

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF CONTINENTAL
NORTHERN DIVISION**

UNITED STATES OF)
AMERICA,)
)
 v.) **CR. NO. 2011-7797**
) **[21 U.S.C. 841(a)(1);**
SHANNON BROWN) **18 U.S.C. 924(c)(1)]**
)

**CASE MATERIALS
2011**

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF CONTINENTAL
NORTHERN DIVISION**

UNITED STATES OF AMERICA,)
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)
)
Prosecution,)
)
v.)
)
)
SHANNON BROWN,)
)
)
Defendant,)

CASE NO. CR-2011-7797

WITNESSES

The following witnesses may be called by the parties:

For the Prosecution:

Friend- Taylor Beesley
Police Officer - Robin Spain
ATF Agent - JB Merrill

For the Defense:

Defendant - Shannon Brown
Parent of Shannon Brown - Jamie Brown
Gunsmith - Blake Strong

All Witnesses May Be Male or Female

EXHIBITS

- Exhibit 1- Taylor Beesley Plea Agreement
- Exhibit 2- Department of Motor Vehicle Report
- Exhibit 3- Picture of Ruger Mini 14
- Exhibit 4- Picture of Marijuana seized from Backpack

STIPULATIONS

1. All exhibits included in the case are authentic and accurate in all respects. No objections to the authenticity of the exhibits will be entertained.
2. The signatures of the witnesses are authentic.
3. In arguing legal issues, the parties may rely upon the legal authorities provided below, the bill of indictment, and the jury charges provided with this case.
4. The police report and DMV report are admissible without further foundation. No hearsay objections to these documents will be entertained. However, if any hearsay is contained in those reports, hearsay objections shall be entertained as to those portions of the reports which may contain hearsay.

LEGAL AUTHORITIES AND JURY CHARGES

I. CONTROLLED SUBSTANCES (Possession with Intent to Distribute) 21 USC 841(a)(1)

- A. Title 21, United States Code, Section 841(a)(1), makes it a Federal crime or offense for anyone to distribute a "controlled substance."
- B. Marijuana is a "controlled substance" within the meaning of the law.
- C. Count 1 of the indictment charges Defendant with knowingly and intentionally possessing marijuana with the intent to distribute. Defendant can be found guilty of the offense charged in Count 1 only if all of the following facts are proved beyond a reasonable doubt:
 - First: That Defendant knowingly and willfully possessed a controlled substance as charged; and
 - Second: When Defendant possessed the controlled substance, Defendant did so with the intent to distribute the same.
- D. To "possess with intent to distribute" simply means to possess with intent to deliver or transfer possession of a controlled substance to another person, with or without any financial interest in the transaction.

II. USING/CARRYING/POSSESSING A FIREARM DURING OR IN FURTHERANCE OF A DRUG TRAFFICKING OFFENSE 18 USC 924(c)(1)

- A. Title 18, United States Code, Section 924(c)(1), makes it a separate Federal crime or offense for anyone to use or carry a firearm during and in relation to, or possess a firearm in furtherance of, a drug trafficking crime.
- B. The Defendant can be found guilty of that offense as charged in Count 2 of the indictment only if all of the following facts are proved beyond a reasonable doubt:
 - First: That Defendant committed the drug trafficking offense charged in Count 1 of the indictment;
 - Second: That during the commission of that offense Defendant knowingly used, carried, or possessed a firearm, as charged;

Third: That Defendant used or carried the firearm “during or in relation to” the drug trafficking offense, or possessed the firearm “in furtherance of” the drug trafficking offense; and

Fourth: That the firearm was a semi-automatic assault weapon.

C. The term "firearm" means any weapon which is designed to, or may readily be converted to, expel a projectile by the action of an explosive; and the term includes the frame or receiver of any such weapon or any firearm muffler or firearm silencer.

D. A “semi-automatic assault weapon” means a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of: (1) a folding or telescoping stock; (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon; (iii) a bayonet mount; (iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and (v) a grenade launcher.

