

ORIGINAL

SEALED

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

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS <b>FILED</b> APR - 9 2008 CLERK, U.S. DISTRICT COURT By _____ Deputy
---

UNITED STATES OF AMERICA  
v.  
MARVIN ODUBER ACEVEDO

§ No. 3:08-CR-  
§ **3-08 CR-097-K**  
§ FILED UNDER SEAL  
§

INDICTMENT

The Grand Jury Charges:

At all times material to this Indictment:

INTRODUCTION

1. Fabrique Nationale Herstal, SA (FNH), a subsidiary of the Herstal Group, designed, manufactured and distributed firearms and accessories for military and law enforcement applications. FNH was headquartered in Herstal, Belgium, and was represented in the United States by FHA USA, located in McLean, Virginia. FHA products include a model Five-sevenN® 5.7 x 28 mm pistol.
2. Bachman Pawn & Gun was a licensed firearms dealer located at 2926 West Northwest Highway, Dallas, Texas, in the Northern District of Texas.
3. **Marvin Oduber Acevedo** was a citizen of Guatemala. Acevedo was granted lawful permanent residence status in June 1992, and resided at 1141 Southwestern Drive, Richardson, Texas, in the Northern District of Texas.

4. The Arms Export Control Act (AECA), as amended, and codified at 22 U.S.C. §§ 2751 to 2799aa-2, authorizes the President to control the export and import of commodities, services and technologies designated as “defense articles” and “defense services” in furtherance of world peace, security and foreign policy interests of the United States. The articles and services so designated constitute the U.S. Munitions List (USML), which is published at 22 C.F.R. § 121. The Act provides that individuals or entities seeking to export or temporarily import articles or services listed in the USML must first register with and obtain an export license from the U.S. Department of State Directorate of Defense Trade Controls (DOS). The President has delegated to DOS the authority to designate defense articles and defense services, and to issue regulations governing the licensing of designated materials.

5. The DOS regulations implementing the provisions of the AECA are entitled the International Trafficking in Arms Regulations (ITAR), Title 22 Code of Federal Regulations, Sections 120-130 (Subchapter M). The ITAR identify by category the defense-related articles and services that are covered by the USML, and establish the requirements and procedures for registering with and obtaining a license from DOS for the export and temporary import of any such materials. Among other requirements, the ITAR requires an applicant for an export license to identify the ultimate and final destination of the goods or services.

6. Category I of the USML covered several classifications of firearms, including nonautomatic and semi-automatic firearms up to caliber .50. 22 C.F.R. § 121.1 Category I (a). The FNH model Five-seveN® 5.7 x 28 mm pistol was covered by Category I of the USML, and was a defense article that could not be exported from the United States without a license issued by the DOS.

Count One

Export of Defense Article Without A License

(Violation of 22 U.S.C. §§ 2778(b)(2) and (c); 22 C.F.R. §§ 121.1, 123.1, and 127.1)

1. The Grand Jury incorporates and realleges the allegations set out in paragraphs 1 through 6 of the Introduction to the Indictment.
2. On or about March 4, 2008, within the Northern District of Texas, defendant **MARVIN ODUBER ACEVEDO** knowingly and willfully attempted to export and cause to be exported from the United States to the Republic of Guatemala a quantity of defense articles, specifically, two FNH model Five-seveN® 5.7 x 28 mm pistols, serial numbers 386156333 and 386156338, which were designated defense articles on the United States Munitions List, without having first obtained from the Department of State a license or written authorization for such export.

In violation of 22 U.S.C. §§ 2778(b)(2) and (c); 22 C.F.R. §§ 121.1, 123.1 and 127.1.

Count Two  
Smuggling Goods From the United States  
(Violation of 18 U.S.C. § 554(a))

1. The Grand Jury incorporates and realleges the allegations set out in paragraphs 1 through 6 of the Introduction to the Indictment.
  
2. On or about March 4, 2008, in the Northern District of Texas, the defendant, **MARVIN ODUBER ACEVEDO**, did fraudulently and knowingly receive, conceal, buy, and facilitate the transportation, concealment and sale, prior to export from the United States, of merchandise, articles, and objects, specifically, two FNH model Five-seveN® 5.7 x 28 mm pistols, serial numbers 386156333 and 386156338, knowing these to be intended for export, contrary to the Armed Export Control Act, 22 U.S.C. § 2278(b)(2) and (c), and the International Trafficking in Arms Regulations, 22 C.F.R. §§ 121.3, 123.1 and 127.1.

