

A P P E N D I X

APPENDIX

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[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-10429
Non-Argument Calendar

D.C. Docket No. 1:16-cr-20487-WPD-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JEAN EMMANUEL DUVAL,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(October 3, 2017)

Before HULL, JULIE CARNES and JILL PRYOR, Circuit Judges.

PER CURIAM:

After a jury trial, defendant Jean Duval appeals his convictions and total 21-month sentence for three counts of making a false statement in connection with the acquisition of a firearm, in violation of 18 U.S.C. § 922(a)(6). As to his convictions, Duval argues that the government failed to prove that he made a false statement on the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) forms he filled out when buying the firearms. As to his sentence, Duval argues that the district court improperly applied an eight-level enhancement under U.S.S.G. § 2K2.1(a)(4)(B) and that his sentence is substantively unreasonable. After review, we affirm.

I. SUFFICIENCY OF THE EVIDENCE

We review de novo the sufficiency of the evidence to support a conviction, viewing all evidence and drawing all inferences in favor of the verdict. United States v. Isaacson, 752 F.3d 1291, 1303 (11th Cir. 2014). We will not overturn a jury’s verdict “if any reasonable construction of the evidence would have allowed the jury to find the defendant guilty beyond a reasonable doubt.” United States v. Grzybowicz, 747 F.3d 1296, 1304 (11th Cir. 2014) (quotation marks omitted).

A. 18 U.S.C. § 922(a)(6) Offenses

To sustain a conviction under 18 U.S.C. § 922(a)(6), the government must prove beyond a reasonable doubt that: (1) the defendant knowingly made; (2) a false or fictitious written statement in connection with the purchase of firearms;

(3) intended to deceive or likely to deceive a licensed firearms dealer; (4) and the false statement was a fact material to the lawfulness of the sale or disposition of the firearm. United States v. Ortiz, 318 F.3d 1030, 1036 (11th Cir. 2003). Here, Duval challenges only the second element, contending that the government presented insufficient evidence that he made a false statement when he indicated on ATF Form 4473 that he was the “actual buyer” of the ten firearms, as charged in Counts 2, 3, and 4.

Under § 922(a)(6), the identity of the buyer is a fact material to the lawfulness of the sale of a firearm. Id. at 1037; see also United States v. Frazier, 605 F.3d 1271, 1279 (11th Cir. 2010). Consequently, § 922(a)(6) applies to “straw purchases” of firearms from federally licensed firearms dealers. Frazier, 605 F.3d at 1279. A straw purchase occurs when an intermediary, called “the straw,” buys the firearm for someone else. Abramski v. United States, ___ U.S. ___, 134 S. Ct. 2259, 2266-68 (2014). In a straw purchase, the “actual buyer” for § 922(a)(6) purposes is the person for whom the straw is buying the firearm, and the identity of the actual buyer is material, regardless of whether the actual buyer is legally eligible to own a firearm. Id. at 2267-69, 2272-74; Frazier, 605 F.3d at 1279-80. Thus, any time a straw purchaser is buying a firearm from a federally licensed firearms dealer and states on ATF Form 4473 that he is the “actual buyer,” he violates § 922(a)(6). Frazier, 605 F.3d at 1280, Ortiz, 318 F.3d at 1036-37.

B. Trial Evidence

Here, the government presented sufficient evidence from which the jury could find beyond a reasonable doubt that Duval, on three occasions and in connection with the purchase of ten firearms from federally licensed firearms dealers, falsely stated on ATF Form 4473 that he was the actual buyer of the firearms because he fully intended to resell those firearms to other individuals, primarily a man named D-Dog.

According to the trial evidence, over a two-week period, from February 25, 2016 to March 9, 2016, Duval bought fourteen 9mm pistols from three federally licensed firearms dealers.¹ Each time, Duval indicated on the ATF Form 4473 that he was the actual buyer of the pistols. Duval spent a total of \$5,600 in cash on the firearms, although he had earned only \$5,686 during the first quarter of 2016. Moreover, Duval, who worked as an unarmed security guard at Universal Protection Services, failed to report to work on February 22, 2016, just days before he began buying the firearms.

