

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
RICHARD W. NAGEL
CLERK OF COURT

2022 SEP 22 PM 2:48

UNITED STATES OF AMERICA,

Plaintiff,

v.

THOMAS M. DEVELIN,

Defendant.

CASE NO. 22-00001

JUDGE *Nagel*

PLEA AGREEMENT

The United States Attorney's Office for the Southern District of Ohio (USAO) and the Defendant, **THOMAS M. DEVELIN**, individually and through counsel, pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, agree as follows:

1. **Offenses of Conviction:** The Defendant agrees to plead guilty to Count 1 of the Information in this case, which charges him with Making Firearms in Violation of the National Firearms Act, in violation of 26 U.S.C. §§ 5861(f) and 5871; to Count 2 of the Information, which charges him with Unlawfully Engaging in the Business of Manufacturing and Dealing Machineguns, in violation of 26 U.S.C. §§ 5861(a) and 5871; and to Count 3 of the Information, which charges him with Manufacturing and Dealing Firearms Without a License, in violation of 18 U.S.C. §§ 922(a)(1)(A) and 924(a)(1)(D); and will not withdraw or attempt to withdraw his pleas. The Defendant admits that he is, in fact, guilty of these offenses and will so advise the Court.
2. **Elements of the Offenses:** The elements of the offenses to which the Defendant has agreed to plead guilty are as follows:

Count 1, Making Firearms in Violation of the National Firearms Act

- a) The Defendant knowingly manufactured one or more machineguns;
- b) The manufacture was in violation of the provisions of the National Firearms Act—specifically, the Defendant did not receive the approval of the Secretary of the Treasury to make the machineguns; and
- c) The Defendant knew the features of the machineguns that brought them within the scope of the National Firearms Act—specifically, that they were devices designed and intended to convert semiautomatic firearms into fully automatic firearms.

Count 2, Unlawfully Engaging in the Business of Manufacturing and Dealing Machineguns

- a) The Defendant was engaged in the business of manufacturing and dealing machineguns;
- b) The Defendant engaged in such business without having paid the special (occupational) tax or without having registered as required by federal law; and
- c) The Defendant knew the features of the machineguns that brought them within the scope of the National Firearms Act—specifically, that they were devices designed and intended to convert semiautomatic firearms into fully automatic firearms.

Count 3, Manufacturing and Dealing Firearms Without a License

- a) The Defendant was engaged in the business of manufacturing and dealing in firearms;
- b) The Defendant engaged in such business without a license issued under federal law; and
- c) The Defendant did so willfully—that is, the Defendant was manufacturing and dealing in firearms with knowledge that his conduct was unlawful.

3. **Venue:** The Defendant agrees that the offenses occurred, in whole or in part, in the Southern District of Ohio on or around the dates alleged in the Information.

4. **Penalties:** The statutory penalties are as follows:

- a) Counts 1 and 2: Not more than 10 years of imprisonment for each count; a term of supervised release of not more than 3 years; a fine not to exceed \$250,000.
- b) Count 3: Not more than 5 years of imprisonment; a term of supervised release of not more than 3 years; a fine not to exceed \$250,000.
- c) Forfeiture; and
- d) A mandatory special assessment of \$300 pursuant to 18 U.S.C. § 3013 due prior to sentencing.

5. **Waiver of Rights:** The Defendant understands that he has the following rights:

- a) To be indicted by a grand jury;
- b) To plead not guilty;
- c) To have a trial by jury;
- d) To be assisted by counsel during such trial;

- e) To confront and cross-examine adverse witnesses;
- f) To testify, if so desired, and to present evidence and compel the attendance of witnesses;
- g) To not be compelled to testify or present evidence, and to not have these decisions held against the Defendant; and
- h) To be presumed innocent throughout trial and until a jury finds proof of guilt beyond a reasonable doubt.

The Defendant further understands that if the Court accepts the Defendant's pleas pursuant to this plea agreement, there will be no trial and the Defendant waives these rights.

