portion of ATF Form 4473, they did not discourage him from doing so.

17. In response to ATF Form 4473 Question 11.h, Meech checked “no.”

Question 11.h asks whether the firearm transferee or buyer is “subject to a court order restraining [him] from harassing, stalking, or threatening your child or an intimate partner or child of such partner[.]” Additionally, Question 11.h contains a parenthetical directing the transferor or buyer to the Instructions. (Government Exhibit 1.)

18. After Meech completed Section A, he signed and dated on the line provided for the firearm transferee or buyer and returned the ATF Form 4473 to Brunner.

19. Brunner reviewed the information Meech provided in Section A to confirm he was eligible for the firearm purchase. Then, Brunner called the National Instant Background Check (“NICS”) phone operator for verification.

20. Had Meech checked “yes” to ATF Form 4473 Question 11.h, Brunner would not have called NICS to verify the information he provided in Section A, because Meech would have been automatically “eliminate[d] from owning or buying a firearm.”

21. NICS responded immediately that the transaction was “delayed.” Therefore, Bob Ward did not transfer the Sig Sauer pistol to Meech on April 4, 2020. A few

days later, NICS notified Bob Ward that Meech's request to acquire the Sig Sauer pistol was denied. Karls relayed the denial to Meech. When Meech asked for an explanation, Karls responded that he did not know, as NICS does not provide that information to Bob Ward.

22. On April 4, 2020, Meech filled out ATF Form 4473, where he represented that he was not subject to a court order that restrained him from "harassing, stalking, or threatening . . . an intimate partner[.]" (Government Exhibit 1.) He made this representation on a form provided by Bob Ward and returned the form to the same.

CONCLUSIONS OF LAW

I. Jury Trial Waiver

1. If a criminal defendant is entitled to a jury trial, the trial must be by jury unless: (1) the defendant waives a jury trial in writing; (2) the government consents; and (3) the court approves. Fed. R. Crim. P. 23(a).

2. Prior to trial in this matter, Meech signed a written waiver of his right to trial by jury, and the government consented to proceeding to a bench trial. (Doc. 30.) Immediately before commencing trial, the Court asked Meech on the record whether he had discussed his right to a jury trial with his attorney, and further, whether he understood the implications of waiving that right. On both counts,

Meech answered in the affirmative. Based on his answers in open court, the Court concluded that Meech's written waiver of his jury right was made knowingly, intelligently, and voluntarily.

3. Accordingly, finding the first two requisites to proceeding to a bench trial satisfied, the Court approved Meech's waiver of his jury trial right.

II. Elements of Proof: 18 U.S.C. § 922(a)(6)

The Court first addresses Meech's arguments to modify and add to the elements of proof required to convict him for violating 18 U.S.C. § 922(a)(6). However, as it did on the record at trial, the Court concludes that the government could satisfy its burden by proving beyond a reasonable doubt the four elements set out in the Ninth Circuit's *Manual of Model Criminal Jury Instructions* (2010).

A. Conjunctive Indictment Language

4. "It is common to charge conjunctively when an underlying statute proscribes more than one act disjunctively; such a charge permits conviction upon proof that the defendant committed either of the conjunctively charged acts." *Malta-Espinoza v. Gonzales*, 478 F.3d 1080, 1082 (9th Cir. 2007).

5. In federal courts, the settled rule is "that an indictment may not be amended except by resubmission to the grand jury, unless the change is merely a matter of form." *United States v. Marolda*, 615 F.2d 867, 871 (9th Cir. 1980) (citation

omitted). As such, a court may amend an indictment if the change is “immaterial” and effectively constitutes “the removal of surplusage” without violating a defendant’s Fifth Amendment right to be tried on a grand jury indictment. *Id.*

6. The question of prejudice lies at the center of a court’s decision to amend the language of an indictment. *Id.* “[W]here the court’s examination of the record reveal[s] that the defendant [is] aware of the government’s statutory position . . . from the beginning of trial” prejudice to the defendant is likely minimal. *Id.* at 872; *see also United States v. Dawson*, 516 F.2d 796, 802 (9th Cir. 1975) (noting that reforms in criminal pleading “eliminate the fatal effects of defects which are merely formal or technical, and which in no way prejudice the defendant or alter the nature of the indictment”).

7. Here, the government’s decision to charge conjunctively¹ what Congress wrote disjunctively² permits conviction upon proof that Meech’s allegedly false statement was either: (1) intended; or (2) likely to deceive Bob Ward.

¹ In relevant part, the language of the Indictment reads:

Joshua Rodney Meech, in connection with his acquisition and attempted acquisition of a firearm, namely a Sig Sauer, model P320, 9 mm semi-automatic pistol, from Bob Ward & Sons, Inc. Bozeman, Montana, a licensed dealer, knowingly made a false and fictitious written statement to Bob Ward & Sons, Inc., which statement was *intended and likely to deceive* Bob Ward & Sons, Inc., as to a fact material to the lawfulness of such sale

(*Sealed* Doc. 1 (emphasis added).)

² In relevant part, § 922(a)(6) makes it unlawful for

any person in connection with the acquisition or attempted acquisition of any firearm . . . knowingly to make any false or fictitious oral or written statement . . .

8. Furthermore, even if the Indictment’s conjunctive language was not an issue of common charging practice, it would be well within the Court’s discretion to amend the Indictment to read disjunctively, as such a change would be merely a matter of form. There is nothing in the record to indicate that Meech operated unaware of the government’s statutory position. Indeed, in his pretrial briefing, Meech pointed the Court to the Ninth Circuit’s Model Criminal Jury Instructions, which state the materiality element of 18 U.S.C. § 922(a)(6) in the disjunctive, to argue that the Indictment failed to state an offense. (Doc. 26 at 5.) Thus, if the Court found the Indictment defective, amending it to read in the disjunctive on the element of materiality would be merely formal, and would in no way prejudice Meech or alter the nature of the Indictment.

B. Modification of Knowledge Requirement

9. *Rehaif* fails to support Meech’s contention that the Court should modify the elements of proof as they are set out in the Ninth Circuit’s Model Criminal Jury Instructions.

intended or likely to deceive [a licensed dealer] with respect to any fact material to the lawfulness of the sale

18 U.S.C. § 922(a)(6) (emphasis added).

10. *Rehaif* involved the scope of the knowledge element when a defendant is prosecuted under 18 U.S.C. §§ 922(g) and 924(a)(2). *Rehaif v. United States*, 139 S. Ct. 2191, 2194 (2019). The Court held that a defendant may be convicted under § 922(g) only if the government proves that the defendant “knew he belonged to the relevant category of persons barred from possessing a firearm.” *Id.* at 2200.

11. The government here, though, did not prosecute Meech under § 922(g), but under a separate provision of the gun control statute. The Court understands Meech’s argument as it relates to the presumption in favor of scienter and his effort to expand *Rehaif*’s principles to elevate the government’s burden of proof in this § 922(a)(6) case. Essentially, he asks the Court to require proof of his knowledge on two points: (a) that his statement was false; *and* (b) that the law classified him as a prohibited person under § 922(g)(8).

12. The problem, however, is that *Rehaif* has not been so expanded to prosecutions under § 922(a)(6). Under this provision, the law of the Ninth Circuit has not changed since 1982: “[t]he government need only show that [the defendant] made a statement he knew to be false *not that he knew he was violating the law.*” *United States v. Williams*, 685 F.2d 319, 321 (9th Cir. 1982) (emphasis added). In other words, knowledge of the lie is essential, not knowledge of the law.

13. Therefore, the Court is unpersuaded that it should apply *Rehaif* to inject an additional element of proof into this § 922(a)(6) case. That Meech may not have known whether he was prohibited from receiving or possessing a firearm under § 922(g) is irrelevant to the crime charged. Under *Williams*, the government need only prove his knowledge on one point: that his statement was false.