When ATF agents first met with Duval on April 7, 2016, to ask him about his multiple firearms purchases, Duval's story changed several times. First, Duval said he had purchased five firearms with his \$5,000 income tax refund and that he still had the firearms in his residence. Later, Duval stated that he had purchased

¹The jury acquitted Duval of making a false statement in connection with the purchase of four firearms, as charged in Count 1.

between 10 and 12 firearms, but he had sold some of them. At one point, Duval admitted he was selling three or four firearms a week to his friends and to friends of his friends. Duval told the agents he had prepared bills of sale that the agents could view at his home. When the ATF agents proposed going to Duval's home to inspect the guns and bills of sale, however, Duval admitted that he had sold all but one of the firearms.

At a second meeting at Duval's home on April 11, 2016, Duval told ATF agents he could not find the bills of sale and could produce only one firearm. Duval said he had sold a Taurus pistol to a man named D-Dog for \$425. Duval admitted that he sold several firearms to unnamed purchasers in store parking lots, and then sold the remainder of the firearms "through D-Dog." Duval also admitted that he continued to buy firearms to resell them because he needed to make a profit and that "people on the streets always need guns." Although Duval admitted buying the firearms to resell them, he denied buying the firearms for a particular person.

On June 27, 2016, in a post-arrest interview, Duval claimed that he purchased the firearms for himself, but that after he was terminated from Universal, he had to sell the firearms for financial reasons. This statement was inconsistent with the fact that Duval left his job at Universal of his own accord on February 22, 2016, before he began to purchase the firearms on February 25, 2016.

Duval explained to the ATF agents that he knew D-Dog from school. Duval met D-Dog “on the streets” and D-Dog saw one of Duval’s guns. D-Dog said he wanted to purchase one. Duval asked D-Dog if he was a felon, and when D-Dog said he was not, Duval sold him a gun. When D-Dog said he knew other people who also wanted guns, Duval arranged through D-Dog to meet those people in store parking lots to make the firearm transactions, and then gave D-Dog a little bit of money out of the proceeds.

From this evidence, the jury could reasonably find that Duval was acting as a straw purchaser, buying and delivering firearms at D-Dog’s request for other people D-Dog knew wanted firearms or for other buyers “on the streets.” Although Duval told agents that he initially purchased the firearms for himself and only later decided to sell them due to financial necessity after he lost his job, the jury was free to disbelieve Duval, which it clearly did. See United States v. Williams, 390 F.3d 1319, 1323 (11th Cir. 2004) (explaining that the jury is free to choose between reasonable constructions of the evidence, and this Court must construe credibility choices to support the jury’s verdict). Among other things, Duval quit his job at Universal on February 22, 2016, before he began purchasing the firearms on February 25, 2016. Although Duval claimed to have financial problems, he spent his entire \$5,000 tax refund, as much as he had earned in the last three months, on the firearms. And, all fourteen firearms were 9mm pistols. A

reasonable jury could infer from this evidence that Duval was not purchasing the firearms for his own collection, particularly since he bought duplicates of several firearms. Finally, Duval admitted to ATF agents during informal interviews that he bought firearms to resell them and that he sold most of the firearms “through D-Dog.”

Further, there were other inconsistencies in Duval’s statements to ATF agents that a reasonable jury could have considered as substantive evidence of his guilt. See United States v. Hughes, 840 F.3d 1368, 1385 (11th Cir. 2016), cert. denied, 137 S. Ct. 1354 (2017) (explaining that a statement by a defendant, including a pre-trial exculpatory statement, if disbelieved by the jury, may be considered substantive evidence of his guilt). Duval’s own story changed several times as he was questioned by the agents.² Although Duval told the agents that he purchased the firearms with his tax refund, he purchased six firearms in February 2016, before he received his tax refund in March 2016. While Duval consistently stated that he had not purchased the firearms for anyone else, he also told the

²Duval points out that the two pre-arrest interviews were not recorded. But we must assume the jury answered all credibility questions in favor of the verdict and thus that the jury believed the testimony of ATF agents about what Duval said during his unrecorded interviews. See Williams, 390 F.3d at 1323. Further, there is no merit to Duval’s claim that his unrecorded interview statements that he planned to resell the firearms were the only evidence of his guilt. Indeed, there was compelling circumstantial evidence, recounted above, that corroborated his interview statements, not least of which was that he quickly resold all but one of the firearms to others.

agents that he continued to buy more firearms after the first sale because he needed to make a profit and “people on the streets always need guns.”

