

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

IN THE SUPREME COURT OF THE UNITED STATES

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ERIC MICHAEL LUJAN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

APPENDIX

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## APPENDIX A

United States Court of Appeals  
for the Fifth Circuit

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No. 23-10145

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United States Court of Appeals  
Fifth Circuit

**FILED**

November 27, 2023

UNITED STATES OF AMERICA,

Lyle W. Cayce  
Clerk

*Plaintiff—Appellee,*

*versus*

ERIC MICHAEL LUJAN,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:22-CR-71-1

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Before ELROD, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:\*

Eric Michael Lujan appeals his 120-month sentence for possession of a firearm after a felony conviction. We affirm.

I.

On May 27, 2022—three days after the horrific massacre at Robb Elementary School in Uvalde, Texas—bystanders in Amarillo, Texas, reported a man with a firearm walking near a daycare and asking about the

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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number of children inside. When Amarillo Police Department officers arrived at the scene, they did not find the suspect, but found a backpack containing an AR-style semi-automatic rifle with a loaded magazine holding 21 rounds. Shortly thereafter, the officers identified Lujan as the suspect, and he was arrested near the scene and charged with the unlawful carrying of a weapon in a prohibited place.

Lujan had previously been convicted of at least two felony crimes of violence: aggravated assault in 2009, carrying a sentence of five years deferred probation that was eventually revoked; and aggravated assault with a deadly weapon in 2011, with a five-year sentence. Accordingly, Lujan was indicted in June 2022 on one count of possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924 (a)(2). He pled guilty in September 2022, and the district court later accepted his guilty plea.

The presentence report (“PSR”) assessed a base offense level of 26 because Lujan’s offense involved a “semiautomatic firearm that is capable of accepting a large capacity magazine” and based on Lujan’s prior convictions. *See* U.S.S.G. § 2K2.1(a)(1). Adjusting downward for Lujan’s acceptance of responsibility, Lujan’s total offense level was 23, and carried a potential imprisonment range of 70 to 87 months. Lujan did not object to the PSR.

At sentencing, the district court considered an upward variance based on the factors contained in 18 U.S.C. § 3553(a). Lujan’s counsel argued for a within-guidelines sentence, stating that in 2017, Lujan was robbed and shot nine times, exacerbating his pre-existing mental health issues and causing Lujan to suffer post-traumatic stress disorder. Lujan’s counsel contended that Lujan would not have committed the instant offense but for his mental health issues. The district court acknowledged Lujan’s mental health issues, but nonetheless concluded that a 120-month sentence was warranted based on Lujan’s violent criminal history, the seriousness of the instant offense, and

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the need to protect the public. The court then imposed that sentence, and further stated there was no indication that Lujan was eligible for a diminished capacity downward departure under U.S.S.G. § 5K2.13.

Lujan appeals, raising three issues: (1) his sentence is procedurally and substantively unreasonable because it fails to account for Lujan’s mental health issues; (2) his guilty plea is invalid, and 18 U.S.C. § 922(g)(1) unconstitutionally infringes upon Lujan’s Second Amendment rights; and (3) in Texas, convictions for aggravated assault and aggravated assault with a deadly weapon do not qualify as “crimes of violence” for sentence-enhancement purposes.

## II.

Lujan’s procedural unreasonableness, plea invalidity, and sentence-enhancement arguments are either unpreserved or presented for the first time on appeal and are thus reviewed only for plain error. To prevail, Lujan must demonstrate a forfeited error that is clear or obvious and that affected his substantial rights. *See Puckett v. United States*, 556 U.S. 129, 135 (2009). If he makes that showing, this court has the discretion to correct the error only if it seriously affects the fairness, integrity, or public reputation of judicial proceedings. *Id.*

Lujan’s substantive unreasonableness argument was preserved and is thus reviewed for abuse of discretion. *See United States v. Diehl*, 775 F.3d 714, 724 (5th Cir. 2015). This review is highly deferential to the district court because that court is in a better position to find facts and weigh their importance with respect to a defendant. *Id.*

## III.

We turn first to Lujan’s contention that his sentence was procedurally and substantively unreasonable. His challenges fall short.

