

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. 03-_____
	:	
v.	:	DATE FILED: May 15, 2003
	:	
JAMES MCNAMARA	:	VIOLATIONS:
and	:	18 U.S.C. § 371
SHAWN DUNLEAVY	:	(Conspiracy to possess stolen firearms - 1 count)
		18 U.S.C. § 922(j) (Possession of stolen firearms - 1 count)
		18 U.S.C. § 2119 (Armed carjacking - 2 counts)
		18 U.S.C. § 924(c) (Carrying a firearm during and in relation to a crime of violence - 2 counts)
		18 U.S.C. § 922(g)(1) (Possession of firearms by a convicted felon - 2 counts)
		18 U.S.C. § 2 (Aiding and abetting)
		Notice of Forfeiture

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

1. From on or about November 29, 2002 through in or about January of 2003, at West Goshen, Philadelphia, and elsewhere, in the Eastern District of Pennsylvania, the defendants

**JAMES MCNAMARA and
SHAWN DUNLEAVY**

knowingly and intentionally conspired and agreed together and with others known and unknown

to knowingly possess stolen firearms, which firearms had been shipped or transported in interstate commerce, knowing and having reasonable cause to believe that such firearms were stolen, in violation of Title 18, United States Code, Sections 922(j).

MANNER AND MEANS

It was part of the conspiracy that:

2. Defendants JAMES MCNAMARA and SHAWN DUNLEAVY planned to steal firearms and money from a residence located in West Goshen Township, Chester County, PA (the "Residence").

3. Defendants JAMES MCNAMARA and SHAWN DUNLEAVY conducted surveillance on the residence to determine that nobody was present.

4. Defendants JAMES MCNAMARA and SHAWN DUNLEAVY forcibly broke into the Residence, took a safe containing firearms and money, and transported all of these items to Philadelphia in a stolen vehicle.

OVERT ACTS

In furtherance of the conspiracy, and in order to accomplish its object, defendants JAMES MCNAMARA and SHAWN DUNLEAVY committed the following acts, among others, in the Eastern District of Pennsylvania:

1. On or about November 29, 2002, MCNAMARA and DUNLEAVY discussed stealing firearms and money from a safe that they knew to be located inside the Residence.

2. On or about November 30, 2002, MCNAMARA and DUNLEAVY agreed to steal

the firearms and money from the Residence.

3. On or about November 30, 2002, MCNAMARA, DUNLEAVY, and a person known to the grand jury drove to a location near the Residence in MCNAMARA's car.

4. On or about November 30, 2002, MCNAMARA and DUNLEAVY made several phone calls to the Residence to determine if the owners were still present.

5. On or about November 30, 2002, MCNAMARA and DUNLEAVY observed a car leaving the Residence, then placed one more phone call to confirm that nobody was present in the Residence.

6. On or about November 30, 2002, MCNAMARA and DUNLEAVY approached the rear of the Residence to steal the firearms and money.

7. On or about November 30, 2002, MCNAMARA and DUNLEAVY broke into the Residence by smashing a window.

8. On or about November 30, 2002, inside the Residence, MCNAMARA and DUNLEAVY located the safe containing the firearms and money.

9. On or about November 30, 2002, MCNAMARA and DUNLEAVY carried the safe out of the Residence.

10. On or about November 30, 2002, MCNAMARA and DUNLEAVY stole a pick-up truck belonging to one of the owners of the Residence for the purpose of transporting the safe.

11. On or about November 30, 2002, MCNAMARA, DUNLEAVY, and a person known to the grand jury transported the safe to 5749 Walton Ave., Philadelphia, PA.

12. On or about November 30, 2002, at 5749 Walton Ave., MCNAMARA and DUNLEAVY opened up the safe using a pry bar.

13. On or about November 30, 2002, MCNAMARA and DUNLEAVY removed from the safe United States Currency, in both cash and coin, and the following firearms: (i) a Sterling, model 302B, .22 caliber, semiautomatic pistol, serial number A103401; (ii) a Ruger, model Redhawk, .44 magnum caliber, revolver; (iii) a Winchester, 30-06, rifle; (iv) a Mossberg, 12-gauge, shotgun; and (v) a Marlin, .22 caliber, rifle.