E. To "use" a firearm means more than mere possession of a firearm. It must be shown that the Defendant actively employed the firearm by brandishing, displaying, bartering, striking with, or firing or attempting to fire the firearm; but it may also include the mere mention or disclosure of the firearm's presence in a manner intended to intimidate or influence others.

F. To "carry a firearm means that the Defendant either had a firearm on or around his person or transported, conveyed, or controlled a firearm in such a way that it was available for immediate use if the Defendant so desired during the commission of the drug trafficking offense; and to carry a firearm “in relation to” an offense means that there must be a connection between the Defendant, the firearm, and the drug trafficking offense so that the presence of the firearm was not accidental or coincidental, but facilitated the crime by serving some important function or purpose of the criminal activity. To possess a firearm “in furtherance” of an offense means something more than mere presence of a firearm; it must be shown that the firearm helped, furthered, promoted or advanced the offense in some way.

G. Factors you may consider in determining whether the Defendant possessed the firearm charged in the indictment “in furtherance of” the drug trafficking offense include, but are not limited to, the type of drug activity that is being conducted, accessibility of the firearm, the type of the weapon, whether the weapon is stolen, the status of the possession (legitimate or illegal), whether the gun is loaded, proximity to the drugs or drug profits, and the time and circumstances under which the gun is found.

H. The indictment charges that the Defendant knowingly used and carried a firearm during and in relation to a drug trafficking offense and possessed a firearm in furtherance of a drug trafficking offense. It is charged, in other words, that the

Defendant violated the law as charged in Count 2 in three separate ways. It is not necessary, however, for the Government to prove that the Defendant violated the law in all of those ways. It is sufficient if the Government proves, beyond a reasonable doubt, that the Defendant knowingly violated the law in any of these three ways; but, in that event, you must unanimously agree upon the way in which the Defendant committed the violation.

III. POSSESSION

- A. The law recognizes several kinds of possession. A person may have actual possession or constructive possession. A person may also have sole possession or joint possession.
- B. A person who knowingly has direct physical control of something is then in actual possession of it.
- C. A person who is not in actual possession, but who has both the power and the intention to later take control over something either alone or together with someone else, is in constructive possession of it.
- D. If one person alone has possession of something, that possession is sole. If two or more persons share possession, such possession is joint.
- E. Whenever the word “possession” has been used in these instructions it includes constructive as well as actual possession, and also joint as well as sole possession.

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v.)	CR. NO. _____
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SHANNON BROWN)	18 U.S.C. 924(c)(1)]
)	

INDICTMENT

The Grand Jury charges:

COUNT 1

On or about the 1st day of February, 2011, in Yorkshire County, within the Middle District of Continental,

SHANNON BROWN,

defendant herein, did knowingly and intentionally possess with the intent to distribute marijuana, a Schedule I Controlled Substance, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 2

On or about the 1st day of February, 2011, in Yorkshire County, within the Middle District of Continental,

SHANNON BROWN,

defendant herein, did knowingly use and carry, during and in relation to, and possess in furtherance of, a drug trafficking offense, namely possession with the intent to distribute marijuana as charged in Count 1, a drug trafficking crime prosecutable in a court of the United States, a semi-automatic assault weapon, to wit: a modified Ruger Mini 14, serial number 12345Z, in violation of Title 18, United States Code, Section 924(c)(1).

A TRUE BILL:

/s/ Tina Ponder
Foreperson

/s/ Bill B. Free
William B. Free
Assistant United States Attorney

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[21 U.S.C. 841(a)(1);

)

18 U.S.C. 924(c)(1)]

SHANNON BROWN)

WAIVER OF RIGHTS

Name: Taylor Beesley
Place: Pleasantburg Police Department
Date: February 2, 2011
Time: 1:00 A.M.

- Right to remain silent;
- Anything you say can and will be used against you in court;
- You have the right to talk to a lawyer for advice before we ask you any questions and to have them present during questioning;
- If you cannot afford a lawyer, one will be appointed without cost to you before any questioning if you wish; and
- If you decide to answer questions now with a lawyer present, you will still have the right to stop answering at any time you wish.