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We undertake a two-step process in reviewing a criminal sentence, in accordance with *Gall v. United States*, 552 U.S. 38, 51 (2007). At step one, we consider whether the district court committed a “significant procedural error,” such as “failing to adequately explain the chosen sentence.” *Gall*, 552 U.S. at 51. If a significant procedural error was committed, we must remand for resentencing “unless the proponent of the sentence establishes that the error ‘did not affect the district court’s selection of the sentence imposed.’” *United States v. Delgado-Martinez*, 564 F.3d 750, 753 (5th Cir. 2009) (quoting *Williams v. United States*, 503 U.S. 193, 203 (1992)). If there was no significant procedural error, we continue to the second step and “consider the substantive reasonableness of the sentence imposed under an abuse-of-discretion standard.” *Gall*, 552 U.S. at 51.

**A.**

Lujan asserts that his sentence is procedurally unreasonable because the district court failed to consider his mental health history as a mitigating factor that weighed against an upward variance and failed to explain why it rejected his arguments for a lower sentence based on his mental health. This contention misses the mark. The district court considered several § 3553(a) factors individually, and specifically noted Lujan’s mental health history in the context of weighing the sentencing factors. This was not procedural error.

Lujan further argues the district court erroneously believed that his mental health could not be a mitigating factor under § 3553(a) because he was ineligible for an adjustment under U.S.S.G. § 5K2.13, which provides for a downward departure if “the defendant committed the offense while suffering from a significantly reduced mental capacity” and “the significantly reduced mental capacity contributed substantially to the commission of the offense.” Again, we discern no procedural error. The district court first noted Lujan’s

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mental health history in the context of its discussion of the § 3553(a) factors; the court only mentioned § 5K2.13 *after* Lujan’s counsel stated that Lujan would not have committed the offense but for his mental health.

Finally, in any event, Lujan has failed to demonstrate that any error affected his substantial rights by showing that “but for the district court’s error, [he] would have received a lower sentence.” *United States v. Davis*, 602 F.3d 643, 647 (5th Cir. 2010) (citation omitted). In imposing Lujan’s 120-month sentence, the district court stated that it was particularly “focused on the persistent and consistent violence” reflected in Lujan’s history and characteristics as well as the need to protect the public from his further crimes. Lujan’s violent criminal history included several assault convictions beginning in 2008. Moreover, all but one of those convictions preceded the 2017 shooting incident, which Lujan’s counsel contended exacerbated his mental health problems. Considering Lujan’s violent criminal history and the district court’s concern for protecting the public, the district court properly weighed the § 3553(a) factors and determined the 120-month sentence was appropriate.

## **B.**

Lujan’s substantive reasonableness challenge similarly fails. Lujan argues that the district court failed to account for a factor that should have received significant weight: his mental health. Lujan also contends that his sentence represents a clear error of judgment in balancing § 3553(a)’s sentencing factors. But after hearing Lujan’s mental health argument at sentencing, the district court stated it would “give it appropriate weight,” and the court implicitly concluded that other sentencing factors—Lujan’s violent criminal history and the need to protect the public—warranted an upward variance of 33 months above the 70- to 87-month guidelines range. At bottom, Lujan disagrees with how the district court balanced the



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sentencing factors. But this court will not reweigh them. *See Gall*, 552 U.S. at 51. And we have regularly affirmed significantly greater variances than the 33-month upward variance at issue in this case. *See, e.g., United States v. Saldana*, 427 F.3d 298, 315–16 (5th Cir. 2005) (50-month departure above the four- to ten-month guidelines range). Given the deference owed to the district court’s sentencing decision, Lujan has failed to show the court abused its discretion in finding that the § 3553(a) factors justified a 120-month sentence. *See Diehl*, 775 F.3d at 724.

#### IV.

As to the validity of his guilty plea, Lujan first argues that § 922(g)(1) is unconstitutional because it exceeds Congress’s power under the Commerce Clause. Lujan concedes this argument is foreclosed, so we reject it as meritless. *See, e.g., United States v. Perryman*, 965 F.3d 424, 426 (5th Cir. 2020); *United States v. De Leon*, 170 F.3d 494, 499 (5th Cir. 1999); *see also United States v. Smith*, No. 22-10795, 2023 WL 5814936, at \*2 (5th Cir. Sept. 8, 2023) (unpublished).

