

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
Plaintiff	§	
	§	
v.	§	CIVIL ACTION NO.
	§	
74 FIREARMS,	§	
62 AK 47 TYPE FLATS AND	§	
ASSORTED AMMUNITION	§	
Defendants <i>in Rem</i>	§	

VERIFIED COMPLAINT FOR FORFEITURE IN REM

United States of America, Plaintiff, files this action for forfeiture against 74 firearms, 62 AK 47 type flats, and assorted ammunition listed on exhibit 1¹, Defendants in rem, and alleges the following statements in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure.

Nature of the Action

1. This is an action to forfeit property to the United States pursuant to 18 U.S.C. § 924(d)(1).

Defendants in Rem

2. Defendants in rem are assorted firearms and ammunition that are listed in

¹ All exhibits are incorporated into this complaint.

exhibit 1, which were seized and obtained from Michael Yarbrough in Corpus Christi, Texas, on August 16th and August 29th, 2011. These assorted firearms and ammunition are in the custody of United States Bureau of Alcohol, Tobacco, Firearms and Explosives in the Southern District of Texas.

Jurisdiction and Venue

3. This Court has jurisdiction pursuant to 28 U.S.C. §1355(a) because this is an action for forfeiture under 18 U.S.C. § 924(d)(1).

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1355(b)(1) and 1395(a) and (b) because:

- i. the acts or omissions giving rise to the forfeiture occurred in the Southern District of Texas,
- ii. the property was found and is located in the Southern District of Texas, and
- iii. this forfeiture action accrued in the Southern District of Texas.

Basis for Forfeiture

5. The Defendants in rem are subject to forfeiture pursuant to 18 U.S.C. § 924(d)(1). This statute provides that any firearm and ammunition involved or used in a willful violation of 18 U.S.C. § 922(a)(1)(A) shall be subject to seizure and forfeiture. Under 18 U.S.C. § 922(a)(1)(A), it is unlawful for any person except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms.

Facts

6. On August 15, 2011, Deputy United States Marshal Don Snider contacted Special Agent Brian Garner, U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives regarding the arrest of Elias Puebla. According to Deputy Snider, he and several other Deputy US Marshals and Task Force Officers responded to 4101 Up River Rd because Mr. Puebla was recently using this address according to Puebla's probation officer, Kim Soliz. According to Deputy Snider, when he approached the front of the residence, he heard the distinct sound of someone "racking" a shotgun or a rifle inside the residence. At the same time, Deputy Josh Hughes encountered Mr. Puebla at the back porch area of the residence.

7. Deputy Snider asked all of the persons who came outside who was the owner of this residence. Michael Yarbrough stated that he was the owner of the residence.

8. Deputies conducted a protective sweep of the residence, encountering three other persons inside the residence. Deputies removed all persons from inside the residence, and detained them in the back yard of the residence. Deputy Snider noted that when he was inside the residence, he observed twenty or more of what he believed to be AK47 type rifles throughout the residence. Deputy Snider stated told Special Agent Garner that there were also parts for AK47 type rifles "all over

the place” inside the residence.

9. Upon arriving on scene, Special Agent Garner conducted a walkthrough of the residence. Special Agent Garner noticed what, based on his training and experience, appeared to be AK47 type firearms in various stages of completion sitting in plain view. Special Agent Garner also noticed shelves inside the residence that had various AK47 type rifle parts, including top covers, stocks, and carrier springs sitting on the shelves. Special Agent Garner also noticed several drill presses, hydraulic presses, and a bluing machine inside the residence. All of these items appeared to be used to assemble firearms. Special Agent Garner noticed a duffle bag in the living room area that was filled with AK47 type rifles, and another bag containing AK47 magazines just inside the kitchen. At this point the scene was secured and SA Garner left to obtain a federal search warrant.

10. Special Agent Garner later returned and searched the residence pursuant to a search warrant. During this search, the items were found included, but not limited to, the following:

- A “time clock” was discovered that employees of a business would “clock in and clock out” just behind the front door of the residence mounted on a wall.
- Three of what appeared to be AK47 firearms propped up underneath a staircase in front of the front door in plain view.
- Two large tables with various tools on top of the table, and boxes underneath the table that contained various parts for AK47 type firearms,

including but not limited to front sights, rear sights, handgrips, shoulder stock assembly parts, and safeties.