6. **Use of Statements:** The Defendant waives any protection afforded by Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, and § 1B1.8(a) of the United States Sentencing Guidelines Manual. Any statements made by the Defendant in the course of plea discussions, in any proceeding under Rule 11 of the Federal Rules of Criminal Procedure, and to any law enforcement authorities will be admissible against the Defendant without limitation in any civil or criminal proceeding.
7. **Immigration Consequences:** The Defendant understands that if he is not a United States citizen or is a naturalized citizen, a guilty plea and conviction may have consequences for the Defendant's immigration status, including removal from the United States, denial of citizenship, denaturalization, and denial of admission to the United States in the future. No one involved in this proceeding, including the defense attorney or district court, can predict the immigration consequences of the Defendant's guilty pleas and convictions. Nevertheless, the Defendant affirms that he wants to plead guilty, regardless of any immigration consequences that a guilty plea may entail, even if this guilty plea means that removal from the United States and/or denaturalization will be a virtual certainty under immigration law.
8. **Applicability of Advisory Sentencing Guidelines:** The Defendant understands that in determining a sentence, the Court has an obligation to calculate the applicable sentencing guideline range and to consider that range, possible departures under the United States Sentencing Guidelines ("U.S.S.G."), and other sentencing factors under 18 U.S.C. § 3553(a).
9. **Factual and Sentencing Stipulation:** The parties agree to the Statement of Facts set forth in Attachment A, and incorporate it here by reference. The parties further agree that the Statement of Facts provides the factual basis for the Defendant's pleas, and to the following advisory sentencing guideline factors:
 - a) Pursuant to U.S.S.G. §§ 3D1.1(a)(1) and 3D1.2, all counts should be grouped together for sentencing.
 - b) Pursuant to U.S.S.G. § 2K2.1(a)(5), the Base Offense Level is 18, because the offense involved a firearm described in 26 U.S.C. § 5845(a).

- c) Pursuant to U.S.S.G. § 2K2.1(b)(1)(C), the offense level should be increased by 6 levels because the offense involved 25–99 illegal firearms.
- d) Pursuant to U.S.S.G. § 2K2.1(b)(5), the offense level should be increased by 4 levels because the Defendant engaged in the trafficking of firearms.
- e) Pursuant to U.S.S.G. § 3C1.1, the offense level should be increased by 2 levels because the Defendant willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice with respect to the investigation, prosecution, or sentencing of the instant offense of conviction, and the obstructive conduct related to the Defendant’s offense of conviction and any relevant conduct.
- f) The USAO does not oppose a 2-level reduction in offense level pursuant to U.S.S.G. § 3E1.1 based upon the Defendant’s acceptance of responsibility, provided that the Defendant’s conduct continues to demonstrate compliance with the terms of § 3E1.1. The Defendant may be entitled to an additional 1-level decrease pursuant to U.S.S.G. § 3E1.1(b) in recognition of the Defendant’s timely notification of his intention to plead guilty.
- g) The parties agree that no other upward or downward adjustments apply.
- h) No determination of any of the factors in U.S.S.G. Chapter 4 regarding criminal history has been made.

10. **Additional Obligations of the Defendant:**

- a) **Forfeiture:** The Defendant agrees to the immediate forfeiture to the United States of all of his right, title, and interest in the following property seized from him during the investigation in his case and described in Forfeiture Allegation A and Forfeiture Allegation B of the Information (collectively, “the subject property”):
 - i. A Bazalt RPG7B “rocket launcher” style destructive device, bearing Serial Number E0563;
 - ii. Three (3) “coat hanger auto-sear” devices;
 - iii. A Glock conversion device;
 - iv. Four (4) firearms manufactured by the Defendant that bear no markings or Serial Numbers; and
 - v. Any associated ammunition.

