

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

*** CRIMINAL DOCKET NO: 08-14**

v.

*** SECTION: "A" (4)**

JOSEPH SCHWARTZ

*** * ***

FACTUAL BASIS

Should this matter proceed to trial, the United States of America will prove beyond a reasonable doubt, through credible testimony and reliable evidence, the following facts:

On December 31, 2007, an employee of Jefferson Gun Outlet, 501 David Drive, Metairie, Louisiana, a Federally Licensed Firearms Dealer contacted the Bureau of Alcohol, Tobacco, firearms, and Explosives ("ATF"). The employee stated that on December 28, 2007, a white male entered Jefferson Gun Outlet and began looking at a Norinco, MAK-90 Bullpup, 7.62x39 caliber rifle. The employee stated that a short time later, a white female, entered Jefferson Gun Outlet and approached the white male. The employee stated that the white male carried the Norinco rifle to the counter and stated that he wanted to purchase it. The employee stated that when he placed the ATF Form 4473 onto the counter the white male stated that "she's going to do the paperwork." The employee stated that the white female then completed the ATF Form 4473 and put a \$400.00 deposit down so that the Norinco rifle would not be sold. The ATF Form 4473 lists the intended purchaser's

name as Tamela Schwartz. The employee told Tamela Schwartz to provide a telephone number so that she could be contacted when the transaction was approved.

On January 04, 2008, the Jefferson Gun Outlet employee was contacted by the white male who was with Tamela Schwartz on December 28, 2007 and asked why his wife had not been approved yet. The white male stated that his name was Joseph.

On January 08, 2008, ATF agents observed Joseph Schwartz pull up to the Jefferson Gun Outlet. He was alone in a red mini-van. He then met Tamela Schwartz, who had driven a separate vehicle and they entered the gun store. Approximately ten minutes later, Joseph Schwartz, exited the store carrying a rifle. Joseph Schwartz then placed the rifle on the front seat of the vehicle that he had arrived in alone. ATF Agents then approached Joseph Schwartz and located a Norinco, MAK-90 Bullpup, 7.62x39 caliber rifle, serial number 66755 on the front passenger seat of the van.

Certified records maintained by the Louisiana Department of Corrections, Bureau of Probation and Parole will prove that on February 11, 2004, Joseph Schwartz pled guilty in the Twenty-Fourth Judicial District Court to Illegal use of Weapons or Dangerous Instrumentalities in violation of Louisiana Revised Statute 14:94 and was sentenced to two years, suspended, three years probation.

The aforementioned firearm was manufactured in China, and, thus traveled in and affected interstate commerce.

BRIAN J. CAPITELLI
Assistant United States Attorney
LA Bar Roll No. 27398

Date

Michael H. Ellis, ESQ.
Counsel For Defendant
LA Bar Roll No. 5334

Date

Joseph Schwartz
Defendant

Date