C. Addition of Attempt Element

14. Meech emphasizes that he never actually acquired a gun from Bob Ward. (*See, e.g.*, Doc. 36 at 9.) Therefore, the argument goes, the government should be required to prove that he took a “substantial step” toward acquiring a gun in violation of 18 U.S.C. § 922(g)(8). (*Id.*) However, neither of the cases on which Meech rely stand for the proposition that the elements of inchoate crimes should be added to the elements of proof required for crimes prosecuted under § 922(a)(6).

15. First, Meech cites *Buffington*, it seems, simply as a source of the elements required to convict for attempt. (*See* Doc. 36 at 3 (citing *United States v. Buffington*, 815 F.2d 1292, 1301 (9th Cir. 1987).) Otherwise, *Buffington* appears wholly irrelevant to this case.

16. Second, and for its part, the Supreme Court in *Abramski* considered whether § 922(a)(6) applied to a straw purchaser—“a person who buys a gun on someone else’s behalf while falsely claiming that it is for himself.” *Abramski v. United*

States, 573 U.S. 169, 171–72 (2014). Even if the true buyer could have purchased the gun without the straw, the Court ultimately held, such a misrepresentation is punishable under the law. *Id.* at 193. Explaining why the misrepresentation as to the identity of the true purchaser is material, the Court stated that “had [the straw] revealed that he was purchasing the gun on [the true buyer’s] behalf, the sale could not have proceeded under the law.” *Id.* at 189.

17. Although the *Abramski* defendant indeed acquired the gun from the dealer through his misrepresentation, nothing in the case implies that if the lie is caught before the gun changes hands, different or additional elements of proof to convict are required. To the contrary, the focus of the § 922(a)(6) is the false statement, not whether the buyer takes possession of the gun. *See Huddleston v. United States*, 415 U.S. 814, 824–25 (1974) (explaining that § 922(a)(6) “was enacted as a means of providing adequate and truthful information about firearms transactions”). As such, a crime under § 922(a)(6) is complete the moment “any false statement [is made] with respect to the eligibility of a person to obtain a firearm from a licensed dealer.” *Id.* at 825.

18. The statute’s plain language is instructive on this point. In relevant part, § 922(a)(6) makes it unlawful “for any person in connection with the acquisition or attempted acquisition of any firearm . . . knowingly to make any false or fictitious

oral or written statement.” The prohibited action is the making of a false statement. Whether a firearm is acquired makes the prohibited action no more or less illegal.

19. Therefore, the Court rejects Meech’s proposed fifth element of proof, which would require it to construe § 922(a)(6) as an inchoate offense unless a defendant actually acquires a firearm. Neither the purpose nor the plain language of the statute permits such a construction.

D. Required Elements of Proof

20. After considering Meech’s arguments, the Court concludes that a defendant commits the offense of making a false statement during a firearms transaction, in violation of 18 U.S.C. § 922(a)(6), if the government proves the following elements beyond a reasonable doubt: (1) the seller was a licensed firearms dealer; (2) in connection with attempting to acquire the firearm from the seller, the defendant made a false statement; (3) the defendant knew the statement was false; and (4) the false statement was material—that is, the false statement had a natural tendency to influence, or was capable of influencing the seller into believing that the firearm could be lawfully sold to the defendant. *Manual of Model Criminal Jury Instructions*, Inst. 8.58; *Huddleston*, 415 U.S. at 828.

21. Here, then, the government bears the burden to prove beyond a reasonable doubt that: (1) Bob Ward was a licensed firearms dealer; (2) in connection with attempting to acquire a Sig Sauer pistol from Bob Ward, Meech made a false statement; (3) Meech knew the statement was false; and (4) the false statement was material—that is the false statement had a natural tendency to influence, or was capable of influencing Bob Ward into believing the Sig Sauer pistol could be lawfully sold to Meech.

III. Meech Made a False Statement During a Firearms Transaction

A. Licensed Firearms Dealer

22. For purposes of § 922(a)(6), a firearms dealer means: “(A) any person engaged in the business of selling firearms at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker.” 18 U.S.C. § 921(a)(11). The term “licensed dealer” means “any dealer who is licensed under the provisions” of Chapter 44, Title 18 of the United States Code. *Id.*

23. Based on the parties’ stipulation, the Court concludes that Bob Ward was a licensed firearms dealer within the meaning of § 922(a)(6) on April 4, 2020.

B. False Statement

24. A statement is false if it is untrue. *Black's Law Dictionary* (11th ed. 2019).

25. For the following reasons, the Court concludes that the Stipulated Order of Protection qualifies as a restraining order as contemplated by ATF Form 4473 Question 11.h and its corresponding Instruction.

1. Hearing

26. The questions listed in ATF Form 4473, Section A, implement federal gun control legislation by asking the would-be buyer whether any statutory factor applies to disqualify him from gun ownership. *Abramski*, 573 U.S. at 173.

Relevant here, Question 11.h surveys whether a buyer would be prohibited from firearm possession under 18 U.S.C. § 922(g)(8), which restricts gun possession from those subject to a court order.

27. As Meech argued pretrial and this Court and others have agreed, Question 11.h and § 922(g)(8) contain functionally equivalent hearing requirements as it relates to a qualifying court order.³ (*See, e.g.*, Doc. 29 at 9 n.1.); *see also United States v. Bramer*, 956 F.3d 91, 92 n.1 (2d Cir. 2020). Accordingly, the Court looks

³ The Instructions to Question 11.h state that a qualifying restraining order is one that “was issued after a hearing which the person received actual notice of and had an opportunity to participate in.” (Government Exhibit 1 at 5.) 18 U.S.C. § 922(g)(8) makes it unlawful for any person to possess a firearm “who is subject to a court order that [] was issued after a hearing of which the person received actual notice, and at which such person had an opportunity to participate.”

to cases analyzing § 922(g)(8) to determine whether the process leading up to the Stipulated Order of Protection in this case qualified as a “hearing.”

28. Section 922(g)(8) explicitly defines the qualities a hearing must have: “for the purposes of this provision, a hearing simply is a proceeding of which the defendant has ‘actual notice’ and an ‘opportunity to participate’.” *United States v. Young*, 458 F.3d 998, 1005–06 (9th Cir. 2006). The due process protections of a criminal trial are not required. *Id.* at 1006. In other words, a § 922(g)(8) hearing “requires actual notice and an opportunity to be heard, but the statute does not require that evidence actually have been offered or witnesses called.” *Id.* (quoting *United States v. Lippman*, 369 F.3d 1039, 1042 (8th Cir. 2004), *cert. denied* 543 U.S. 1080 (2005)). Still, while requiring less than the due process trappings of a criminal trial, the demands of a § 922(g)(8) hearing almost certainly “exclude[] certain types of restraining orders—such as those issued *ex parte* and without notice.” *Id.*

29. Considering the “actual notice” and “opportunity to participate” prongs of the § 922(g)(8) hearing requirement in turn, the Court concludes that the process leading up to the filing of the Stipulated Order of Protection qualifies as a “hearing” within the meaning of the statute.

a. Actual Notice

30. For purposes of § 922(g)(8), “actual notice” requires notice of the hearing itself, *not* notice of the content of the hearing. *Id.* Therefore, the proper question on this point is “whether the evidence presented in federal court shows [that the predicate court order] met § 922(g)(8)’s requirement that [the defendant] had notice of the fact of the hearing.” *Id.* at 1008.

31. When Gallatin County Sheriff’s Deputy Thomas Pallach personally served him with the TRO, Meech was provided actual notice of the hearing on Erica Meech’s request that the TRO “be made an Order of Protection for the specific time or effective permanently.” (Government Exhibit 3 at 2, 5.) In bold typeface, the TRO informed Meech of the date, time, and location of the hearing, as well as the consequence for failing to appear. In other words, the TRO gave more notice than is required under § 922(a)(6), inasmuch as it informed him of the *content* of the hearing, in addition to its existence. *See Young*, 458 F.3d at 1006–07.

b. Opportunity to Participate

32. The plain text of § 922(g)(8) “requires only the mere ‘*opportunity* to participate’” in a hearing; actual participation is unnecessary. *Id.* at 1009 (emphasis in original). To that end, the Ninth Circuit joined the Fifth and Seventh Circuits to conclude that the “opportunity to participate” requirement is “a minimal

one.” *Id.* (citing *United States v. Banks*, 339 F.3d 267 (5th Cir. 2003) and *United States v. Wilson*, 159 F.3d 280 (7th Cir. 1998)). Therefore, to prove an “opportunity to participate,” the prosecution must only show “a proceeding during which the defendant *could* have objected to the entry of the [predicate protective] order or otherwise engaged with the court as to the merits of the restraining order.” *Id.* (emphasis in original).