From all of this evidence the jury could have reasonably found that Duval purchased the ten firearms, as charged in Counts 2, 3 and 4, either for D-Dog and his associates or with the intent to resell them to others “on the streets,” and thus made a false statement on the Form 4473 when he indicated that he was the actual buyer of the firearms.

Duval argues that he was an “actual buyer” as a matter of law because, although he intended to resell the firearms, he had not yet identified a specific buyer when he purchased the firearms. As support, Duval notes that in Abramski, the Supreme Court stated that Congress intended to leave the “secondary market” for firearms largely unregulated. See Abramski, ___ U.S. at ___, 134 S. Ct. at 2271. Duval’s is not a situation in which a true buyer later sold his firearms on the secondary market, but rather a sham transaction that essentially asked the dealer to verify the identity of, and run a background check on, the wrong person. See Abramski, 134 S. Ct. at 2275 (explaining that to read the statutory terms “person” and “transferee” in § 922 narrowly would render the provisions of the statute ineffectual “because the identification and background check would be of the wrong person”).

Even if Duval was not acting as a classic straw purchaser who is fronted the money for the firearm transaction ahead of time by a specific buyer, his actions nonetheless qualified as a crime under § 922(a)(6) because Duval could only be the “actual buyer” for purposes of Form 4473 if he intended to keep the firearms for himself or to give them as a gift. See Ortiz, 318 F.3d at 1038. The jury reasonably inferred from the trial evidence that Duval did not purchase the firearms for himself or as a gift to another, but rather for the sole purpose of turning around and selling them to another person, even though that person’s identity may have been unclear at the time. Thus, Duval’s statements on Form 4473 that he was the actual buyer were misrepresentations under § 922(a)(6). See id. (concluding that the defendant misrepresented that he was the actual buyer because at the time he completed the Form 4473 he intended to deliver and sell them to an as-yet unidentified buyer).

II. REASONABLENESS

“We review the reasonableness of a sentence for an abuse of discretion using a two-step process.” United States v. Cubero, 754 F.3d 888, 892 (11th Cir. 2014) (quotation marks omitted). We look first at whether the sentencing court committed any significant procedural error, such as misapplying the guidelines or treating them as mandatory, failing to consider the 18 U.S.C. § 3553(a) sentencing

factors, choosing a sentence based on clearly erroneous facts, or failing to adequately explain the sentence imposed. Id.³

Second, we examine whether the sentence is substantively unreasonable in light of the § 3553(a) factors and the totality of the circumstances. Id. The party challenging the sentence bears the burden to show it is unreasonable. United States v. Alvarado, 808 F.3d 474, 496 (11th Cir. 2015). The weight given to any particular § 3553(a) factor is within the district court's discretion, and this Court will not substitute its judgment for that of the district court. Id. We will reverse a sentence only if we are "left with the definite and firm conviction that the district court committed a clear error of judgment in weighing the § 3553(a) factors by arriving at a sentence that lies outside the range of reasonable sentences dictated by the facts of the case." United States v. Pugh, 515 F.3d 1179, 1191 (11th Cir. 2008) (quotation marks omitted).

As to procedural reasonableness, Duval contends the district court misapplied an 8-level enhancement under U.S.S.G. § 2K2.1(a)(4)(B). A defendant's base offense level for prohibited transactions involving firearms is 20

³The § 3553(a) factors include: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (3) the need for deterrence; (4) the need to protect the public; (5) the need to provide the defendant with needed educational or vocational training or medical care; (6) the kinds of sentences available; (7) the Sentencing Guidelines range; (8) pertinent policy statements of the Sentencing Commission; (9) the need to avoid unwarranted sentencing disparities; and (10) the need to provide restitution to victims. 18 U.S.C. § 3553(a).

if: (1) the offense involved a semiautomatic firearm that is capable of accepting a large capacity magazine or a firearm described in 26 U.S.C. § 5845(a); and (2) the defendant committed the offense with knowledge, intent, or reason to believe that the offense would result in the transfer of a firearm or ammunition to a prohibited person. U.S.S.G. § 2K2.1(a)(4)(B). If none of the potential special circumstances apply, a defendant's base offense level is 12. See id. § 2K2.1(a)(7).