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

SIGNED: _____

DATE: _____

Witness: _____

Date: _____

Witness: _____

Date: _____

STATEMENT OF TAYLOR BEESLEY

My name is TAYLOR BEESLEY. I am eighteen (18) years old, unemployed, but a part-time student at Continental University. On February 1, 2011, around 8:30 p.m., I was hanging out at the Burger Buster restaurant with some friends. Burger Buster is a popular place for people around my age. I had ridden with a friend of mine to Burger Buster.

Shortly after I arrived at Burger Buster, Shannon Brown drove up in a pick-up truck. I had seen Shannon driving that truck before and knew that Shannon's father owned the truck. Shannon and I are friends. We went to school together, graduated in the same high school class, and hang out with one another like going to parties together. Shannon walked into Burger Buster and sat down at the booth where I was sitting with people we both knew. The group talked about what was going on at the University and how we all needed more money to pay for things like our cars, car insurance, school, and a trip to the beach for spring break. Shannon was also going to Continental University part-time and worked part-time in Henry's Pharmacy.

After eating our meals and talking for awhile longer, I told the group that I needed to leave and run an errand in the "Westtracks" area of town. Everyone in Pleasantburg knows that the "Westtracks" area is a bit shady and known to be a place where drugs are sold. Since my car was in the shop, I asked Shannon for a ride. Shannon had given me rides in the past to the "Westtracks" area, such as going to parties over there after football games in high school. Once Shannon and I got to the parking lot of Burger Buster, I told Shannon that I needed to deliver "my goods" to some folks waiting for my arrival and pointed to my backpack. Shannon knew that I had marijuana in my backpack since Shannon had seen me take marijuana to parties before and even smoked a joint with me at a party one night. I did not actually show the marijuana to Shannon, but it was clear why we were going to Westtracks.

Shannon and I got into the truck and started to drive over to Westtracks. I noticed a lot of mud on the floor and Shannon told me that his/her parent had been hunting that morning and used the truck. In fact, Shannon told me that his/her father/mother's rifle was behind the seat and that was a good thing since we were going to "Westtracks." I liked knowing that a gun was in the truck as well since things had gotten "rough" before when I had sold marijuana in "Westtracks."

While driving on Highway 123, we were pulled over by Officer Spain of the Pleasantburg Police Department. Shannon had been speeding, going 45 m.p.h. in a 35 m.p.h. zone. I was

furious at Shannon for not being more careful while driving since the last thing we needed was to get stopped by the cops. Officer Spain asked Shannon to get out of the truck and asked him/her some questions. After asking Shannon to sit in the patrol car, Officer Spain came to the passenger side of the truck with his canine dog. The dog, of course, alerted Officer Spain about my backpack and the marijuana was found.

Officer Spain arrested me and Shannon and placed us both in the patrol car in handcuffs. After backup officers arrived, Officer Spain searched the truck and found the gun behind the seat. Shannon and I were then taken to the police department for booking.

[END OF STATEMENT]

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SHANNON BROWN)	

STATEMENT OF OFFICER SPAIN

My name is Robin Spain and I am a patrol officer with the Pleasantburg Police Department. I have been employed in this capacity for the past three years. I am a graduate of the Pleasantburg Police Academy. I am also in training to become a certified canine narcotics officer. I have not yet received my certification but am in the final stages of my training. Prior to becoming a police officer I was in the United States Army for four years.

On February 1, 2011, I was on a routine patrol during the night shift out on Highway 123. I was monitoring vehicle traffic on the highway and investigating violations of the traffic laws, such as speeding. I had a radar device set up to check the speed of passing vehicles. I also had my canine dog, Jumper, in the car with me. Though I was not in an official certification class at the time, I had Jumper with me just to get more acquainted with the dog and to get in a little extra practice.