33. The Fifth Circuit’s discussion in *Banks* is instructive where, as here, the court order predicate to the federal prosecution is a stipulated protective order. *See generally* 339 F.3d 267. There, after he was provided actual notice of the hearing date, the represented defendant appeared on the scheduled hearing date and informed the court that a settlement had been reached. *Id.* at 268. The parties called no witnesses and presented no evidence. *Id.* After the court had been informed of the intent to settle, the defendant signed the agreed order in his attorney’s office. *Id.* Once the state’s attorney had done the same, the presiding judge “signed the order in his chambers outside the presence of either of the parties” and returned it for filing. *Id.* The Fifth Circuit concluded that this process constituted a “opportunity to participate” under § 922(g)(8), explaining that “Banks had an opportunity to put on evidence, but he did not avail himself of that opportunity.” *Id.* at 270–71.

34. So, too, here. Indeed, the only daylight the Court sees between the agreed order in *Banks* and the Stipulated Order of Protection in this case is that Meech did not wait until the date of the hearing to sign it. Instead, along with his attorney, Meech signed the Stipulated Order of Protection two days before the hearing was set to commence. However, in the Court's view, this temporal distinction is immaterial. Nothing in the record indicates that the standing master for the Eighteenth Judicial District was not prepared to listen to both sides of the dispute on the date set for the hearing. *See Banks*, 339 F.3d at 271. Furthermore, were the Court to find this distinction dispositive, a defendant could avoid later federal prosecution by simply consenting to an agreed order in the eleventh hour before the hearing date. *See id.* at 272. The Court declines to undermine the protections contemplated by § 922(g)(8) and its Question 11.h corollary by doing so.

35. Thus, the Court concludes that Meech had an "opportunity to participate" as defined by § 922(g)(8) and the Instructions to Question 11.h. He could have objected to the entry of the Stipulated Order of Protection or otherwise engaged with the court as to the merits of the order but did not avail himself of that chance.

2. Conduct Restrained

36. The Instructions to Question 11.h tightly, though not exactly, correspond with the corollary language in § 922(g)(8). In both, however, the operative

language and relevant inquiry is the same: whether the court order restrained the would-be gun purchaser from “harassing, stalking, or threatening an intimate partner[.]” *Compare* Government Exhibit 1 at 5 *with* 18 U.S.C. § 922(g)(8)(B).

37. Both the Instructions to Question 11.h and the applicable statute define “intimate partner” to include the prospective gun-buyer’s spouse or former spouse. Government Exhibit 1 at 5; 18 U.S.C. § 921(a)(32).

38. The Stipulated Order of Protection restrains the conduct contemplated by Question 11.h and § 922(g)(8). It orders that “Respondent [Meech] will not harass, threaten, abuse, follow, stalk, annoy, or disturb the peace of Petitioner [Erica Meech]”—his then-wife. (Government Exhibit 4 at 2.)

3. Explicit Prohibition of Physical Force

39. The Instructions to Question 11.h and § 922(g)(8) are in lockstep on the third qualification for a “restraining order.” In both and in relevant part, the predicate order must “by its terms explicitly prohibit[] the use, attempted use, or threatened use of physical force against such intimate partner . . . that would reasonably be expected to cause bodily injury[.]” *Compare* Government Exhibit 1 at 5 *with* 18 U.S.C. § 922(g)(8)(C)(ii).

40. Joining its First, Fourth, and Eleventh Circuit sisters, the Ninth Circuit held in *United States v. Sanchez* “that a conviction under 18 U.S.C. § 922(g)(8) does not

require the precise language of (8)(C)(ii) to be contained in a court order.

However, a court order must contain explicit terms substantially similar in meaning to the language of (8)(C)(ii).” *Id.* at 1205 (citing *United States v. DuBose*, 598 F.3d 726 (11th Cir. 2010) (per curiam); *United States v. Coccia*, 446 F.3d 233 (1st Cir. 2006); *United States v. Bostic*, 168 F.3d 718 (4th Cir. 1999)).

41. The terms of a predicate order are “explicit” if—“without implication, vagueness, or ambiguity”—they ban the use, threatened use, or attempted use of physical force. *Id.* “While this does not require the court order to track the language of (8)(C)(ii), it must include specific terms that clearly—and without implication—prohibit such activity.” *Id.*

42. Explaining that a court may issue such an order for reasons unrelated to the safety of the individual named in the order, the *Sanchez* court concluded that the predicate order before it failed to satisfy (8)(C)(ii), as it only prescribed “no contact” and lacked any explicit prohibitions on physical force, abuse, or harm. *Id.* at 1205–06. “In such a situation, there is no presumption that the person subject to the order represents a threat of violence.” *Id.* at 1206. In contrast, the presumption of violence exists where court orders contain express and specific terms limiting the defendant’s conduct:

[T]he court order in *DuBose* expressly prohibited the defendant ‘from intimidating, threatening, hurting, [or] harassing’ his intimate partner,

598 F.3d at 730–31, while the court orders in *Coccia* and *Bostic* expressly directed the defendants to “refrain from abusing” their intimate partners, 446 F.3d at 242, 168 F.3d at 722.

Id. at 1204–05.

43. The Stipulated Order of Protection restrained Meech from committing or threatening to commit “any acts of violence” against Erica Meech. The definition of “violence” includes “[t]he use of physical force . . . [especially] physical force unlawfully exercised with the intent to harm.” *Black’s Law Dictionary*.

44. The Stipulated Order of Protection also barred Meech from “abus[ing]” Erica Meech. The “definition of ‘abuse’ as a verb includes ‘to injure a person physically or mentally[.]’” *Coccia*, 446 F.3d at 242 (citation omitted). “Abuse” as a noun includes “physical or mental maltreatment, often resulting in mental, emotion, sexual, or physical injury.” *Id.*

45. The Stipulated Order of Protection’s language satisfies the requirement under § 922(g)(8)(C)(ii) and its ATF Form 4473 corollary by explicitly prohibiting the use, attempted use, or threatened use of “physical force” reasonably expected to cause bodily injury. “A narrower interpretation would defeat what [the Court] conceives to be the obvious and general purpose of the statute.” *DuBose*, 598 F.3d at 731.

///

46. Because the Stipulated Order of Protection qualifies as a “Restraining Order” pursuant to Question 11.h and the corresponding statute, and because it remained effective from February 26, 2020 until May 20, 2020, Meech made a false statement on April 4, 2020 when, while attempting to purchase the Sig Sauer pistol, he responded that he was not subject to such an order.

C. Knowledge of Statement’s Falsity

47. In a § 922(a)(6) case, “[t]he government need only show that [the defendant] made a statement he knew to be false not that he knew he was violating the law.” *Williams*, 685 F.2d at 321.

48. “The element of knowledge may be satisfied by inferences drawn from proof that a defendant deliberately closed his eyes to what would otherwise have been obvious to him.” *Id.* (citation omitted).

49. Meech signed the Stipulated Order of Protection in the presence of his attorney on February 25, 2020. The Stipulated Order of Protection advised that it remained effective until the parties mutually agreed to dissolve it or upon further court order. Nothing further issued in the matter until May 20, 2020.

50. Based on Meech’s signing the Stipulated Order of Protection, the Court concludes that he knew that his response to ATF Form 4473 Question 11.h on April 4, 2020 was false. That he deliberately chose not to read the Instructions to

Question 11.h—which explained how the Stipulated Order of Protection qualifies—is irrelevant.

