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Attorneys for the State of Hawai'i

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

STATE OF HAWAI'I,

vs.

GILCHRIST FERNANDEZ,

Defendant.

CASE NO: \_\_\_\_\_

COUNT 1:  
IMPORTATION OF FIREWORKS  
(HRS § 132D-14(a)(1))  
(Rpt. SIPD230008-001)

COUNT 2:  
ATTEMPTED POSSESSION OF  
FIREWORKS  
(HRS §§ 705-500; 132D-14(a)(2)(A))  
(Rpt. SIPD230008-002)

COMPLAINT

COMPLAINT

The State of Hawai'i Department of the Attorney General Charges:

COUNT 1: On or about November 9, 2022, to and including December 6, 2022, in the City and County of Honolulu, State of Hawai'i, GILCHRIST FERNANDEZ did intentionally import aerial devices, to wit, AF One, Click Bang, and Throat Punch aerial devices weighing a total of ninety-four point twenty-three (94.23) pounds, without having a valid license issued

pursuant to section 132D-7 of the Hawai'i Revised Statutes, thereby committing the offense of Importation of Fireworks, in violation of Sections 132D-14(a)(1) of the Hawai'i Revised Statutes.

COUNT 2: On or about November 9, 2022, to and including December 6, 2022, in the City and County of Honolulu, State of Hawai'i, GILCHRIST FERNANDEZ did intentionally engage in conduct, which under the circumstances as he believed them to be, constituted a substantial step in a course of conduct intended to culminate in his possession of aerial devices, to wit, AF One, Click Bang, and Throat Punch aerial devices weighing a total of ninety-four point twenty-three (94.23) pounds, the total weight of which was twenty-five (25) pounds or more, without a valid license under section 132D-7 of the Hawai'i Revised Statutes thereby committing the offense of Attempted Possession of Fireworks, in violation of Sections 705-500 and 132D-14(a)(2)(A) of the Hawai'i Revised Statutes.

DEFINITIONS: The following definitions apply to this Complaint.

“Aerial device” means any fireworks containing one hundred thirty milligrams or less of explosive materials that produces an audible or visible effect and is designed to rise into the air and explode or detonate in the air or to fly about above the ground, and that is prohibited for use by any person who does not have a permit for display issued by a county under section 132D-16. “Aerial devices” classified as fireworks under certain hazardous material classifications by the United States Department of Transportation as set forth in Title 49 Code of Federal Regulations include firework items commonly known as bottle rockets, sky rockets, missile-type rockets, helicopters, torpedoes, daygo bombs, roman candles, flying pigs, and jumping jacks that move

about the ground farther than a circle with a radius of twelve feet as measured from the point where the item was placed and ignited, aerial shells, and mines.

“Fireworks” means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation and that meets the definition of aerial device or consumer or display fireworks as defined by this section and contained in the regulations of the United States Department of Transportation as set forth in Title 49 Code of Federal Regulations. The term “fireworks” shall not include any explosives or pyrotechnics regulated under Chapter 396 of the Hawai‘i Revised Statutes or automotive safety flares, nor shall the term be construed to include toy pistols, toy cannons, toy guns, party poppers, pop-its, or other devices which contain twenty-five hundredths of a grain or less of explosive substance.

“Import” (and any nounal, verbal, adjectival, adverbial, and other equivalent form of the term used interchangeably in this chapter) means to bring or attempt to bring fireworks into the State or to cause fireworks to be brought into the State, and includes fireworks labeled or designated as samples, even if not intended for retail sale.

“License” means a nontransferable, formal authorization, valid for a period not to exceed one calendar year from the date of issuance and which the department is hereby authorized to issue under this chapter, to engage in the act or acts specifically designated herein.

“Permit” means a nontransferable, formal authorization, valid for a period not to exceed one calendar year from the date of issuance and which a county is hereby authorized to issue under this chapter, to engage in the act or acts specifically designated herein.

“Pyrotechnic composition” or “pyrotechnic contents” means the combustible or explosive component of fireworks.

A person acts “intentionally” with respect to his conduct when it is his conscious object to engage in such conduct. A person acts “intentionally” with respect to attendant circumstance when he is aware of the existence of such circumstances or believes or hopes that they exist. A person acts “intentionally” with respect to a result of his conduct when it is his conscious object to cause such a result.

DATED: January 27, 2025, Honolulu, Hawai‘i,

STATE OF HAWAI‘I

ANNE E. LOPEZ  
Attorney General

/s/ David Van Acker  
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State of Hawai‘i