At approximately 10:40 p.m., a black pickup truck passed me with a driver and one passenger. The radar showed the truck to be going 45 m.p.h. The speed limit on this section of Highway 123 is 35 m.p.h. I pulled out on Highway 123 and got behind the truck. I turned on my blue lights and had the truck pulled over to the shoulder of the road. After calling in my position to the dispatcher, I got out of my patrol car and approached the driver's side of the truck.

Upon reaching the truck, I asked the driver for his/her driver's license, registration, and proof of insurance. The driver appeared very nervous as his/her hands were shaking while handing me the requested information. I also noticed the blood vessel in his/her neck sticking out. In between the driver and passenger on the bench seat in the truck was a red backpack. I asked the

driver, who was identified as Shannon Brown, to exit the truck and come with me to the patrol car. Jumper was in the back seat of the patrol car at this time. In the patrol car, I ran Brown's license and registration for outstanding warrants. I also asked Brown where he/she was going. Brown said that he/she was driving the passenger in the truck over to meet some friends in "Westtracks."

Knowing that the "Westtracks" area is known for drug trafficking, I decided to take Jumper with me as I went to speak to the passenger. I walked to the passenger side of the truck and asked the passenger, later identified as Taylor Beesley, to exit the truck. As soon as Beesley exited the truck, Jumper alerted me about the backpack on the bench seat. I retrieved the backpack, looked inside it, and saw a green, leafy substance I believed to be marijuana. The green, leafy substance was in several small baggies inside a large ziplock bag. A field test of the substance confirmed that it was marijuana. Exhibit 4 is a true and accurate picture of the drugs we seized.

After discovering the marijuana, I called for backup officers and placed Beesley and Brown under arrest. I handcuffed the two subjects and placed them in the back seat of the patrol car. I put Jumper in the front seat of the patrol car. After backup officers arrived, I searched the truck and found a Ruger Mini 14 rifle, which appeared to be modified, under the seat of the truck. One of the backup officers transferred Beesley and Brown from my patrol car to his patrol car and took them to the police station. I finished processing the scene and then went to the police station to put the marijuana and rifle into the evidence vault.

Officer Robin Spain

February 22, 2011

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SHANNON BROWN)	

STATEMENT OF JB MERRILL

My name is J.B. Merrill and I am a Special Agent with the Bureau of Alcohol, Tobacco, and Firearms. I have been a Special Agent for nine years and have been assigned to the Pleasantburg Field Office for the past four years. Prior to becoming a Special Agent, I was a police officer in Metropolis.

As a Special Agent, I have received instruction in both general and specific courses in the recognition and identification of firearms. This training includes study at the ATF National Academy; New Agent Training School located in Brunswick, GA. I have received additional training in the recognition of firearms, including semi-automatic assault weapons, by attending and successfully completing the Firearms Construction and Features School at the ATF National Academy. I have personally examined two major firearm reference depositories (1) the ATF, Firearms Technology Branch, firearm reference vault, and (2) the Springfield Armory Museum firearms reference vault, both of which contain thousands of various types of firearms. I have been recognized as a firearms expert in the Middle District of Continental on numerous occasions and have given expert testimony about firearms in that jurisdiction.

As part of the investigation of Shannon Brown and Taylor Beesley, I was asked to examine a Ruger Mini 14, serial number 12345Z, and determine whether it was a semi-automatic assault weapon as defined in Title 18, United States Code, Section 921(a)(30). A Ruger, Mini 14 as issued by the manufacturer is not a semi-automatic assault weapon. This firearm, however, can be modified to qualify as a semi-automatic assault weapon. The Ruger, Mini 14 that I examined in this case had been so modified. The stock of the firearm had been modified from its original

design to include a stock that is collapsible upon removal of a single pin. Though the pin had not been removed on the weapon, removal of the pin is easily done so as to collapse the stock. In my opinion, the ease of removing the pin qualifies this stock as being a collapsible stock under the law. In addition, a pistol grip has been added to the weapon, which in my opinion, conspicuously protrudes beneath the action of the weapon.