D. Materiality

51. As already stated, a false statement is material if it “had the natural tendency to influence or was capable of influencing” Bob Ward into believing it could lawfully sell the Sig Sauer to Meech. *Manual of Model Criminal Jury Instructions*, Inst. 8.58; *Huddleston*, 415 U.S. at 828.

52. Congress designed § 922(a)(6) “to ensure that the dealer can rely on the truthfulness of the buyer’s disclosures in carrying out its obligations.” *Abramski*, 573 U.S. at 174. As such, to protect dealers’ ability to carry out their record-keeping duties under federal gun law, § 922(a)(6) criminalizes certain false statements during firearms transactions. *Id.*

53. A false statement is “material” under § 922(a)(6) if the sale of the gun could not have proceeded under the law had the would-be purchaser truthfully revealed his ineligibility to possess a firearm. *Id.* at 189. Put another way, if would-be purchaser had been truthful, and the sale “could not have gone forward” because the dealer could not have certified its belief that the transfer was “not unlawful,” the false statement is material. *Id.*

54. Had Meech admitted that he was under a qualifying restraining order, the sale here would not have gone forward, because Henry Brunner would not have called NICS to verify the information Meech provided in Section A. Brunner explained that a “yes” answer to ATF Form 4473 Question 11.h would have automatically “eliminate[d] Meech from owning or buying a firearm.”

55. Meech’s false statement was material.

VERDICT

After considering the facts presented at trial and making the foregoing conclusions of law, the Court finds that the government proved beyond a reasonable doubt every required element of the offense charged in the Indictment. Accordingly, the defendant, Joshua Rodney Meech, is GUILTY of making a false statement during a firearms transaction, in violation of 18 U.S.C § 922(a)(6).

ORDER

Because the Court finds that the evidence presented is sufficient to sustain a conviction, IT IS ORDERED that Meech’s motion for a Rule 29 judgment of acquittal is DENIED.

DATED this 1st day of October, 2020.

A handwritten signature in blue ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large initial "D".

Dana L. Christensen, District Judge
United States District Court

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA BUTTE DIVISION

UNITED STATES OF AMERICA

v.

JOSHUA RODNEY MEECH

JUDGMENT IN A CRIMINAL CASE

Case Number: CR 20-13-BU-DLC-1

USM Number: 18071-046

Michael Donahoe

Defendant's Attorney

THE DEFENDANT:

☐	pleaded guilty to count(s)	
☐	pleaded nolo contendere to count(s) which was accepted by the court	
☒	was found guilty on count(s) after a plea of not guilty	I

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense

18 U.S.C. §§ 922(a)(6), 924(a)(2) - False Statement During a Firearms Transaction

Offense Ended

04/04/2020

Count

1

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s)
☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

January 21, 2021

Date of Imposition of Judgment



Signature of Judge

Dana L. Christensen, District Judge

United States District Court

Name and Title of Judge

January 21, 2021

Date

DEFENDANT: JOSHUA RODNEY MEECH
CASE NUMBER: CR 20-13-BU-DLC-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

13 months as to count 1, to run concurrently to any possible sentences imposed in the pending cases in Gallatin County and Park Counties, as referenced in paragraphs 37, 38, 39, 40, and 41 of the presentence investigation report. Specifically, this custodial sentence shall run concurrently with any sentence imposed in: Manhattan County Municipal Court, Docket No. DC-20-34; Park County District Court, Docket No. DC-20-43; Gallatin County District Court, Docket No. DC-2020-296B; Gallatin County District Court, Docket No. TK-2020-2585; and Bozeman Municipal Court, Docket No. TK-2018-2596.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at ☐ a.m. ☐ p.m. on

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: JOSHUA RODNEY MEECH
CASE NUMBER: CR 20-13-BU-DLC-1

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **three (3) years**.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: JOSHUA RODNEY MEECH
CASE NUMBER: CR 20-13-BU-DLC-1

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at <https://www.mtp.uscourts.gov/post-conviction-supervision>.

Defendant's Signature _____

Date _____

DEFENDANT: JOSHUA RODNEY MEECH
CASE NUMBER: CR 20-13-BU-DLC-1

SPECIAL CONDITIONS OF SUPERVISION

1. You must participate in a program for mental health treatment as approved by the probation officer. You must remain in the program until you are released by the probation officer in consultation with the treatment provider. You must pay part or all of the costs of this treatment as directed by the probation officer.
2. You must submit your person, residence, place of employment, vehicles, and papers, to a search, with or without a warrant by any probation officer based on reasonable suspicion of contraband or evidence in violation of a condition of release. Failure to submit to search may be grounds for revocation. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. You must allow seizure of suspected contraband for further examination.
3. You must participate in and successfully complete a program of substance abuse treatment as approved by the probation officer. You must remain in the program until you are released by the probation officer in consultation with the treatment provider. You must pay part or all of the costs of this treatment as directed by the probation officer.
4. You must abstain from the consumption of alcohol and are prohibited from entering establishments where alcohol is the primary item of sale.
5. You must participate in substance abuse testing to include not more than 365 urinalysis tests, not more than 365 breathalyzer tests, and not more than 36 sweat patch applications annually during the period of supervision. You must pay part or all of the costs of testing as directed by the probation officer.
6. You must not possess, ingest or inhale any psychoactive substances that are not manufactured for human consumption for the purpose of altering your mental or physical state. Psychoactive substances include, but are not limited to, synthetic marijuana, kratom and/or synthetic stimulants such as bath salts and spice.
7. You must not purchase, possess, use, distribute or administer marijuana, including marijuana that is used for recreational or medicinal purposes under state law.
8. You must comply with all child support obligations and/or pay child support as ordered.

DEFENDANT: JOSHUA RODNEY MEECH
CASE NUMBER: CR 20-13-BU-DLC-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments.

	<u>Assessment</u>	<u>JVTA</u> <u>Assessment**</u>	<u>AVAA</u> <u>Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$100.00	\$ 0.00	\$ 0.00	\$.00	\$.00

- ☐ The determination of restitution is deferred until *An Amended Judgment in a Criminal Case*
(AO245C) will be entered after such determination.
☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- | | | |
|---|-------------------------------|--|
| ☐ the interest requirement is waived for the | ☐ fine | ☐ restitution |
| ☐ the interest requirement for the | ☐ fine | ☐ restitution is modified as follows: |

*Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: JOSHUA RODNEY MEECH
CASE NUMBER: CR 20-13-BU-DLC-1

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A** ☒ Lump sum payments of \$ 100 due immediately, balance due
☐ not later than _____, or
☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☐ Payment in equal 20 (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☒ Special instructions regarding the payment of criminal monetary penalties:
Criminal monetary penalty payments are due during imprisonment at the rate of not less than \$25.00 per quarter, and payment shall be through the Bureau of Prisons' Inmate Financial Responsibility Program. Criminal monetary payments shall be made to the Clerk, United States District Court, P.O. Box 8537, Missoula, MT 59807.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ **Joint and Several**
See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT Assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, GALLATIN COUNTY

ERICA G. MEECH,	)	Cause No. DR-19-72C
	)	
Petitioner,	)	
	)	
and	)	TEMPORARY ORDER OF
	)	PROTECTION AND ORDER
JOSH R. MEECH,	)	SETTING HEARING
	)	
Respondent.	)	
_____	)	

On January 10, 2020, Petitioner filed a Sworn Petition for Temporary Order of Protection and Request for Hearing. The Court finds from the Petition that Petitioner is in danger of harm and acts without notice to Respondent because harm may result to Petitioner Erica Meech or the minor children K [REDACTED] M [REDACTED] T [REDACTED] M [REDACTED] and L [REDACTED] A [REDACTED] if a Temporary Order of Protection is not issued immediately. The Court does not have the authority to grant Petitioner's request for a Temporary Order of Protection on behalf of Montana Legal Services. For good cause now appearing,

IT IS HEREBY ORDERED that Respondent is restrained as follows:

1. Respondent must not threaten to commit or commit any acts of violence against Petitioner or minor children K [REDACTED] M [REDACTED] (dob [REDACTED] 16), T [REDACTED] M [REDACTED] (dob [REDACTED] 08), and L [REDACTED] A [REDACTED] (dob [REDACTED] 06).
2. Respondent must not harass, threaten, abuse, follow, stalk, annoy or disturb the peace

