

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL NO: 12-185
v.	*	SECTION: "H"
JOSEPH C. DELAY	*	VIOLATION: 18 U.S.C. § 922(g)(1)
	*	18 U.S.C. § 924(a)(2)
	*	
	*	
	*	

FACTUAL BASIS

Should this matter proceed to trial, both the government and the defendant, **JOSEPH C. DELAY, a/k/a Harold James, ("DELAY")** do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crime to which the defendant is pleading guilty and that the government would prove the following beyond a reasonable doubt at trial:

The government would present evidence that on or about August 18, 1995, **DELAY** was convicted in Criminal District Court for the Parish of Orleans, under Case No. 346-331, for Forcible Rape, Armed Robbery, and Aggravated Burglary, in violation of LA R.S. 14:42, 14:64, 14:60, respectively. In addition, **DELAY** was convicted on or about January 6, 2004, in the 24th Judicial District Court for the Parish of Jefferson, under Case No. 03-5624, for possession of a Schedule II

controlled substance, in violation of LA R.S. 40:967; and on or about July 12, 2010, in the 24th Judicial District Court for the Parish of Jefferson, under Case No. 10-01674, for Failure to Register as a Sex Offender, in violation of LA R.S. 15:542.

The government would present evidence that on March 9, 2012, at 2:51 a.m., a Jefferson Parish Sheriff's deputy pulled over the defendant for operating a motor vehicle without a license plate. The defendant drove away after the deputy exited his vehicle and approached the defendant's vehicle. A high-speed chase ensued and other deputies located the vehicle within minutes. The defendant was no longer in the vehicle, however, a loaded .380 caliber Lorcin semi-automatic pistol bearing Serial Number 462237 was left on the driver's side floorboard. In addition, the defendant left his cellular telephone directly outside of the vehicle. The government would prove beyond a reasonable doubt at trial that the defendant possessed the Lorcin pistol.

Sheriff's deputies determined that a friend of **DELAY's** had loaned him the vehicle. According to the friend, **DELAY** contacted her at 3:00 a.m. (approximately 10 minutes after first being pulled over by the deputy) and instructed the friend to report the car stolen. **DELAY** told this friend exactly where he had abandoned her vehicle. The location of the friend's vehicle was the same location where the police recovered the vehicle, the firearm, and **DELAY's** telephone.

A witness from the Bureau of Alcohol, Tobacco, and Firearms ("ATF") would testify that the Lorcin firearm discovered in **DELAY's** vehicle was not manufactured in the state of Louisiana and, therefore, traveled in and affected interstate commerce. The ATF witness would also testify that the firearm met the legal definition of a "firearm" set forth in Title 18, United States Code, Section 921(a)(3).

Various records and testimonial evidence, including testimony from representatives of the U.S. Marshal's Service, ATF, Jefferson Parish Sheriff's Office, as well as other witnesses would also be called to prove the facts set forth above.

JOSEPH C. DELAY
Defendant

DATE

VALERIE JUSSELIN
Counsel for Defendant

DATE

BRIAN M. KLEBBA
Assistant United States Attorney

DATE