- Metal shelves that contained various firearm parts and accessories, including but not limited to hand guards and gas tubes for AK47 type rifles.
- There were also additional shelves that contained various parts for AK47 type rifles. The parts were separated by part type, and included (but not limited to) top covers, springs, and receiver flats.
- There were also several hundred rounds of ammunition on one of the shelves. Behind the metal shelves there was a Rubbermaid container filled with what SA Garner knows to be 7.62x39mm magazines for AK47 type rifles.
- Underneath the staircase just inside the front door, there was a box filled with AK47 type receivers and 7.62x39mm barrels.
- There were also three AK47 type rifles propped up underneath the staircase.
- In the living room there was a black duffle bag, with the tag from WalMart still attached, on the floor filled with thirteen AK47 type rifles.

11. Also seized were the following items which are additional evidence of manufacturing:

- Sixty eight (68) gas tube parts
- Sixty five (65) hand guards
- One gray Rubbermaid container filled with eighty six (86) 7.62x39mm magazines for AK47 type rifles, one (1) .223 caliber magazine, one (1) shoulder stock,
- Clear plastic container filled with fifty five (55) receiver parts (back cap of receiver).
- Black binder containing miscellaneous receipts of firearm parts.
- Plastic container of assorted firearm parts
- Box containing seventy six (76) shoulder stocks for AK47 type rifles.
- Plastic container of assorted firearm parts
- Assorted firearm parts and packaging for firearm parts
- Seventy nine (79) gas pistons for AK47 type rifles
- Box containing trigger guards for AK47 type rifles
- Eighty six (86) top covers for AK47 type rifles

- Thirty three (33) butt stocks for AK47 type rifles
- Fifty eight (58) trunnions for AK47 type rifles
- Two (2) containers of firearm pins and other assorted parts
- Plastic container with seventy seven (77) triggers for AK47 type rifles
- Ryobi 12" Drill press, S/N AZ093950103
- Central Hydraulics, hydraulic press, S/N 022511243
- Clear plastic container with seventy six (76) safeties for AK47 type rifles
- Clear plastic container with seventy four (74) hammer parts for AK47 type rifles
- Bag containing shoulder stock assembly parts for AK47 type rifles.
- Box of assorted firearm parts
- Twelve (12) AK47 type rifle receiver "flats"
- Box containing sixteen (16) 7.62x39mm barrels, and sixteen AK47 type rifle receiver flats that appear to be damaged. Found under staircase.
- Cardboard box filled with miscellaneous firearm parts and tools
- Eleven (11) AK47 type rifle receivers.
- Container with various firearm parts.
- Two (2) Dremmel tools
- Cardboard box with seventy nine (79) pistol grips for AK47 type rifles
- Time cards for employees of Mr. Yarbrough
- Cardboard box of various gun parts
- Cardboard box of gun part packages
- Cardboard box of firearm springs
- Clear plastic container with sixty six (66) rear sights for AK47 type rifles
- Box of assorted firearm parts and tools
- Black nylon bag containing twelve (12) 7.62x39mm magazines loaded with 248 rounds of 7.62mm ammunition.
- Cardboard box of assorted firearm parts
- Sixteen (16) AK47 type receivers.
- Box of wire brushes and assorted tools.
- Box containing fifty-nine (59) 7.62x39mm barrels.
- Box containing assorted tools.
- Vise tool
- Box containing assorted firearm parts
- Eight (8) galvanized tubes
- Nine (9) punches. Found on stacked tables.
- Kawasaki 16 speed drill press, S/N 08020015

- Central Machinery 10” drill press, S/N 1023433
- Ryobi 12” drill press, S/N AZ112263477
- Two (2) Central Hydraulics hydraulic presses
- Gray plastic container with assorted tools

12. On August 29, 2011, Agents also seized 50 AK47 Type flats from Mr. Yarbrough. A searched of the records of the United States Bureau of Alcohol, Tobacco, Firearms and Explosives revealed that Mr. Yarbrough is not a licensed manufacturer.

Relief Requested

10. Plaintiff requests:

- a. An arrest warrant in rem in accordance with Rule G(3)(b)(i), Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions,
- b. A judgment of forfeiture, and
- c. Costs and other relief to which the Plaintiff may be entitled.

Date: January 30, 2012.

Respectfully submitted,

Kenneth Magidson
United States Attorney

By: /s/ Albert Ratliff
Albert Ratliff
Attorney-in-Charge

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VERIFICATION

I, Brian Garner, Special Agent, United States Bureau of Alcohol, Tobacco, Firearms and Explosives, declare under penalty of perjury as provided by 28 U.S.C. §1746 that I have read this Verified Complaint for Forfeiture in Rem, and the facts stated in this complaint are true and correct to the best of my knowledge and belief.

Executed on January 31, 2011.



Brian Garner, Special Agent
U. S. Bureau of Alcohol, Tobacco, Firearms and Explosives