GOVERNMENT
EXHIBIT

3

of Petitioner or minor children K ■■■■ M ■■■■ T ■■■■ M ■■■■ and L ■■■■ A ■■■■

3. Respondent must not telephone, e-mail, write, contact or otherwise communicate, directly or indirectly, or through a third party with Petitioner or minor children K [REDACTED] M [REDACTED] T [REDACTED] M [REDACTED] and L [REDACTED] A [REDACTED]

4. Respondent must stay 300 feet away from Petitioner or minor children K [REDACTED] M [REDACTED]
T [REDACTED] M [REDACTED] and L [REDACTED] A [REDACTED] or where ever Petitioner or minor children K [REDACTED] M [REDACTED]
T [REDACTED] M [REDACTED], and L [REDACTED] A [REDACTED] may reside, including the residence at [REDACTED]
Manhattan, MT 59741, or any places frequented by Petitioner or minor children K [REDACTED] M [REDACTED], T [REDACTED]
M [REDACTED] and L [REDACTED] A [REDACTED]

5. Respondent shall not remove the minor children from Gallatin County, Montana. Respondent shall have no visitation with the minor children at this time. Visitation will be addressed at the hearing.

6. There are no known pending criminal actions involving either party at this time. There is a pending dissolution action between the parties.

A hearing on Petitioner's request that this Order be made an Order of Protection for the specific time or effective permanently will be held on **Wednesday, January 29, 2020 at 4:30 p.m. in District Court Room 301** at the Law and Justice Center, 615 S. 16th Ave., Bozeman, Montana, **for a period not to exceed 30 minutes.**

The Respondent should appear at the hearing. Failure to do so may result in a final and permanent Order of Protection.

The Petitioner should appear at the hearing. Failure to do so shall result in the dismissal of the petition.

Petitioner should immediately report any violation of this Order to law enforcement.

WARNING

Violation of this order is a criminal offense under §§45-5-220 or 45-5-626, Montana Code Annotated, and may carry penalties of up to \$10,000 in fines and up to a 5-year jail sentence.

This Order is issued by the court, and the Respondent is forbidden to do any act listed in the Order even if invited by the Petitioner or another person.

This Order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

Only this Court or another court that assumes jurisdiction over this matter can change this Order.

Federal law provides penalties for possessing transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. Section 922(g)(8)).

The Sheriff of any county is hereby directed to serve, without cost to Petitioner, a copy of this Order of Protection upon Respondent and to file a Return of Service with the Gallatin County Clerk of District Court. This service will be as soon as possible and before the date of the hearing. Upon receipt of proof of service on this Order, the Clerk is hereby directed to mail or otherwise promptly deliver a copy of this Order, together with a copy of proof of service to the following law enforcement agencies:

GALLATIN COUNTY SHERIFF / BOZEMAN POLICE DEPARTMENT

Federal Firearm Disqualification Criteria:

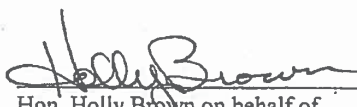
☐ Hearing/actual notice with opportunity to participate.

- ☐ Intimate partner (married/divorced/common child/
cohabitates or has cohabitated).
- ☐ Order includes condition 1
- ☐ Order finds a credible threat or prohibits use, attempted
use, or threatened use of physical force.

CAUTION:

- ☐ Weapon Involved ☐ Weapon on Property

Dated this 10th day of January, 2020.



Hon. Holly Brown on behalf of
Hon. Magdalena C. Bowen,
District Court Standing Master

cc: 1/10/20
Petitioner
Ajay Ravindran, counsel for Petitioner
Respondent, for personal service
CJ Cook, counsel for Respondent
Support Services
Haven Advocate
D. Dawson
B. Hanosek
Standing Master Bowen

emailed

emailed



GALLATIN COUNTY SHERIFF'S RETURN

ERICA GALE MEECH

PETITIONER

VS

JOSHUA RODNEY MEECH

RESPONDENT

CIVIL NUMBER PO20-00640

CASE NUMBER DR-19-72C

STATE OF MONTANA
COUNTY OF GALLATIN
OFFICE OF THE SHERIFF

I hereby certify and return that the Gallatin County Sheriff's Office received the following attached Temporary Order of Protection on 01/10/20.

☒ I further certify that I did personally serve the same upon JOSHUA MEECH in the county of Gallatin on the 10 day of JAN, 20 20 at 1630 hours, by delivering a copy thereof to JOSHUA MEECH at the following physical address:
198 Pioneer Crossing Blvd

☐ I further certify that I **DID NOT** serve the above document to _____ for the following reason _____

Dated at Bozeman, Montana this 10 day of JAN, 20 20.

Brian R. Gootkin, Sheriff

Thomas E. Pollack
Deputy/Process Server
Gallatin County, Montana
THOMAS E. POLLACK
Printed Name

(NOTARIZE NON-SWORN OFFICERS/OUT OF STATE SERVICE)

On this _____ day of _____, 20____, before me the undersigned, a Notary Public for the State of Montana, personally appeared _____ known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that he/she executed the same.

SUBSCRIBED and SWORN to before me this _____ day of _____, 20____.

Notary Public of the State of Montana
Residing at _____
My Commission expires _____

1 Ajay Ravindran, Staff Attorney, MLSA
2 616 Helena Avenue
3 Helena, MT 59601
4 Telephone: (406) 442-9830, ext. 136
5 Email: aravindr@mtlsa.org

6 *Attorney for Petitioner*

7 CJ Cook
8 Element Law Group, PLLC
9 113 E. Oak St, #2D
10 Bozeman, MT 59715
11 Telephone: 406 624-9204
12 email: cj@elementlawgroup.com

13 *Attorney for Respondent*

14 **MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT AND FOR THE COUNTY**
15 **OF GALLATIN, STATE OF MONTANA**

16 ERICA MEECH,

17 Petitioner,

18 AND

19 JOSHUA MEECH,

20 Respondent.

DR-19-72C

21 **STIPULATED**
22 **ORDER OF PROTECTION**

23 COME NOW, the above-named parties and hereby stipulate as follows:

- 24 1. The Court entered a Temporary Order of Protection on January 10, 2020.
- 25 2. The matter was set for hearing on February 27, 2020 at 9:30 a.m.
3. The parties agree that the Order of Protection as it relates to the minor children K.M., T.M. and L.A., shall be dissolved.
4. The parties agree to enter into a Stipulated Order of Protection and upon its adoption, the parties agree to vacate the hearing scheduled for February 27, 2020.

STIPULATED ORDER OF PROTECTION-1

USAO-022

GALLATIN COUNTY CLERK
OF DISTRICT COURT
JENNIFER J. JONES

2020 FEB 26 AM 11:29

FILED

BY cy DEPUTY

40

- 1 5. The Order of Protection shall remain in effect until such time as the parties mutually
2 agree to dissolve it or upon further Order of the Court.
- 3 6. Respondent must not commit or threaten to commit any acts of violence against
4 Petitioner.
- 5 7. Respondent will not harass, threaten, abuse, follow, stalk, annoy, or disturb the peace of
6 Petitioner.
- 7 8. Respondent will not telephone, email, write contact or otherwise communicate directly or
8 indirectly with Petitioner, unless as it relates to exercising parenting time with the Parties'
9 minor children.
- 10 9. Parties will communicate through email and text message to discuss parenting, and
11 parenting only. Any communication between the Parties outside the scope of parenting,
12 will be considered a violation of this stipulated order of protection.
- 13 10. Except for the purposes of exercising parenting time, Respondent will stay 300 feet away
14 from Petitioner, wherever she may reside and any other place she frequents or her place
15 of employment.
- 16

17 DATE: 2/25/2020

Erica Meech
Erica Meech, *Petitioner*

18
19 DATE: 2/25/2020

Joshua Meech
Joshua Meech, *Respondent*

20 APPROVED AS TO FORM AND CONTENT:

21 DATE: 2/25/2020

Ajay Ravindran
Ajay Ravindran, *Attorney for Petitioner*

22
23 DATE: 2/25/20

CJ Cook
CJ Cook, *Attorney for Respondent*

24
25 STIPULATED ORDER OF PROTECTION-2

USAO-023

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ORDER BY THE COURT

IT IS ORDERED, adjudged and decreed that the hearing scheduled for February 27, 2020 at 9:30 a.m. is hereby VACATED and that the STIPULATED ORDER OF PROTECTION set forth above is ADOPTED and APPROVED as an Order of this Court.

