

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 24-8057-BER

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KEMARCIO MITCHELL,

Defendant.

CRIMINAL COVER SHEET

1. Did this matter originate from a matter pending in the Miami Office of the United States Attorney's Office prior to July 20, 2008?

Yes ☒ No

2. Did this matter originate from a matter pending in the Northern Region of the United States Attorney's Office (West Palm Beach Office) only prior to December 18, 2011?

Yes ☒ No

3. Did this matter originate from a matter pending in the Fort Pierce Office of the United States Attorney's Office prior to August 8, 2014?

Yes ☒ No

Respectfully submitted,

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

BY:


JOHN C. McMILLAN
ASSISTANT UNITED STATES ATTORNEY
Admin. No. A5500228
500 S. Australian Ave., Suite 400
West Palm Beach, FL 33401
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AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America

v.

KAMARCIO MITCHELL,

Defendant(s)

Case No. 24-8057-BER

FILED BY TM D.C.

Feb 16, 2024

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - WPB

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 02/14/2024 in the county of Palm Beach in the
Southern District of Florida, the defendant(s) violated:

Code Section

18 U.S.C. §§ 922(g)(1), 924(e)

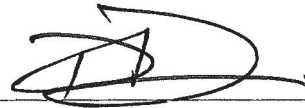
Offense Description

Possession of a Firearm and Ammunition by a Convicted Felon (Armed Career Criminal)

This criminal complaint is based on these facts:

See attached Affidavit

☒ Continued on the attached sheet.



Complainant's signature

Devin P. Davis, Special Agent, FBI

Printed name and title

Subscribed and sworn to before me in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone (Facetime).

Date: 02/16/2024

Bruce Reinhart

Digitally signed by Bruce
Reinhart
Date: 2024.02.16 16:37:33 -05'00'

Judge's signature

City and state: West Palm Beach, Florida

Bruce Reinhart, United States Magistrate Judge

Printed name and title

**AFFIDAVIT OF
DEVIN P. DAVIS, SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION
Case No. 24-8057-BER**

I, Devin P. Davis, being duly sworn, do state and attest as follows:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been since January 2020. I also served as a police officer from January 2008 to January 2020 in the metro Atlanta area. As an FBI Special Agent, I am an investigator and law enforcement officer of the United States within the meaning of Rule 41(a)(2)(c) of the Federal Rules of Criminal Procedure. I am also currently assigned to PB-2, the Violent Crimes and Major Offender Squad of the Palm Beach County Resident Agency. I have primarily been assigned to investigations dealing with firearms violations, commercial robberies, bank robberies, stalking, violent crimes against children, and other violent crimes. I have gained experience as a federal law enforcement officer and have received instruction and training in investigative techniques of violations of Federal law, including possession of firearm(s) by felon(s), in violation of Title 18, United States Code, Section 922.

2. This affidavit is based upon my own personal knowledge of the facts and circumstances surrounding the investigation and information provided to me by other law enforcement officers. This affidavit does not purport to contain all the information known to me about this case but addresses only that information necessary to support a finding of probable cause for the issuance of a criminal complaint charging KAMARCIO MITCHELL with the offense of Possession of a Firearm and Ammunition by a Convicted Felon, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(e)(Armed Career Criminal).

3. On February 14, 2024, at approximately 2:36 pm EST, several law enforcement agencies within Palm Beach County responded to the Gardens Mall, which your affiant knows to be located in Palm Beach Gardens, Palm Beach County, Southern District of Florida, in reference to reports of a shooting. Upon arrival, Palm Beach Gardens officers located a blood trail inside the mall on the second level. The trail led from the top of the stairs near the retail store Banana Republic, throughout the mall, and into the retail store Macy's. The blood trail led out into the parking lot.

4. Officers were able to obtain video surveillance footage of the shooting. Your affiant also reviewed the video. In the video, a male wearing a black shirt and shorts, later identified as MITCHELL, is depicted walking on the upper level of the shopping mall near Banana Republic. As MITCHELL approached the escalator, MITCHELL can be observed manipulating an object under his shirt. Shortly thereafter, MITCHELL is seen being fired upon by another male wearing a purple hoodie. MITCHELL can then be observed running through the mall on the second level in the same location as the blood trail. Additional video footage revealed that MITCHELL was holding his right arm close to his body as he exited the shopping mall from Macy's. MITCHELL was then observed walking in between vehicles in the parking lot manipulating an object in his hands near the vehicles. MITCHELL is then observed on camera leaving the parking lot. Palm Beach Gardens police immediately went to check the area where MITCHELL was seen manipulating the object, and found a Glock 17 9mm caliber, bearing serial number ACFC805, that had been disassembled, as well as an extended KCI magazine that is made to contain thirty-

three (33) rounds of ammunition. Police recovered a total of twenty (20) rounds of live Blazer 9mm ammunition from within the extended magazine, or in the close vicinity of where the firearm parts were recovered. The lower receiver (polymer grip section) of the firearm contained blood.