In violation of 18 U.S.C. § 554(a).

Count Three  
Forfeiture Allegation  
(Violation of 18 U.S.C. § 981(a)(1)(C))

1. Upon conviction of the offenses alleged in Count One or Count Two and pursuant to Title 18 United States Code, Section 981(a)(1)(C) and Title 28 United States Code, Section 2461(c), defendant **MARVIN ODUBER ACEVEDO** shall forfeit to the United States all of the property constituting or derived from proceeds obtained directly or indirectly as a result the commission of the aforesaid violations, including but not limited to the following:
  - a. FNH model Five-seveN® 5.7 x 28 mm pistol, serial number 386149192;
  - b. FNH model Five-seveN® 5.7 x 28 mm pistol, serial number 386156301;
  - c. FNH model Five-seveN® 5.7 x 28 mm pistol, serial number 386156327;
  - d. FNH model Five-seveN® 5.7 x 28 mm pistol, serial number 386156328;
  - e. FNH model Five-seveN® 5.7 x 28 mm pistol, serial number 386156333;
  - f. FNH model Five-seveN® 5.7 x 28 mm pistol, serial number 386156338;
  - g. FNH model Five-seveN® 5.7 x 28 mm pistol, serial number 386156351;
  - h. FNH model Five-seveN® 5.7 x 28 mm pistol, serial number 386156572;

- i. FNH model Five-seveN® 5.7 x 28 mm pistol, serial number 386156574.
- j. 27 magazines of 5.7 x 28 mm ammunition.

A TRUE BILL:

  
\_\_\_\_\_  
FOREPERSON

RICHARD B. ROPER  
UNITED STATES ATTORNEY



PAUL YANOWITCH  
Assistant United States Attorney  
Illinois State Bar No. 6188269  
1100 Commerce St., Suite 300  
Dallas, Texas 75242-1699  
Telephone: 214.659.8618  
Facsimile: 214.767.2846

SEALED

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

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**  
APR - 9  
CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_  
Deputy

UNITED STATES OF AMERICA

v.

MARVIN ODUBER ACEVEDO (1)

**3-08 CR-097-K**

SEALED INDICTMENT

22 U.S.C. §§ 2278(b)(2) and (c); 22 C.F.R. §§ 121.1, 123.1 and 127.1  
Export of Defense Article Without a License

18 U.S.C. § 554(a)  
Smuggling Goods From the United States

18 U.S.C. § 981(a)(1)(C)  
Forfeiture Allegation

3 Counts

TB  
A true bill rendered:

DALLAS

FOREPERSON

Filed in open court this 9th day of April, A.D. 2008.

Clerk

Issue Arrest Warrant for MARVIN ODUBER ACEVEDO

Wm J. Sanderson  
UNITED STATES DISTRICT/MAGISTRATE JUDGE

Magistrate Complaint 3:08-MJ-90

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

Related Case Information	
Superseding Indictment:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No New Defendant: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Pending CR Case in NDTX:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, number: _____
Search Warrant Case Number	N/A
R 20 from District of	N/A <b>3-08 CR-097-K</b>
Magistrate Case Number	3:08-MJ-90

1. **Defendant Information**

Juvenile:  Yes  No  
If Yes, Matter to be sealed:  
 Yes  No

Defendant Name MARVIN ODUBER ACEVEDO (1)  
Alias Name 1141 SOUTHWESTERN DRIVE  
Address RICHARDSON, TX

County in which offense was committed: Dallas

2. **U.S. Attorney Information**

AUSA Paul Yanowitch Bar # Illinois State Bar No. 6188269

3. **Interpreter**

Yes  No If Yes, list language and/or dialect: Spanish

4. **Location Status**

**Issue Arrest Warrant**

Already in Federal Custody as of \_\_\_\_\_ in \_\_\_\_\_  
 Already in State Custody  
 On Pretrial Release

5. **U.S.C. Citations**

Total # of Counts as to This Defendant: 3  Petty  Misdemeanor  Felony

Citation	Description of Offense Charged	Count(s)
22 U.S.C. §§ 2278(b)(2) and (c) 22 C.F.R. §§ 121.1, 123.1 and 127.1	Export of Defense Article Without A License	1
18 U.S.C. § 554(a)	Smuggling Goods From the United States	2
18 U.S.C. § 981(a)(1)(C)	Forfeiture Allegation	3

Date 4/7/2008 Signature of AUSA: Paul Yanowitch