WARNING

Violation of this order is a criminal offense under Montana Code Ann. §§ 45-5-220 or 45-5-626 and may carry penalties of up to \$10,000 in fines and up to a 5-year jail sentence.

This order is issued by the Court, and the respondent is forbidden to do any act listed in the Order, even if invited by the Petitioner or another person. This Order may be amended only by further order of this Court or another Court that assumes jurisdiction over this matter.

This Order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced on Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial boundaries to violate this Order may result in federal imprisonment (18 U.S.C. Section 2262).

Only this Court or another court that assumes jurisdiction over this matter can change this Order.

Federal law provides penalties for possessing, transporting, shipping or receiving any firearm or ammunition (18 U.S.C. Section 922(g)(8)).

ORDERED THIS 20th DAY OF February, 2020.

BY THE COURT


Hon. Standing Master Bowen

cc: Ajay Ravindran, Attorney for Petitioner
CJ Cook, Attorney for Respondent

Support
T. Whitoski
Haven

} emailed
dated

STIPULATED ORDER OF PROTECTION-3

USAO-024

GALLATIN COUNTY CLERK
OF DISTRICT COURT
JENNIFER L. LANTON

2020 MAY 20 AM 10:39

FILED

BY aj DEPUTY

MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT
GALLATIN COUNTY

IN RE: ERICA MEECH, Petitioner and JOSHUA MEECH, Respondent	Cause No. DR-19-72 ORDER GRANTING TERMINATION OF ORDER OF PROTECTION
--	--

UPON the motion of Lisa DuFour of Montana Legal Services Association,
attorney of record in the above-entitled proceeding for the Petitioner, Erica Meech,
for an Order Terminating the Order of Protection in this case, and good cause
appearing,

IT IS HEREBY ORDERED as follows:

The Order for Protection entered in this cause number on February 26,
2020 is hereby terminated. This Order shall be forwarded to the Gallatin
County Sheriff's Department

DATED this 20th day of May, 2020.

M. Bowen
STANDING MASTER M. BOWEN

mailed 5/20/20
CS Cook
Cc: Lisa DuFour, MLSA
Erin Melsheimer, attorney for Mr. Meech *-no email on record*
Support Services
Haven

Order Terminating Order for Protection

PAGE 1 OF 2

GOVERNMENT
EXHIBIT

5

48

Firearms Transaction Record

WARNING: You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. 921 et. seq., are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.

Transferor's/Seller's
Transaction Serial
Number (If any)

Read the Notices, Instructions, and Definitions on this form. Prepare in original only at the licensed premises ("licensed premises" includes business temporarily conducted from a qualifying gun show or event in the same State in which the licensed premises is located) unless the transaction qualifies under 18 U.S.C. 922(c). All entries must be handwritten in ink. "PLEASE PRINT."

062817

Section A - Must Be Completed Personally By Transferee/Buyer

1. Transferee's/Buyer's Full Name (If legal name contains an initial only, record "IO" after the initial. If no middle initial or name, record "NMN".)

Last Name (Including suffix (e.g., Jr, Sr, II, III))

First Name

Middle Name

Meech

Joshua

Rodney

2. Current State of Residence and Address (U.S. Postal abbreviations are acceptable. Cannot be a post office box.)

Number and Street Address

City

County

State

ZIP Code

198 Pioneer Crossing Blvd

Manhattan

Gallatin

MT

59741

3. Place of Birth

U.S. City and State

-OR-

Foreign Country

4. Height

Fl.

In.

5. Weight

(Lbs.)

6. Sex

☒ Male

☐ Female

7. Birth Date

Month

Day

Year

Wadena MN

5

8

210

01

31

1991

8. Social Security Number (Optional, but will help prevent misidentification)

471-23-0870

9. Unique Personal Identification Number (UPIN) if applicable (See Instructions for Question 9.)

10.a. Ethnicity

☐ Hispanic or Latino

☒ Not Hispanic or Latino

10.b. Race (In addition to ethnicity, select one or more race in 10.b. Both 10.a. and 10.b. must be answered.)

☐ American Indian or Alaska Native

☐ Asian

☐ Black or African American

☐ Native Hawaiian or Other Pacific Islander

☒ White

11. Answer the following questions by checking or marking "yes" or "no" in the boxes to the right of the questions.

a. Are you the actual transferee/buyer of the firearm(s) listed on this form? **Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer the firearm(s) to you. Exception: If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b. (See Instructions for Question 11.a.)**

Yes No

☒ ☐

b. Are you under indictment or information in any court for a felony, or any other crime for which the judge could imprison you for more than one year? (See Instructions for Question 11.b.)

☐ ☒

c. Have you ever been convicted in any court of a felony, or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Instructions for Question 11.c.)

☐ ☒

d. Are you a fugitive from justice? (See Instructions for Question 11.d.)

☐ ☒

e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance? **Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.**

☐ ☒

f. Have you ever been adjudicated as a mental defective OR have you ever been committed to a mental institution? (See Instructions for Question 11.f.)

☐ ☒

g. Have you been discharged from the Armed Forces under dishonorable conditions?

☐ ☒

h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (See Instructions for Question 11.h.)

☐ ☒

i. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? (See Instructions for Question 11.i.)

☐ ☒

12.a. Country of Citizenship: (Check/List more than one, if applicable. Nationals of the United States may check U.S.A.)

☒ United States of America (U.S.A.)

☐ Other Country/Countries (Specify):

12.b. Have you ever renounced your United States citizenship?

Yes No

☐ ☒

12.c. Are you an alien illegally or unlawfully in the United States?

☐ ☒

12.d.1. Are you an alien who has been admitted to the United States under a nonimmigrant visa? (See Instructions for Question 12.d.)

☐ ☒

12.d.2. If "yes", do you fall within any of the exceptions stated in the instructions?

☒ N/A ☐ ☐

13. If you are an alien, record your U.S.-Issued Alien or Admission number (AR#, USCIS#, or I94#):

Previous Editions Are Obsolete.

Page 1 of 6

Transferred to Next Page
STAPLE IF PAGES BECOME SEPARATED

ATF Form 4473 (5300.9)
Revised October 2016

I certify that my answers in Section A are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. I understand that answering "yes" to question 11.a. if I am not the actual transferee/buyer is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I understand that a person who answers "yes" to any of the questions 11.b. through 11.i and/or 12.b. through 12 is prohibited from purchasing or receiving a firearm. I understand that a person who answers "yes" to question 12.d.1. is prohibited from receiving or possessing a firearm, unless the person answers "yes" to question 12.d.2. and provides the documentation required in 18.c. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of Federal law. (See Instructions for Question 14.)

14. Transferee's/Buyer's Signature

15. Certification Date

04/04/2020

Section B - Must Be Completed By Transferor/Seller

16. Type of firearm(s) to be transferred (check or mark all that apply):

☒ Handgun ☐ Long Gun (rifles or shotguns) ☐ Other Firearm (frame, receiver, etc. See Instructions for Question 16.)

17. If transfer is at a qualifying gun show or event:

Name of Function:

City, State:

18.a. Identification (e.g., Virginia Driver's license (VA DL) or other valid government-issued photo identification.) (See Instructions for Question 18.a.)

Issuing Authority and Type of Identification

Number on Identification

Expiration Date of Identification (if any)

Month

Day

Year

MT DL

0118019914131

01

31

2020

18.b. Supplemental Government Issued Documentation (if identification document does not show current residence address) (See Instructions for Question 18.b.)