Second, Lujan asserts that the Supreme Court’s recent decision in *New York State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111 (2022), suggests that § 922(g)(1) is unconstitutional under the Second Amendment. But it is well established that an error is not clear or obvious when an issue is unresolved, or when there is an absence of controlling authority. *United States v. Rodriguez-Parra*, 581 F.3d 227, 230–31 (5th Cir. 2009). Even when, as here, “the argument requires only extending authoritative precedent, the failure of the district court [to do so] cannot be plain error.” *Wallace v. Mississippi*, 43 F.4th 482, 500 (5th Cir. 2022) (internal quotation marks and citation omitted). Because there is no binding precedent holding § 922(g)(1) unconstitutional and because it is not clear that *Bruen* dictates such a result, Lujan’s challenge fails. *See Rodriguez-Parra*, 581 F.3d at 230-

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31; *see also United States v. Racliff*, No. 22-10409, 2023 WL 5972049, at \*1 (5th Cir. Sept. 14, 2023) (unpublished).

**V.**

Finally, Lujan asserts that his prior Texas convictions for aggravated assault and aggravated assault with a deadly weapon do not qualify as “crimes of violence” under U.S.S.G. § 4B1.2(a) for purposes of applying the sentencing enhancement under U.S.S.G. § 2K2.1. Specifically, he contends that the Texas aggravated assault statute, TEX. PENAL CODE § 22.02, is broader than the enumerated offense of aggravated assault under § 4B1.2(a)(2). Lujan correctly acknowledges that his argument is foreclosed by *United States v. Guillen-Alvarez*, 489 F.3d 197, 200–01 (5th Cir. 2007), so we reject it as meritless.

**AFFIRMED.**

## APPENDIX B

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**  
FEB - 1 2023  
CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_ Deputy

**UNITED STATES DISTRICT COURT**  
NORTHERN DISTRICT OF TEXAS  
Amarillo Division

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**

v.

Case Number: 2:22-CR-0071-Z-BR-(1)

U.S. Marshal's No.: 04785-510

ERIC MICHAEL LUJAN

Meredith Elizabeth Pinkham, Assistant U.S. Attorney

Eric Coats, Attorney for the Defendant

On September 26, 2022 the defendant, ERIC MICHAEL LUJAN, entered a plea of guilty as to Count One of the Indictment filed on June 22, 2022. Accordingly, the defendant is adjudged guilty of such Count, which involves the following offense:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 922(g)(1) and 924(a)(2)	CONVICTED FELON IN POSSESSION OF A FIREARM	05/27/2022	One

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to Title 18, United States Code § 3553(a), taking the guidelines issued by the United States Sentencing Commission pursuant to Title 28, United States Code § 994(a)(1), as advisory only.

The defendant shall pay immediately a special assessment of \$100.00 as to Count One of the Indictment filed on June 22, 2022.

The defendant shall notify the United States Attorney for this district within thirty 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.

Sentence imposed January 31, 2023.



MATTHEW J. KACSMARYK  
UNITED STATES DISTRICT JUDGE

Signed February 1, 2023.

Judgment in a Criminal Case  
Defendant: ERIC MICHAEL LUJAN  
Case Number: 2:22-CR-0071-Z-BR-(1)

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### IMPRISONMENT

The defendant, ERIC MICHAEL LUJAN, is hereby committed to the custody of the Federal Bureau of Prisons (BOP) to be imprisoned for a term of **One Hundred Twenty (120) months as to Count One** of the Indictment filed on June 22, 2022. The sentence shall *run consecutively* to any sentence that may be imposed in Case # 79634-B pending in the 181st District Court, Potter County, Texas for a revocation on a conviction for Assault on a Family/Household Member with a Previous Conviction that is unrelated to the instant offense. The sentence shall *run consecutively* to any sentence that may be imposed in a charge for Assault Causing Bodily Injury to a Family Member, currently pending in the Potter County Sherriff's Office, as reflected in PSR Paragraph 45 that is unrelated to the instant offense. The sentence shall *run consecutively* to any sentence that may be imposed in a charge for Theft of Service, currently pending in the Wichita Falls Police Department, as reflected in PSR Paragraph 46 that is unrelated to the instant offense. The sentence shall *run concurrently* to any sentence that may be imposed in a charge for Unlawful Possession of a Firearm and a charge for Unlawful Carrying of a Weapon in Certain Prohibited Places, currently pending in the Potter County Sherriff's Office, as reflected in PSR Paragraph 47 that are related to the instant offense.