14. On or about November 30, 2002, MCNAMARA, DUNLEAVY, and a person known to the grand jury divided possession of the monetary proceeds of the theft.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. From on or about November 30, 2002 through in or about January of 2003, at West Goshen, Philadelphia, and elsewhere, in the Eastern District of Pennsylvania, the defendants

**JAMES MCNAMARA and
SHAWN DUNLEAVY**

knowingly possessed, and did aid and abet in the possession of, stolen firearms, that is: (i) a Sterling, model 302B, .22 caliber, semiautomatic pistol, serial number A103401; (ii) a Ruger, model Redhawk, .44 magnum caliber, revolver; (iii) a Winchester, 30-06, rifle; (iv) a Mossberg, 12-gauge, shotgun; and (v) a Marlin, .22 caliber, rifle, which firearms had been shipped or transported in interstate commerce, knowing and having reasonable cause to believe that such firearms were stolen.

All in violation of Title 18, United States Code, Sections 922(j) and 2.

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about January 27, 2003, at Philadelphia, in the Eastern District of Pennsylvania, the defendant

JAMES MCNAMARA,

with intent to cause death and serious bodily harm, took from the person and presence of another, by force and violence and by intimidation, a motor vehicle, that is, a 1993 Oldsmobile Eighty-Eight Royale, that had been transported, shipped, and received in interstate commerce.

All in violation of Title 18, United States Code, Section 2119.

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about January 27, 2003, at Philadelphia, in the Eastern District of Pennsylvania, the defendant

JAMES MCNAMARA

knowingly used and carried a firearm, that is a Rossi & Co., model 88, .38 Special caliber, revolver, serial number obliterated, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is armed carjacking, as charged in Count Three of this Indictment, in violation of Title 18, United States Code, Section 2119.

All in violation of Title 18, United States Code, Section 924(c).

COUNT FIVE

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about January 27, 2003, at Lower Merion, in the Eastern District of Pennsylvania, the defendant

JAMES MCNAMARA,

with intent to cause death and serious bodily harm, took from the person and presence of another, by force and violence and by intimidation, a motor vehicle, that is, a 1996 Ford Taurus, that had been transported, shipped, and received in interstate commerce.

All in violation of Title 18, United States Code, Section 2119.

COUNT SIX

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about January 27, 2003, at Lower Merion, in the Eastern District of Pennsylvania, the defendant

JAMES MCNAMARA

knowingly used and carried a firearm, that is a Rossi & Co., model 88, .38 Special caliber, revolver, serial number obliterated, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is armed carjacking, as charged in Count Five of this indictment, in violation of Title 18, United States Code, Section 2119.

All in violation of Title 18, United States Code, Section 924(c).

COUNT SEVEN

THE GRAND JURY FURTHER CHARGES THAT:

1. From on or about November 30, 2002 through in or about January of 2003, at West Goshen, Philadelphia, and elsewhere, in the Eastern District of Pennsylvania, the defendant

JAMES MCNAMARA,

having been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed, in and affecting interstate commerce, firearms, that is: (i) a Sterling, model 302B, .22 caliber, semiautomatic pistol, serial number A103401; (ii) a Ruger, model Redhawk, .44 magnum caliber, revolver; (iii) a Winchester, 30-06, rifle; (iv) a Mossberg, 12-gauge, shotgun; and (v) a Marlin, .22 caliber, rifle.

All in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

COUNT EIGHT

THE GRAND JURY FURTHER CHARGES THAT:

1. From on or about January 27, 2003 through on or about January 30, 2003, at Philadelphia, Lower Merion, and elsewhere, in the Eastern District of Pennsylvania, the defendant

JAMES MCNAMARA,

having been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed, in and affecting interstate commerce, a firearm, that is, a Rossi & Co., model 88, .38 Special caliber, revolver, serial number obliterated.

All in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

NOTICE OF FORFEITURE

1. As a result of the violations of Title 18, United States Code, Sections 2, 371, 922(j), 922(g)(1), 922(g)(3), 924(c), and 2119, set forth in Counts One through Eight of this Indictment, the defendants

**JAMES MCNAMARA and
SHAWN DUNLEAVY**

shall forfeit to the United States of America, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), all firearms involved in the commission of these offenses, including, but not limited to: (i) a Sterling, model 302B, .22 caliber, semiautomatic pistol, serial number A103401; (ii) a Ruger, model Redhawk, .44 magnum caliber, revolver; (iii) a Winchester, 30-06, rifle; (iv) a Mossberg, 12-gauge, shotgun; (v) a Marlin, .22 caliber, rifle; and (vii) a Rossi & Co., model 88, .38 Special caliber, revolver, serial number obliterated.

All pursuant to Title 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 924(d).

A TRUE BILL:

FOREPERSON

PATRICK L. MEEHAN
United States Attorney