Duval challenges the 8-level enhancement for several reasons, some of which he raised at sentencing and some of which he did not. Specifically, Duval argues that the 8-level increase did not apply because (1) the nine-millimeter pistols he purchased were not either semiautomatic firearms that were capable of accepting large-capacity magazines or firearms described in 26 U.S.C. § 5845(a); (2) there was insufficient proof that he intended to transfer the firearms to a prohibited person at the time that he purchased them, even if there was sufficient evidence that he had, in fact, sold the firearms to prohibited persons; and (3) there was no evidence as to whom he sold the firearms.

The problem for Duval is that, at sentencing, the district court explicitly stated that regardless of whether the advisory guidelines range was 21 to 27 months (without the 8-level enhancement) or 51 to 63 months (with that enhancement), the district court believed that a 21-month sentence was the appropriate sentence. We need not decide a guidelines issue or remand for a new

sentencing when the district court, as here, expressly states that it would have imposed the same sentence regardless of its ruling on the guidelines issue, and the sentence would have been reasonable assuming the guidelines issue was decided in the defendant's favor. See United States v. Dean, 517 F.3d 1224, 1232 (11th Cir. 2008); United States v. Keene, 470 F.3d 1347, 1349-50 (11th Cir. 2006). "In determining whether [the sentence imposed] is reasonable we must assume that there was a guidelines error—that the guidelines issue should have been decided in the way the defendant argued and the advisory range reduced accordingly—and then ask whether the final sentence resulting from consideration of the § 3553(a) factors would still be reasonable." Keene, 470 F.3d at 1349.

Here, any error the district court may have made in calculating Duval's base offense level under § 2K2.1(a)(4)(B) was harmless. See id. at 1348-49. The district court stated that regardless of whether it imposed the higher base offense level under § 2K2.1(a)(4)(B), it would have imposed a 21-month total sentence. Accordingly, so long as the resulting total sentence was substantively reasonable assuming that the district court erred in calculating the guidelines range, any error by the district court was harmless. Id. at 1349. For the reasons that follow, we conclude Duval's 21-month total sentence was substantively reasonable, even if the advisory guidelines range was 21 to 27 months.

The district court explicitly considered several § 3553(a) factors at sentencing, including the nature and circumstances of the offenses, Duval's history and characteristics, and the need for the sentence to reflect the seriousness of the offenses. The district court also discussed several mitigating factors in Duval's history and characteristics, including Duval's history as a security guard and that he was a first-time offender, law-abiding, and had good character apart from "what he did for a few weeks selling these guns - - buying and selling these guns and lying about it." The district court stated its belief, however, that Duval was not "buying these guns for collecting or sporting purposes," noted that "the jury's still out" on whether Duval was a danger to the public, and concluded that the non-incarceration sentence Duval requested was not appropriate given the seriousness of his offenses.

Given the extensive discussion of the § 3553(a) factors, there is no indication that the district court failed to consider relevant factors that were due significant weight, gave an improper or irrelevant factor significant weight, or committed a clear error of judgment by balancing the proper factors unreasonably. See United States v. Irely, 612 F.3d 1160, 1189 (11th Cir. 2010) (en banc).

Furthermore, the 21-month sentence would have been at the bottom of the assumed guidelines range of 21 to 27 months and was well below the applicable ten-year statutory maximum under 18 U.S.C. § 924(a)(2), both indications of

reasonableness. See United States v. Hunt, 526 F.3d 739, 746 (11th Cir. 2008) (stating that this Court ordinarily expects a sentence within the guidelines range to be reasonable); United States v. Stanley, 739 F.3d 633, 656 (11th Cir. 2014) (“A sentence imposed well below the statutory maximum penalty is an indicator of a reasonable sentence.”). Under the totality of the circumstances, and considering the § 3553(a) factors, we cannot say the district court abused its discretion when it imposed a 21-month sentence, even assuming arguendo the district court erred in applying § 2K2.1(a)(4)(B)’s 8-level enhancement. Accordingly, Duval’s sentence is both procedurally and substantively reasonable.