The Defendant acknowledges that the subject property was involved in the commission of the violations of 26 U.S.C. § 5861 and 18 U.S.C. § 922 to which he has agreed to plead guilty and is, therefore, subject to forfeiture to the United States in accordance with 28 U.S.C. § 5872, 18 U.S.C. § 924(d)(1), and 28 U.S.C. § 2461(c). The Defendant

further agrees to the entry of any orders necessary to complete the forfeiture and disposal of the subject property.

The Defendant acknowledges that the forfeiture of the subject property may be accomplished through administrative or judicial proceedings at the United States' sole discretion. The Defendant understands that forfeiture will be part of the sentence imposed upon him in this case and waives any failure by the Court to advise him of this, as required by Federal Rule of Criminal Procedure 11(b)(1)(J), during the change-of-plea hearing. The Defendant further waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of forfeiture in the charging instrument, announcement of the forfeiture in his presence at sentencing, and incorporation of the forfeiture in the judgment. The Defendant also waives all constitutional and statutory challenges (including direct appeal, collateral attack, or any other means) to forfeiture pursued in accordance with this Plea Agreement. As the property covered by this agreement is subject to forfeiture because it was involved in the commission of one or more of the offenses to which he has agreed to plead guilty, the Defendant agrees to take all steps deemed necessary by the United States to complete the forfeiture and disposal of the subject property, including testifying truthfully in any judicial proceeding. By signing this Plea Agreement, the Defendant voluntarily surrenders all of his interest in, and/or claims to, the subject property and waives any right to receive further notice of any administrative and/or judicial forfeiture proceedings; any right to challenge any such forfeiture proceeding; and any right to request remission or mitigation of forfeiture; or to otherwise seek the return of the subject property under Federal law. The Defendant further acknowledges that the subject property may not be used to satisfy or off-set any non-forfeiture penalty ordered against him by the Court unless the United States chooses to seek restoration of the forfeited property. Finally, the Defendant releases any and all claims whatsoever that he may have against the United States, its agencies, and their employees, arising out of the facts giving rise to the seizure, forfeiture, and disposal of the subject property.

b) **Abandonment:** The Defendant further acknowledges that during the investigation in this case, law enforcement officers located and seized additional property which is more particularly described in Attachment B to this Plea Agreement.

The Defendant asserts that he has reviewed this list of property and that he is the sole owner of the property described in Attachment B. By signing this Plea Agreement, the Defendant voluntarily gives up all ownership rights he has in the property described in Attachment B and voluntarily surrenders all of his right, title, and interest in this property to the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") and the Columbus, Ohio Division of Police ("CPD"). He waives any rights that he may have to further notice and/or opportunities to be heard concerning the disposition of this property and voluntarily abandons the property identified in Attachment B to the ATF and the CPD with the understanding that the ATF and/or the CPD will retain possession and control of this property. The Defendant further acknowledges that this property may be used for training or other law enforcement purposes and/or will otherwise be disposed of in accordance with the law. The Defendant agrees that the United States,

the ATF, the CPD, and any other participating federal, state, and local agency and their agents and employees had reasonable cause for the seizure of the property described in this case. The Defendant, for himself and his heirs, successors, and assigns, release and forever hold harmless the United States, the ATF, the CPD, and any other participating federal, state, and local agency and their agents and employees, their heirs, successors, and assigns, from any and all actions, causes of action, proceedings, judgments, damages, claims, and demands whatsoever in law or equity which he and his heirs, successors, and assigns now have or may have in connection with the seizure, detention, forfeiture, abandonment, and/or final disposition of the property described herein.