These two modifications of the standard Ruger, Mini 14 makes this weapon qualify as a semi-automatic assault weapon under Title 18, United States Code, Section 921(a)(30).

J.B. Merrill, Special Agent, ATF
March 3, 2011

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SHANNON BROWN)	

STATEMENT OF SHANNON BROWN

My name is SHANNON BROWN. I am nineteen (19) years old. I work 10 hours a week tutoring calculus to local high school students and 10 hours a week at Henry’s Pharmacy. “Henry” is my granddad. I am a full-time student at Continental University. On February 1, 2011, around 9:00 p.m., I went to the Burger Buster restaurant. Burger Buster is a local hang-out for college kids.

I saw Taylor Beesley sitting in a booth with some other folks I know and Taylor waived for me to come over there. I would not say that Taylor and I are good friends. We went to high school together and know some of the same people, but Taylor hung out with a different crowd. Our parents have known each other a long time so I sorta feel obligated to talk to Taylor every now and then. However, my mom has told me before that Taylor has gotten in trouble with the police before and had to spend some time in rehab. I kinda feel sorry for Taylor and try to be nice without being too friendly. I have seen Taylor at parties before and have spoken to him/her. However, I do not go out to parties much anymore. I really want to be a pharmacist like my granddad and have tried to buckle down in college and spend more time studying. Anyway, I sat down with Taylor and the others for just a few minutes and then Taylor asked me for a ride. Taylor said his/her car was in the shop, but s/he needed to stop by a friend’s house to drop off the friend’s backpack. Taylor told me that some guy named Sam left his backpack at Taylor’s house and Taylor needed to drop it back by Sam’s house. I really did not want to since I had my parent’s truck and could not stay out much longer, but Taylor was insistent so I agreed.

Once we got in the car, Taylor said Sam lived over near a part of town called “Westtracks.” He said that Sam could not afford to live in a better part of town since Sam was paying his way through college. Taylor mentioned all the mud in the floor of the truck and I told him/her told me that my father/mother had been hunting that morning and used the truck. Taylor started joking about how much my parent liked to hunt. I told Taylor that I had never been hunting and would not know the first thing about guns. In fact, I would not even know which end to hold.

A few miles down Highway 123, we were pulled over by Officer Spain of the Pleasantburg Police Department. The officer said I had been going 45 m.p.h. in a 35 m.p.h. zone. Taylor started acting all weird, but I did not think it was a big deal– I was only going 10 miles over the speed limit. I figured the officer would just give me a warning since I have never had a traffic ticket before and have never been in any kind of trouble. Officer Spain asked me to get out of the truck and sit in the patrol car. Officer Spain and I talked a little while we waited for the report on my driver’s license to come back. Officer Spain showed me his dog, Jumper, which is being trained to be a drug dog. Officer Spain told me s/he was going to let the dog out of the car to walk around a little. Officer Spain walked to the passenger side of the truck and asked Taylor to open the door. When Taylor opened the door, Jumper started barking and nudging toward Sam’s backpack.

Officer Spain arrested me and Taylor and placed us both in the patrol car in handcuffs. I was so upset. After backup officers arrived, Officer Spain searched the truck and found the gun behind the seat in a lockbox. Taylor and I were then taken to the police department for booking. I had no idea that Taylor had drugs in the backpack. I did not know that my mom/dad’s gun was even in the truck.

[END OF STATEMENT]

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SHANNON BROWN)	

STATEMENT OF JAMIE BROWN

My name is JAMIE BROWN. I am the parent of Shannon Brown. I have lived in Pleasantburg all my life and have known Taylor Beesley's parents for most of that time. We all grew up together and have been friends for years. It is a shame that they have had so much trouble with Taylor. Cheryl, Taylor's mom once told me that Taylor had pleaded guilty to a misdemeanor drug possession charge and went to rehab for two weeks to avoid any jail time. I think it is awful that Taylor has tried to implicate Shannon in all of this in order to get a lighter sentence.