III. CONCLUSION

For these reasons, we affirm Duval’s convictions and total 21-month sentence.

AFFIRMED.

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IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

NO. 17-10429-FF

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JEAN EMMANUEL DUVAL,

Defendant – Appellant.

On Appeal from the U. S. District Court for the

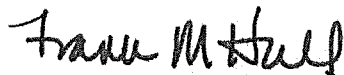
PETITION(S) FOR REHEARING EN BANC

BEFORE: HULL, JULIE CARNES and JILL PRYOR, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled no rehearing en banc. (FRAP 35) The Petition for Rehearing En Banc is also treated as a Petition for Rehearing before the panel and is DENIED. (FRAP 35, IOP 2)

ENTERED FOR THE COURT:



UNITED STATES CIRCUIT JUDGE

ORD-42

A-16

UNITED STATES DISTRICT COURT**Southern District of Florida****Fort Lauderdale Division****UNITED STATES OF AMERICA****v.****JEAN EMMANUEL DUVAL****JUDGMENT IN A CRIMINAL CASE**Case Number: **16-20487-CR-DIMITROULEAS**USM Number: **13659-104**Counsel For Defendant: **Timothy Day, AFD**Counsel For The United States: **Joseph Schuster, Franklin
Monsour, AUSA**Court Reporter: **Francine Salopek****The defendant was found guilty on count(s) Two-Four of the indictment.**

The defendant is adjudicated guilty of these offenses:

<u>TITLE & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE ENDED</u>	<u>COUNT</u>
18 USC 922 (a)(6)	False statement in connection with the acquisition of a firearm	02/25/2016	Two
18 USC 922 (a)(6)	False statement in connection with the acquisition of a firearm	03/04/2016	Three
18 USC 922 (a)(6)	False statement in connection with the acquisition of a firearm	03/09/2016	Four

The defendant is sentenced as provided in the following pages 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) of One.

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.

Date of Imposition of Sentence: **1/24/2017**
William P. Dimitrouleas
United States District JudgeDate: Jan. 25, 2017

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DEFENDANT: JEAN EMMANUEL DUVAL
CASE NUMBER: 16-20487-CR-DIMITROULEAS

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **21 months as to each of Counts Two, Three and Four to be served concurrently.**

The court makes the following recommendations to the Bureau of Prisons: Designation to a South Florida facility

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

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

DEPUTY UNITED STATES MARSHAL

DEFENDANT: JEAN EMMANUEL DUVAL
CASE NUMBER: 16-20487-CR-DIMITROULEAS

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **3 years as to each of Counts Two, Three and Four to run concurrently.**

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall 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 defendant shall cooperate in the collection of DNA as directed by the probation officer.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

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

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first fifteen days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11. The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: **JEAN EMMANUEL DUVAL**
CASE NUMBER: **16-20487-CR-DIMITROULEAS**

SPECIAL CONDITIONS OF SUPERVISION

Permissible Search - The defendant shall submit to a search of his/her person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

Self-Employment Restriction - The defendant shall obtain prior written approval from the Court before entering into any self-employment.

DEFENDANT: JEAN EMMANUEL DUVAL
CASE NUMBER: 16-20487-CR-DIMITROULEAS

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$300.00	\$0.00	\$0.00

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>NAME OF PAYEE</u>	<u>TOTAL LOSS*</u>	<u>RESTITUTION ORDERED</u>	<u>PRIORITY OR PERCENTAGE</u>
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* 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.

** Assessment due immediately unless otherwise ordered by the Court.

DEFENDANT: JEAN EMMANUEL DUVAL
CASE NUMBER: 16-20487-CR-DIMITROULEAS

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 payment of \$300.00 due immediately.

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.