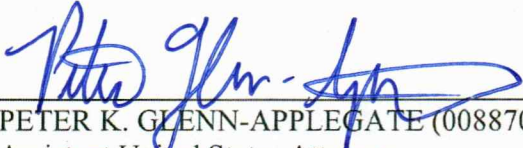
11. **Obligations of the USAO:** The USAO will not further prosecute the Defendant for conduct prior to the date of this Plea Agreement that was part of the same course of criminal conduct described in the Information and that was known by the USAO at the time of the execution of this Plea Agreement. This agreement does not bind any other local, state, or federal prosecutions.
12. **Waiver of Appeal:** In exchange for the concessions made by the USAO in this plea agreement, the Defendant waives the right to appeal the conviction and sentence imposed, except if the sentence imposed exceeds the statutory maximum. The Defendant also waives the right to attack his conviction or sentence collaterally, such as by way of a motion brought under 28 U.S.C. § 2255, or to seek a reduction of sentence under 18 U.S.C. § 3582(c)(1)(B) or (c)(2). However, this waiver shall not be construed to bar a claim by the Defendant of ineffective assistance of counsel or prosecutorial misconduct.
13. **Freedom of Information Act:** The Defendant waives all rights under the Freedom of Information Act relating to his investigation and prosecution and agrees not to file any request for documents. The Defendant also waives all rights he may have under the Privacy Act of 1974, which prohibits the disclosure of records contained in a system of records without his written request or consent.
14. **Acceptance of Plea Agreement:** The Defendant understands that the Court is not bound by the sentencing recommendations or stipulations of the parties and that it is within the sole discretion of the Court to impose the sentence in this case.
15. **Violation of Plea Agreement:** The Defendant agrees to abide by the terms of this agreement, including all of the conditions listed in U.S.S.G. § 3E1.1. The Defendant understands that in the event he violates this agreement, the USAO will be relieved of all of its obligations under this agreement and may institute any charges or sentencing recommendations that would otherwise be prohibited by this agreement, and the Defendant will not be relieved of any of his obligations under the plea agreement. Further, the Defendant understands and agrees that if the Defendant violates this agreement or it is voided for any reason, the Defendant waives all defenses based upon the statute of limitations and the Speedy Trial Act as to any charges that are part of the same course of criminal conduct described in the Information.

16. **Defendant's Acknowledgment:** The Defendant has read and understands this plea agreement; the Defendant accepts this plea agreement knowingly and voluntarily and not as a result of any force, threats, or promises, other than the promises in this plea agreement. The Defendant has conferred with counsel regarding this plea agreement and the facts and circumstances of the case, including the applicable law and potential defenses, and the Defendant is fully satisfied with the representation, advice, and other assistance of counsel in this case.
17. **Entire Agreement.** This agreement, along with any attachment(s), is the complete agreement between the parties. It supersedes all other promises, representations, understandings, and agreements between the parties.

KENNETH L. PARKER
UNITED STATES ATTORNEY

09/21/2022

Date



PETER K. GLENN-APPLEGATE (0088708)
Assistant United States Attorney

9/21/22

Date



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I have read this agreement and carefully reviewed every part of it with my attorney. I understand it, I voluntarily agree to it, and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

9-21-2022
Date

Thomas Develin (per Auth.)
THOMAS M. DEVELIN
Defendant

I am the Defendant's attorney. I have carefully reviewed every part of this agreement with the Defendant, who advises me that he understands and accepts its terms. To my knowledge, the Defendant's decision to enter into this agreement is an informed and voluntary one.

9-21-2022
Date

Robert F. Krapenc 0040645
ROBERT F. KRAPENC (0040645)
Attorney for the Defendant

ATTACHMENT A:
STATEMENT OF FACTS

The United States and Defendant Thomas M. Develin stipulate and agree that if this case proceeded to trial, the United States would prove the facts set forth below beyond a reasonable doubt. They further stipulate and agree that these are not all of the facts that the United States would prove if this case had proceeded to trial.