The Court makes the following recommendations to the Bureau of Prisons:

1. that the Defendant be allowed to participate in a medical diagnostic evaluation with particular attention to the multiple injuries and surgeries reflected in PSR paragraphs 70-84 with particular attention to bullets that remain in defendant's body; be allowed to participate in the most intensive possible mental health treatment; and be allowed to participate in any and all substance abuse treatment and rehabilitation programs, including the Residential Drug Abuse Program, while in the custody of the Federal Bureau of Prisons, if eligible, if consistent with security classification;
2. that the Defendant be allowed to participate in any and all educational and vocational training, if possible, in the fields of engineering and mathematics, if eligible, if consistent with security classification; and
3. that the Defendant be allowed to serve his term of incarceration at a federal medical center, if possible, if eligible, if consistent with security classification.

The Defendant is remanded to the custody of the United States Marshal.

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of **Three (3) years** as to Count One of the Indictment filed on June 22, 2022.

While on supervised release, in compliance with the Standard Conditions of supervision adopted by the United States Sentencing Commission at Section 5D1.3(c), the defendant shall:

1. The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.

Judgment in a Criminal Case  
Defendant: ERIC MICHAEL LUJAN  
Case Number: 2:22-CR-0071-Z-BR-(1)

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2. After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.
3. The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
4. The defendant shall answer truthfully the questions asked by the probation officer.
5. The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall 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, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observes in plain view.
7. The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or the job responsibilities), the defendant shall 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, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours.
10. The defendant shall 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. The defendant shall 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 the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.

Judgment in a Criminal Case  
Defendant: ERIC MICHAEL LUJAN  
Case Number: 2:22-CR-0071-Z-BR-(1)

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13. The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

Also, as set forth in the Notice of Intent to Impose Conditions of Supervised Release signed and dated January 31, 2023, the Defendant shall comply with the below-listed other conditions of supervised release, which are derived from Sections 5D1.3(a), (b), (d), and (e), in relevant part:

1. The defendant shall not commit another federal, state or local offense (*see* 18 U.S.C. § 3583(d)).
2. The defendant shall not unlawfully possess a controlled substance (*see* 18 U.S.C. § 3583(d)).
3. The defendant who is convicted for a domestic violence crime as defined in 18 U.S.C. § 3561(b) for the first time shall attend a public, private, or private non-profit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is available within a 50-mile radius of the legal residence of the defendant (*see* 18 U.S.C. § 3583(d)).
4. The defendant shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on supervised release and at least two periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable information indicates a low risk of future substance abuse by the defendant (*see* 18 U.S.C. § 3583(d)).
5. If a fine is imposed and has not been paid upon release to supervised release, the defendant shall adhere to an installment schedule to pay that fine (*see* 18 U.S.C. § 3624(e)).
6. The defendant shall (A) make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A, or any other statute authorizing a sentence of restitution; and (B) pay the assessment imposed in accordance with 18 U.S.C. § 3013. If there is a court-established payment schedule for making restitution or paying the assessment (*see* 18 U.S.C. § 3572(d)), the defendant shall adhere to the schedule.
7. If the defendant is required to register under the Sex Offender Registration and Notification Act, the defendant shall comply with the requirements of that Act (*see* 18 U.S.C. § 3583(d)).
8. The defendant shall submit to the collection of a DNA sample from the defendant at the direction of the United States Probation Office if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (34 U.S.C. § 40702).
9. The defendant shall participate in outpatient mental health treatment services as directed by the probation officer until successfully discharged. These services may include medications prescribed by a licensed physician. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$30 per month.
10. The defendant shall participate in an outpatient program approved by the probation officer for treatment of narcotic, drug, or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, and contributing to the costs of services rendered (copayment) at the rate of at least \$30 per month.

Judgment in a Criminal Case  
Defendant: ERIC MICHAEL LUJAN  
Case Number: 2:22-CR-0071-Z-BR-(1)

11. The defendant shall participate in an outpatient domestic violence treatment program (*i.e.* batterer's intervention program and anger management program) as directed by the probation officer until successfully discharged. The Defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$30 per month.