This assessment/fine/restitution is payable to the CLERK, UNITED STATES COURTS and is to be addressed to:

**U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 08N09
MIAMI, FLORIDA 33128-7716**

The assessment/fine/restitution is payable immediately. The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

<u>CASE NUMBER</u> <u>DEFENDANT AND CO-DEFENDANT NAMES</u> <u>(INCLUDING DEFENDANT NUMBER)</u>	<u>TOTAL AMOUNT</u>	<u>JOINT AND SEVERAL</u> <u>AMOUNT</u>

The Government shall file a preliminary order of forfeiture within 3 days.

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

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Jun 17, 2016

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
16-20487-CR-DIMITROULEAS/SNOW

CASE NO. _____

18 U.S.C. § 922(a)(6)

18 U.S.C. § 924(d)(1)

UNITED STATES OF AMERICA,

v.

JEAN EMMANUEL DUVAL,

Defendant.

INDICTMENT

The Grand Jury charges that:

COUNTS 1-4

On or about the dates specified as to each count below, in Miami-Dade and Broward Counties, in the Southern District of Florida, the defendant,

JEAN EMMANUEL DUVAL,

in connection with the acquisition of firearms from a federally licensed firearms dealer, did knowingly make a false and fictitious written statement to the dealer, which statement was intended and likely to deceive the dealer with respect to any fact material to the lawfulness of the sale and other disposition of such firearms, in that the defendant stated in Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473 that he was the actual buyer of the firearms, when in truth and fact, and as the defendant then and there well knew, he was purchasing the firearms for another person, as described below:

Count	Approximate Date	Federal Firearms Licensee	County
1	February 25, 2016	Lou's Police Distributors	Miami-Dade
2	February 25, 2016	R.T. Money Tree Pawn	Miami-Dade
3	March 4, 2016	Lou's Police Distributors	Miami-Dade
4	March 9, 2016	Friendly Pawn and Gold	Broward

In violation of Title 18, United States Code, Section 922(a)(6).

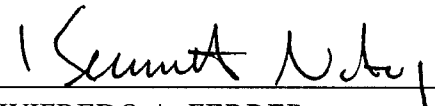
FORFEITURE ALLEGATIONS

1. The allegations of this Indictment are re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **JEAN EMMANUEL DUVAL**, has an interest.

2. Upon conviction of any violation of Title 18, United States Code, Section 922(a)(6), as alleged in this Indictment, the defendant shall forfeit to the United States any firearm or ammunition involved in or used in such violation.

All pursuant to Title 18, United States Code, Section 924(d)(1), and the procedures set forth in Title 21 United States Code, Section 853, made applicable by Title 28, United States Code, Section 2461(c).

A TRUE BILL



WIFREDO A. FERRER
UNITED STATES ATTORNEY

 FOR PERSON



DANIEL CERVANTES
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

JEAN EMMANUEL DUVAL,

Defendant.

Superseding Case Information:

Court Division: (Select One)

X Miami Key West
 FTL WPB FTP

New Defendant(s) Yes No
 Number of New Defendants
 Total number of counts

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
3. Interpreter: (Yes or No) No
 List language and/or dialect
4. This case will take 2 days for the parties to try.
5. Please check appropriate category and type of offense listed below:

(Check only one)	(Check only one)
I 0 to 5 days <u>X</u>	Petty <u> </u>
II 6 to 10 days <u> </u>	Minor <u> </u>
III 11 to 20 days <u> </u>	Misdem. <u> </u>
IV 21 to 60 days <u> </u>	Felony <u>X</u>
V 61 days and over <u> </u>	

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes:

Judge:

Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No

If yes:

Magistrate Case No. _____

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

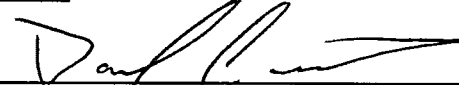
Defendant(s) in state custody as of _____

Rule 20 from the District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes No X

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? Yes No X


 DANIEL CERVANTES
 ASSISTANT UNITED STATES ATTORNEY
 FLA BAR NO. 40836

*Penalty Sheet(s) attached

REV 4/8/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: JEAN EMMANUEL DUVAL

Case No: _____

Counts #: 1-4

False statement to a federally licensed firearms dealer

Title 18, United States Code, Section 922(a)(6)

*Max. Penalty: 10 Years' Imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**