From 2020 through March 2022, Defendant Thomas M. Develin manufactured, possessed, and sold firearms in violation of federal law. Many of the illegal firearms were untraceable 3D-printed firearms—commonly known as “ghost guns.” Many were devices designed and intended to convert semiautomatic firearms into fully automatic firearms

On March 31, 2022, law enforcement executed search warrants at Mr. Develin’s residence in Columbus, Ohio, and on his vehicle. During the search of his residence, law enforcement found 17 firearms, multiple boxes full of ammunition (collectively holding hundreds of rounds of ammunition), components for explosives, Tannerite-brand explosive targets, and a 3D printer commonly used to manufacture ghost guns. During the search of his vehicle, law enforcement found ballistic plates, night vision goggles, a ballistic helmet, prep equipment and first aid equipment, and a large quantity of ammunition including several loaded magazines and a large container of ammunition totaling nearly 1,000 rounds. Mr. Develin was arrested the same day.

Mr. Develin was interviewed by law enforcement following his arrest. He said he began making ghost guns around 2020 with the intent to sell them for profit. He bought the 3D printer to manufacture ghost guns to sell to people he knew. Mr. Develin said he had sold some of the firearms and was still in possession of at least four that he had manufactured. He also said he had manufactured and sold six “lowers” that he knew were illegal to an unknown individual he met through a mutual acquaintance.

In the interview, Mr. Develin also stated that in late March 2022, he knew law enforcement may be coming for him and he went to the property surrounding the cabin of a person he knew to hide multiple ghost guns, a bump stock—a firearm accessory that replaces the standard stock on a rifle and allows a shooter to fire a semiautomatic rifle at rates similar to automatic rifles—an unfinished firearm frame, and a military Improvised Explosive Devices (IED) instruction manual. Mr. Develin stated that he also burned other illegal firearms parts in a firepit on the property. He did so with the intent to obstruct and impede the investigation into his illegal firearms activity.

On April 4, 2022, ATF executed a search warrant at the property where Mr. Develin said he had hidden evidence. Agents found multiple firearms, firearms parts, and two IED manuals.

In the searches on March 31 and April 4, law enforcement found eight firearms that Mr. Develin possessed in violation of the federal law—specifically, four ghost guns, one Glock switch, and three “coat hanger” devices. The Glock switch is a device designed and intended to convert a semiautomatic Glock-type pistol into a fully automatic pistol—a “machinegun” under federal law. Similarly, the “coat hanger” devices are devices designed and intended to convert semiautomatic AR-type rifles into fully automatic rifles—“machineguns” under federal law.

Law enforcement also searched Mr. Develin's cell phone and multiple of his online accounts. Mr. Develin's phone contained multiple messages showing that he was involved in illegal firearm manufacturing and sales. One message advertised that he possessed and was selling 20 3D-printed sears and 5 lowers for \$600. Sears or auto sears are devices designed and intended to convert semiautomatic AR-type rifles into fully automatic rifles—"machineguns" under federal law. A lower is a part of a firearm. Another message advertised that Mr. Develin was selling 28 sears. Another message stated that he had manufactured a two-handed firearm with an overall length under 26 inches—an illegal firearm under the National Firearms Act. All of these devices are illegal "firearms" within the meaning of the National Firearms Act, and his manufacture, possession, and sale were in violation of federal law. Mr. Develin knew that the machineguns he made, possessed, and dealt were devices designed and intended to convert semiautomatic firearms into fully automatic firearms. He did not receive the approval of the Secretary of the Treasury to make the machineguns. He engaged in the business of making and dealing machineguns without having paid the special (occupational) tax and without having registered as required by federal law. And he engaged in the business of manufacturing and dealing in ghost guns without a license issued under federal law.

Mr. Develin's phone also included messages in a Telegram chat with another individual in which Mr. Develin stated he had hidden or destroyed incriminating evidence. He did this with the intent to obstruct justice with respect to the investigation of his illegal firearms activity.

I have read the Statement of Facts and have carefully reviewed it with my attorney. I acknowledge that it is true and correct.

9-21-2022
Date

Thomas Develin (per auth)
THOMAS M. DEVELIN
Defendant

I am the Defendant's attorney. I have carefully reviewed the Statement of Facts with the Defendant.

9-21-2022
Date

Robert F. Krupenc 0040645
ROBERT F. KRAPENC (0040645)
Attorney for the Defendant