5. As Palm Beach Gardens police were conducting their investigation into the shooting, St. Mary's Hospital notified law enforcement that an individual had come to the emergency room with a gunshot wound to his right wrist. Palm Beach Gardens detectives responded to the hospital to interview the individual at the emergency room and positively identified him as MITCHELL based on Florida DMV records. MITCHELL, who at that time was viewed as a potential victim, stated in a body camera recorded interview to being in the Gardens Mall at the time of the shooting. MITCHELL also stated that he exited the mall after being shot, but did not recall the store from which he exited. At the time of the interview, MITCHELL voluntarily consented to providing Palm Beach Garden's officers with a deoxyribonucleic acid (DNA) sample. MITCHELL provided his consent both in writing, and on Body Worn Camera. MITCHELL's consent included written notification of his right to refuse to consent to search.

6. Your affiant's review of criminal history records from the Palm Beach County (Florida) Circuit Court (PBCCC) reveal that at all times material hereto, that is, prior to February 14, 2024, KAMARCIO MITCHELL was possessed of at least the following convictions, each of which was a felony offense, punishable by imprisonment for a term exceeding one year:

a. On or about June 30, 2021, the defendant was convicted in PBCCC

Case No. 20CF002552AMB of Trafficking in Cocaine, a First Degree Felony, with an offense and arrest date of March 18, 2020;

b. On or about June 30, 2021, the defendant was convicted in PBCCC Case No. 20CF005345AMB of Possession of Cocaine with Intent to Sell, a Second Degree Felony, with an offense and arrest date of June 25, 2020; and

c. On or about June 30, 2021, the defendant was convicted in PBCCC Case No. 20CF005256AMB of Sale or Possession of Cocaine with Intent to Sell within 1,000 Feet of a Convenience Business, a First Degree Felony, with an offense date of January 15, 2020; and

d. On or about June 30, 2021, the defendant was convicted in PBCCC Case No. 20CF001397AMB, of Felon in Possession of a Firearm (Actual Possession), a Second Degree Felony, based on his possession of an AR-15 variant rifle with a 100-round drum magazine, and a Glock pistol with an extended magazine, thus establishing the defendant's awareness of his status as a convicted felon, and his prohibition from the possession of firearms.

7. On February 15, 2024, SA Davis physically examined the firearm, noting specific features and markings thereupon to include a green "M" sticker that is identified as a "Monster" energy drink logo. On February 15, 2024, your affiant contacted the Bureau of Alcohol, Tobacco, and Firearms (ATF), and provided ATF Agent Vincent Rubbo, with serial number of the Glock 17 that was recovered in the parking lot of the Gardens mall. Agent Rubbo advised that the Glock 17, serial number ACFC805, was manufactured in the country of Austria, and was not manufactured in the state of Florida.

Special Agent Rubbo further advised that Blazer ammunition is manufactured by the CCI company in Idaho. Accordingly, by the recovery of said firearm and ammunition in the State of Florida, your affiant submits such of necessity traveled in and affected interstate and/or foreign commerce.

8. WHEREFORE, on basis of the foregoing, your affiant respectfully submits that probable cause exists to charge KEMARCIO MITCHELL with the offense of Possession of a Firearm and Ammunition by a Convicted Felon (Armed Career Criminal), in violation of Title 18, United States Code, Sections 922(g)(1) and 924(e).

FURTHER YOUR AFFIANT SAITH NAUGHT.


DEVIN P. DAVIS
Special Agent
Federal Bureau of Investigation

ATTESTED TO ME TELEPHONICALLY
(VIA FACETIME) BY THE APPLICANT
IN ACCORDANCE WITH THE REQUIREMENTS
OF FED. R. CRIM. P. 4.1 THIS 16TH
DAY OF FEBRUARY, 2024.

Bruce Reinhart

Digitally signed by Bruce
Reinhart
Date: 2024.02.16 16:37:55 -05'00'

BRUCE REINHART
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Kemarcio MITCHELL

Case No: 24-8057-BER

Count # 1

Possession of Firearm by a Convicted Felon (Armed Career Criminal)

Title 18, United States Code, Sections 922(g)(1), 924(e)

* **Max. Term of Imprisonment:** life

* **Mandatory Min. Term of Imprisonment (if applicable):** 15 years' imprisonment

* **Max. Supervised Release:** Five (5) years

* **Max. Fine:** \$250,000.00

* **Special Assessment:** \$100.00

* **Immigration Consequences of Removal (Deportation) if the defendant is not a U.S. Citizen, following conviction.**