

FILED

MAY 07 2007

DENNIS P. IAVARONE, CLERK
US DISTRICT COURT, EDNC
BY DEP. CLK

United States District Court

EASTERN

DISTRICT OF

NORTH CAROLINA

UNITED STATES OF AMERICA

v.

Barry LEWIS

CRIMINAL COMPLAINT

CASE NUMBER:

5:07-m-01260

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about May 2, 2007, in Wake county in the Eastern District of North Carolina defendant did, giving false statements as to the acquisition of a firearm from a federal firearms licensee, in violation of **Title 18, United States Code, Section(s) 922(a)(6)**.

I further state that I am a(n) Special Agent Michael Fanelly, Alcohol, Tobacco, Firearms, and Explosives (ATF) and that this complaint is based on the following facts:

See attached affidavit.

Continued on the attached sheet and made a part hereof:

Yes

No

Sworn to before me and subscribed in my presence,


Signature of Complainant
MICHAEL FANELEY
Special Agent, ATF

May 4th, 2007 at _____

_____, North Carolina
City and State

William A. Webb, United States Magistrate Judge
Name & Title of Judicial Officer


Signature of Judicial Officer

PROBABLE CAUSE AFFIDAVIT

Affiant, Michael J. Fanelly, is a Senior Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and has been so employed for the past 16 years. As such, I have received extensive training and experience in Federal weapons offenses under 18 U.S.C. Sections 921 through 930. I have participated in hundreds of firearms investigations, seizing hundreds of illegal firearms. The affiant has pursued numerous of these investigations in Federal court and is familiar with Federal law as they pertain to these violations.

On May 2, 2007, the affiant was contacted by Dave Beck, owner and manager of Plaza West Jewelry and Pawn, a Federal Firearms Licensee (FFL # 1-56 183 02 9L 00258) located in Raleigh, North Carolina. Beck informed the affiant that a Barry LEWIS (W/M DOB 3/7/75) had come into the store in an attempt to purchase a firearm. Beck stated that LEWIS told Beck that he (LEWIS) wanted to purchase a semi-automatic shotgun. LEWIS picked a Remington 1100 shotgun that he wanted to purchase.

Beck then gave LEWIS the Firearms Transaction Record (ATF Form 4473) to fill out to make the purchase of the firearm. Beck stated that LEWIS then stated that he (LEWIS) was dyslexic and could not fill out the form. Beck told LEWIS at this point that he (Beck) could not fill out the form for LEWIS and that LEWIS would have to come back to the store with someone who knew LEWIS to help fill out the form. At this time LEWIS then stated that he could actually fill out the form. LEWIS filled out the Firearms Transaction Record and wrote "no" to question 11 f. that reads: Have you ever been adjudicated mentally defective (which includes having been adjudicated incompetent to manage your own affairs) or have you ever been committed to a mental institution? Additionally LEWIS signed his name on line 16 of the form indicating that all his answer were true and correct.

After LEWIS filled out the form he presented Beck with a Florida driver's license. Beck told LEWIS that he would not sell LEWIS the firearm with out North Carolina identification. LEWIS told Beck that he would go and get a North Carolina identification card and come back the same day.

Beck informed the affiant that he (Beck) had at this time decided not to make the sale to LEWIS even if he came back with North Carolina identification. Beck stated that LEWIS did in fact return to the store to make the purchase but was turned away. Beck stated that LEWIS told an employee at the store on the way out of the store that he (LEWIS) would go somewhere else and get a firearm.

On May 4, 2007, the affiant was able to obtain a photograph of Barry LEWIS that was taken by the North Carolina Department of Motor Vehicles on May 2, 2007. This photograph was for an identification card that LEWIS applied for and received on May 2, 2007.

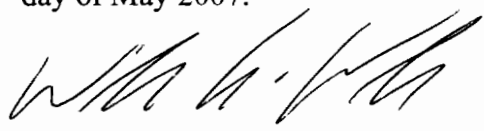
On May 4, 2007, the affiant showed a copy of the previously received photograph to Letisia Pineda an employee of Plaza West Jewelry and Pawn. Pineda stated that the individual in the photograph was the same individual that had attempted to purchase a firearm on May 2, 2007. Additionally Pineda stated that the individual in the photograph also filled out a Firearms Transaction Record at the store.

On May 4, 2007, the affiant was able to review documents and records obtained by a Federal Court Order from Federal Magistrate Judge William Webb. Based on this review the affiant was able to determine that Barry LEWIS made a false statement when answering "no" to question 11 f. Additionally found in the documents given to the affiant, is a picture of LEWIS. The individual in the picture given to the affiant via the court order is the same individual in the photograph the affiant received from the NC Department of Motor Vehicles.

As a result of the investigation conducted by your affiant, and information personally uncovered and learned from others, I believe probable cause exists that Barry LEWIS has violated Title 18 United States Code 922 (a)(6) that is and individual who has been adjudicated mentally ill gave false statements as to the attempted acquisition of a firearm from a licensed firearms dealer.


Special Agent Michael Fanelly

Sworn to and subscribed before me this 4th day of May 2007.


U.S. Federal Magistrate Judge
William A. Webb

Reviewed and approved by Assistant U.S. Attorney James Candelmo