**FINE/RESTITUTION**

The Court does not order a fine or costs of incarceration because the defendant does not have the financial resources or future earning capacity to pay a fine or costs of incarceration.

Restitution is not ordered because there is no victim other than society at large.

**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 Marshal



## APPENDIX C

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

UNITED STATES OF AMERICA

v.

ERIC MICHAEL LUJAN

NO. 2:22-CR-071-Z

**FACTUAL RESUME**

In support of Eric Michael Lujan's plea of guilty to the offense in Count One of the indictment, Lujan, the defendant, Eric Coats, the defendant's attorney, and the United States of America (the government) stipulate and agree to the following:

**ELEMENTS OF THE OFFENSE**

To prove the offense alleged in Count One of the indictment, charging a violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2), that is, Convicted Felon in Possession of a Firearm, the government must prove each of the following elements beyond a reasonable doubt:<sup>1</sup>

*First.* That the defendant knowingly possessed a firearm as charged in the indictment;

*Second.* That before the defendant possessed the firearm, the defendant had been convicted in a court of a crime punishable by imprisonment for a term in excess of one year;

*Third.* That when he possessed the firearm, the defendant knew he had been convicted of such a crime; and

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<sup>1</sup> Fifth Circuit Pattern Jury Instruction 2.43D (5th Cir. 2019 ed.).

*Fourth.* That the firearm possessed traveled in interstate or foreign commerce; that is, before the defendant possessed the firearm, it had traveled at some time from one state to another or between any part of the United States and any other country.

**STIPULATED FACTS**

1. Eric Michael Lujan admits and agrees that on or about May 27, 2022, in the Amarillo Division of the Northern District of Texas, and elsewhere, knowing he was a person who had previously been convicted of a crime punishable by a term of imprisonment exceeding one year, he did knowingly possess in or affecting interstate or foreign commerce, a firearm, that is, a FMK Firearms, Model AR-1 Patriot, semi-automatic rifle bearing serial number FMK5896, in violation of Title 18, United States Code Sections 922(g)(1) and 924(a)(2).

2. On May 27, 2022, Amarillo Police Department (APD) officers were dispatched to Mini MAAC Daycare, located at 4220 Wolflin Avenue in Amarillo, Texas, to investigate reports of a man with a firearm walking near the daycare. Officers arrived and located a backpack on the ground near the daycare that contained a FMK Firearms, Model AR-1 Patriot, semi-automatic rifle bearing serial number FMK5896. Witnesses told the officers that the suspect asked them about the number of children in the daycare. Witnesses described the suspect and the direction he left the scene. Officers located Eric Michael Lujan, who matched the suspect description, in the parking lot of the McDonald's Restaurant directly across the street from the daycare. Officers viewed the daycare's surveillance video and were able to confirm that Lujan was the man carrying the backpack and the rifle near the daycare.

3. Court records confirmed that before May 27, 2022, Lujan had been convicted of a crime punishable by imprisonment for a term in excess of one year, that is, a felony offense. Further, before Lujan possessed the firearm, he knew he had been convicted of a crime punishable by imprisonment for a term in excess of one year, that is, a felony offense.

4. A task force officer with the Bureau of Alcohol, Tobacco, Firearms, and Explosives was able to determine that the firearm described above was manufactured outside of the state of Texas. Accordingly, the firearm affected interstate or foreign commerce because the firearm must have traveled at some time from one state to another or between any part of the United States and any other country.

5. The defendant agrees that the defendant committed all the essential elements of the offense. Specifically, the defendant agrees that he possessed the firearm while being a person having been previously convicted in a court of a crime punishable by imprisonment for a term in excess of one year, that the defendant knew he had been previously convicted of a crime punishable by a term of imprisonment exceeding one year, and that the said firearm traveled in interstate or foreign commerce. This factual resume is not intended to be a complete accounting of all the facts and events related to the offense charged in this case. The limited purpose of this statement of facts is to demonstrate that a factual basis exists to support the defendant's guilty plea to Count One of the indictment.

AGREED TO AND STIPULATED on this 12 day of Sept., 2022.

CHAD E. MEACHAM  
UNITED STATES ATTORNEY

ERIC MICHAEL LUJAN Meredith Pinkham  
ERIC MICHAEL LUJAN MEREDITH PINKHAM  
Defendant Assistant United States Attorney

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