18.c. Exception to the Nonimmigrant Alien Prohibition: If the transferee/buyer answered "YES" to 12.d.2. the transferor/seller must record the type of documentation showing the exception to the prohibition and attach a copy to this ATF Form 4473. (See Instructions for Question 18.c.)

Questions 19, 20, or 21 Must Be Completed Prior To The Transfer Of The Firearm(s) (See Instructions for Questions 19, 20 and 21.)

19.a. Date the transferee's/buyer's identifying information in Section A was transmitted to NICS or the appropriate State agency:

Month

Day

Year

04

04

2020

19.b. The NICS or State transaction number (if provided) was:

101CJ1PSF

19.c. The response initially (first) provided by NICS or the appropriate State agency was:

☐ Proceed
☐ Denied
☐ Cancelled

☒ Delayed

[The firearm(s) may be transferred on 04/09/2020 if State law permits (optional)]

19.d. The following response(s) was/were later received from NICS or the appropriate State agency:

☐ Proceed

(date)

☐ Overturned

☒ Denied

04/07/2020 (date)

☐ Cancelled

(date)

☐ No response was provided within 3 business days.

19.e. (Complete if applicable.) After the firearm was transferred, the following response was received from NICS or the appropriate State agency on: (date). ☐ Proceed ☐ Denied ☐ Cancelled

19.f. The name and Brady identification number of the NICS examiner. (Optional)

Sherry Christi
(name)

K011415/K002048
(number)

19.g. Name of FFL Employee Completing NICS check. (Optional)

HENRY

20. ☐ No NICS check was required because a background check was completed during the NFA approval process on the individual who will receive the NFA firearm(s), as reflected on the approved NFA application. (See Instructions for Question 20.)

21. ☐ No NICS check was required because the transferee/buyer has a valid permit from the State where the transfer is to take place, which qualifies as an exemption to NICS. (See Instructions for Question 21.)

Issuing State and Permit Type

Date of Issuance (if any)

Expiration Date (if any)

Permit Number (if any)

Section C - Must Be Completed Personally By Transferee/Buyer

If the transfer of the firearm(s) takes place on a different day from the date that the transferee/buyer signed Section A, the transferee/buyer must complete Section C immediately prior to the transfer of the firearm(s). (See Instructions for Question 22 and 23.)

I certify that my answers to the questions in Section A of this form are still true, correct, and complete.

22. Transferee's/Buyer's Signature

23. Recertification Date

Transferor/Seller Continue to Next Page
STAPLE IF PAGES BECOME SEPARATED

Section D - Must Be Completed By Transferor /Seller Even If The Firearm(s) Is Not Transferred

24. Manufacturer and Importer (If any) (If the manufacturer and importer are different, the FFL must include both.)	25. Model (If Designated)	26. Serial Number	27. Type (See Instructions for Question 27.)	28. Caliber or Gauge
1. Sig SAVER	320	588232985	Pistol	9mm
2.				
3.				
4.				

REMINDER - By the Close of Business Complete ATF Form 3310.4 For Multiple Purchases of Handguns Within 5 Consecutive Business Days

29. Total Number of Firearms Transferred (Please <i>handwrite</i> by printing e.g., zero, one, two, three, etc. Do not use numerals.)	30. Check if any part of this transaction is a pawn redemption. ☐ Line Number(s) From Question 24 Above:
31. For Use by Licensee (See Instructions for Question 31.) (406)539-1771	32. Check if this transaction is to facilitate a private party transfer. ☐ (See Instructions for Question 32.)
33. Trade/corporate name and address of transferor/seller and Federal Firearm License Number (Must contain at least first three and last five digits of FFL Number X-XX-XXXXX.) (Hand stamp may be used.)	

Bob Ward & Sons, Inc.
3011 Max Avenue
Bozeman, MT 59718

9-81-06505

The Person Transferring The Firearm(s) Must Complete Questions 34-37.
For Denied/Cancelled Transactions, the Person Who Completed Section B Must Complete Questions 34-36.

I certify that: (1) I have read and understand the Notices, Instructions, and Definitions on this ATF Form 4473; (2) the information recorded in Sections B and D is true, correct, and complete; and (3) this entire transaction record has been completed at my licensed business premises ("licensed premises" includes business temporarily conducted from a qualifying gun show or event in the same State in which the licensed premises is located) unless this transaction has met the requirements of 18 U.S.C. 922(c). Unless this transaction has been denied or cancelled, I further certify on the basis of — (1) the transferee's/buyer's responses in Section A (and Section C, if applicable); (2) my verification of the identification recorded in question 18 (and my re-verification at the time of transfer, if Section C is completed); and (3) State or local law applicable to the firearms business — it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to the person identified in Section A.

34. Transferor's/Seller's Name (Please print)	35. Transferor's/Seller's Signature	36. Transferor's/Seller's Title	37. Date Transferred
---	-------------------------------------	---------------------------------	----------------------

NOTICES, INSTRUCTIONS, AND DEFINITIONS

Purpose of the Form: The information and certification on this form are designed so that a person licensed under 18 U.S.C. 923 may determine if he/she may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the transferee/buyer of certain restrictions on the receipt and possession of firearms. The transferor/seller of a firearm must determine the lawfulness of the transaction and maintain proper records of the transaction. Consequently, the transferor/seller must be familiar with the provisions of 18 U.S.C. 921-931 and the regulations in 27 CFR Parts 478 and 479. In determining the lawfulness of the sale or delivery of a rifle or shotgun to a resident of another State, the transferor/seller is presumed to know the applicable State laws and published ordinances in both the transferor's/seller's State and the transferee's/buyer's State. (See ATF Publication 5300.5, *State Laws and Published Ordinances.*)

Generally, ATF Form 4473 must be completed at the licensed business premises when a firearm is transferred over-the-counter. Federal law, 18 U.S.C. 922(c), allows a licensed importer, manufacturer, or dealer to sell a firearm to a non-licensee who does not appear in person at the licensee's business premises only if the transferee/buyer meets certain requirements. These requirements are set forth in section 922(c), 27 CFR 478.96(b), and ATF Procedure 2013-2.

After the transferor/seller has completed the firearms transaction, he/she must make the completed, original ATF Form 4473 (which includes the Notices, General Instructions, and Definitions), and any supporting documents, part of his/her permanent records. Such Forms 4473 must be retained for at least 20 years and that period may be submitted to ATF. Filing may be chronological (by date of disposition), alphabetical (by name of purchaser), or numerical (by transaction serial number), as long as all of the transferor's/seller's completed Forms 4473 are filed in the same manner.

FORMS 4473 FOR DENIED CANCELLED TRANSFERS MUST BE RETAINED: If the transfer of a firearm is denied/cancelled by NICS, or if for any other reason the transfer is not completed after a NICS check is initiated, the licensee must retain the ATF Form 4473 in his/her records for at least 5 years. Forms 4473 with respect to which a sale, delivery, or transfer did not take place shall be separately retained in alphabetical (by name of transferee) or chronological (by date of transferee's certification) order.

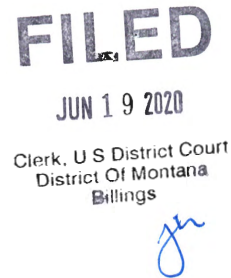
If the transferor/seller or the transferee/buyer discovers that an ATF Form 4473 is incomplete or improperly completed after the firearm has been transferred, and the transferor/seller or the transferee/buyer wishes to correct the omission(s) or error(s), photocopy the inaccurate form and make any necessary additions or revisions to the photocopy. The transferor/seller should only make changes to Sections B and D. The transferee/buyer should only make changes to Section A and C. Whoever made the changes should initial and date the changes. The corrected photocopy should be attached to the original Form 4473 and retained as part of the transferor's/seller's permanent records.

Exportation of Firearms: The State or Commerce Departments may require a firearms exporter to obtain a license prior to export. **Warning:** Any person who exports a firearm without proper authorization may be fined not more than \$1,000,000 and/or imprisoned for not more than 20 years. See 22 U.S.C. 2778(c).