Shannon was driving my truck the night all this happened. Pleasantburg is rather small and most everyone knows that is my hunting truck. I did not know Shannon was going to be taking my truck out; s/he has a car of his/her own. It is a little unusual that Shannon would drive my truck, but I do not mind since Shannon is a very safe driver. The Ruger Mini 14 is mine. I tried to take Shannon hunting once, but s/he was not interested. Shannon does not care to get up that early. I had been hunting with Shannon's mom/dad the day before all this happened. As always, I used my truck and left my Ruger in its lockbox. While I put it in the box, I do not typically lock the box unless I am putting it up for the season or going in someplace.

I have had the Ruger modified. I had a pistol grip added, but this business about the collapsible barrel is nonsense. I purchased a modified stock that has a pin in the stock so that the stock looks collapsible, but really it is not. The pin is very hard to remove. Besides, Shannon would not know how to remove the pin anyway and the pin was in it at the time I put it in the lockbox. Shannon did not do what they accuse him/her of. Shannon is our only child and has a great future ahead of him/her. Shannon wants to be a pharmacist like my dad. Shannon gets good grades and rarely goes to parties. I think this is nothing but a ploy by Taylor to stay out of more trouble.

Jamie Brown

March 3, 2011

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SHANNON BROWN)	

STATEMENT OF BLAKE STRONG

My name is BLAKE STRONG. I have been a gunsmith for over 35 years. I began my career as a designer for Smith & Wesson where I worked from 1965-1978. I left Smith & Wesson to go to work for Browning as General Manager of its rifle production plant in Cedar Rapids, Iowa. I was General Manager at Browning from 1978 until I retired in 1999. After my retirement in 1999, I opened my own gun shop where I act as a consultant to manufacturers, deal in antique guns, design firearms, and perform after-market custom modifications. The following is a list of manufacturers for which I have done design or consulting work:

American Derringer Anschutz ARmi Lu-Mar ArmsCo AWA (American Western Arms) Benelli Beretta Bersa Browing Bushmaster Firearms Charter 2000 Colt CZ U.S.A. European American Armory Feather USA FEG Arms Glock	GSI Firearms Hammerli Hekcler & Koch Henry Repeating Arms High Standard Huglu Israel Arms Int. Ithaca Gun Kahr Arms Les Baer Leupold Llama Merkel Mossberg Navy ArmsBiggs Rifle Co New England Firearms OF Mossberg Firearms	Professional Ordnance Inc. Remington Country Rossi Sako Smco Global Arms Savage Arms Smith & Wesson Springfield Armory Steyr STI International Home Tanfolgio Tikka Tommy Guns U.S. Repeating Arms Uberti U.S.A. Inc. Weatherby Winchester Rifles and Shotguns
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I am familiar with the Ruger Mini 14. It is a favorite of skilled hunters and marksmen. The Ruger is not considered a semi-automatic firearm when it comes from the plant. Certain modifications can be made, however, which will convert it into a semi-automatic firearm. The three characteristics a firearm must meet to be a semi-automatic assault weapon are (1) collapsible stock with a pistol grip, (2) high capacity magazine i.e., 10 rounds or more, and (3) a flash suppressor or barrel shroud which reduces the flash out of the ejector and makes the gun more stable. There is a company that makes a modified stock that puts a pin in the stock so that the stock looks collapsible, but really it is not, unless the pin is taken out by the owner.

I examined the Ruger, Mini 14 in this case and certain modifications had been made. The stock of the firearm had been modified from its original design to include a stock that is collapsible upon removal of a single pin. The pin had not been removed on the Ruger and did not appear to have been removed at any time after the stock had been added to the Ruger. In my opinion, the difficulty of removing the pin, in addition to the fact that it had not been removed at any time after the stock had been added does not make this particular rifle a semi-automatic firearm under the law.

Even though two modifications of the standard Ruger, Mini 14 had been made to this firearm, this weapon does not qualify as a semi-automatic assault weapon under Title 18, United States Code, Section 921(a)(30) because the stock was not collapsible even though it had a removable locking pin.

Blake Strong
March 23, 2011