Section A

The transferee/buyer must personally complete Section A of this form and certify (sign) that the answers are true, correct, and complete. However, if the transferee/buyer is unable to read and/or write, the answers (other than the signature) may be completed by another person, excluding the transferor/seller. Two persons (other than the transferor/seller) must then sign as witnesses to the transferee's/buyer's answers and signature/certification in question 14.

CYNDEE L. PETERSON
Assistant U.S. Attorney
U.S. Attorney's Office
P.O. Box 8329
Missoula, MT 59807
105 E. Pine, 2d Floor
Missoula, MT 59802
Phone: (406) 542-8851
Fax: (406) 542-1476
E-mail: Cyndee.Peterson@usdoj.gov



**ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

UNITED STATES OF AMERICA,	CR-20- 13 -BU- DLC
Plaintiff,	INDICTMENT
vs.	FALSE STATEMENT DURING A FIREARMS TRANSACTION
JOSHUA RODNEY MEECH,	Title 18 U.S.C. § 922(a)(6)
Defendant.	(Penalty: Ten years imprisonment, \$250,000 fine and three years supervised release)

THE GRAND JURY CHARGES:

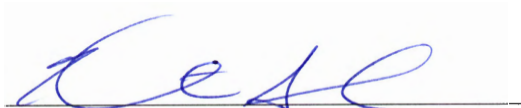
That on or about April 4, 2020, at Bozeman and within Gallatin County, in the State and District of Montana, the defendant, JOSHUA RODNEY MEECH, in connection with his acquisition and attempted acquisition of a firearm, namely a Sig

Sauer, model P320, 9 mm semi-automatic pistol, from Bob Ward & Sons, Inc. Bozeman, Montana, a licensed dealer, knowingly made a false and fictitious written statement to Bob Ward & Sons, Inc., which statement was intended and likely to deceive Bob Ward & Sons, Inc., as to a fact material to the lawfulness of such sale and acquisition of the said firearm to the defendant under Chapter 44 of Title 18, in that the defendant represented at item 11(h) on ATF Form 4473, Firearms Transaction Form, dated April 4, 2020, the defendant was not subject to a court restraining order, all in violation of 18 U.S.C. § 922(a)(6).

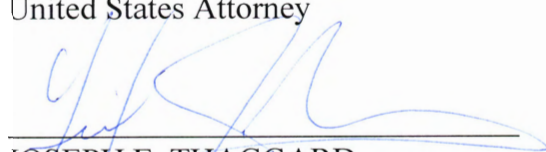
A TRUE BILL.

Foreperson signature redacted. Original document
filed under seal.

FOREPERSON



KURT G. ALME
United States Attorney



JOSEPH E. THAGGARD
Criminal Chief Assistant U.S. Attorney

for

*Arraign: 7/1/2020
@ 1:30 pm - Msk-KLD*

Crim. Summons ☒

Warrant: _____

Bail: _____

Report of Investigation

Title of Investigation: JOSHUA R MEECH (NICS - STANDARD)	Investigation Number: 788050-20-0070	Report Number: 1
---	---	---------------------

SUMMARY OF EVENT: GCA violation by Joshua Rodney MEECH (DOB: 01/31/1991) on or about April 4, 2020.

NARRATIVE:

1. On or about April 4, 2020, Joshua Rodney MEECH (W/M, DOB: 01/31/91, SSN: 471-23-0870, 198 Pioneer Crossing Boulevard, Manhattan, MT) filled out ATF Form 4473 at Bob Ward's, a Federal Firearms Licensee (FFL) located at 3011 Max Avenue, Bozeman, MT. MEECH completed the form in order to purchase a Sig Sauer, Model 320, 9mm caliber pistol (SN: 58B232985). The National Instant Criminal Background Check System (NICS) delayed the transaction and then denied MEECH on April 7, 2020. NICS denied MEECH due to an Order of Protection issued out of Gallatin County, MT.
2. On April 27, 2020, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Special Agent (SA) Andrew Martian was assigned NICS Standard Denial Number: 101CJ1PSF.
3. SA Martian reviewed the Order of Protection and learned a Temporary Order of Protections was issued by Gallatin County District Court (DC-19-72C) on January 10, 2020. The petitioner, Erica Meech, is a former intimate partner of Joshua MEECH and they have several children together.
4. SA Martian reviewed a Stipulated Order of Protection dated February 27, 2020 and signed by Erica and Joshua MEECH on February 25, 2020. In the Stipulated Order of Protection, both parties agree to dissolve the Order of Protection as it relates to MEECH's children, but continues the Order of Protection for Erica Meech. The Order states MEECH shall not harass, threaten, abuse, follow, stalk, or disturb the peace of Erica Meech. The Order states it shall remain in effect until such time as the parties mutually agree to dissolve it or upon further Order of the Court. The Order also includes a warning stating that Federal law provides penalties for possessing, transporting, shipping or receiving any firearms or ammunition in violation of Title 18 U.S.C. 922(g)(8).
5. At the time of MEECH's attempted purchase of the firearm at Bob Ward's the Order of Protection was still in place and is still in place at the time of this report.
6. The Order or Protection was sent to ATF Denver Division Council for review and they indicated MEECH was prohibited under Title 18 U.S.C. 922(g)(8).

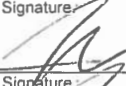
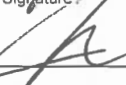
Prepared by: Andrew A. Martian	Title: Special Agent, Billings I Field Office	Signature: 	Date: 5/7/20
Authorized by: Joseph KORTH	Title: Resident Agent in Charge, Billings I Field Office	Signature: 	Date: 5/7/20
Second level reviewer (optional): David S. Booth	Title: Special Agent in Charge, Denver Field Division	Signature: 	Date: 5/7/20

EXHIBIT 2

7. During the week of April 27, 2020, SA Martian made numerous phone calls and sent an email to the manager at Bob Ward's in order to obtain the surveillance video. SA Martian was unable to reach the manager.
8. On May 5, 2020, SA Martian travelled to Bozeman and obtained the ATF Form 4473 that was filled out by MEECH as well as a signed copy of Bob Ward's Federal Firearms License. SA Martian spoke with the manager and was advised the video surveillance only went back a few days due to a lack of hard drive space, therefore the video of MEECH's attempted firearms purchase was no longer available.
9. SA Martian reviewed the ATF Form 4473 and learned that on question 11 h. which states "are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner?" MEECH checked "No".
10. SA Martian then spoke with Randy Karls ([REDACTED]-4381) and Henry Brunner ([REDACTED]-4381) who are the Bob Ward's employees who dealt with MEECH. Karls stated MEECH was initially interested in purchasing a shotgun and Karls showed him several of the shotguns for sale. Brunner stated MEECH eventually settled on purchasing the Sig Sauer pistol. Brunner stated he provided the pistol to MEECH and MEECH held the pistol and checked it out. Brunner stated he asked MEECH what he wanted the firearm for and MEECH stated he wanted it just to take out and shoot and for something to do.
11. Brunner stated that when the NICS report came back as a denial, MEECH did not seem surprised and was not angry or upset. MEECH asked Brunner why he was denied and Brunner advised him he did not know but MEECH could contact ATF.
12. SA Martian asked Brunner and Karls if MEECH purchased any ammunition or firearms accessories and they stated he did not.
13. SA Martian returned to the ATF Billings Field Office and tagged the ATF Form 4473 into evidence.

Attachment:

- ATF Form 4473

FILED

UNITED STATES COURT OF APPEALS

FEB 28 2022

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOSHUA RODNEY MEECH,

Defendant-Appellant.

No. 21-30025

D.C. Nos.

2:20-cr-00013-DLC-1

2:20-cr-00013-DLC

District of Montana,

Butte

ORDER

Before: McKEOWN, CHRISTEN, and MILLER, Circuit Judges.

The panel has voted to deny Defendant-Appellant's petition for rehearing and petition for rehearing en banc. The full court has been advised of the petition for rehearing en banc, and no judge has requested a vote on the whether to hear the matter en banc. Fed. R. App. P. 35.

The petition for rehearing and petition for rehearing en banc are DENIED.