WEAPONS

There is no automatic prohibition against use of a dangerous weapon to protect oneself and family against an intruder, even against an intruder without a weapon, so long as the weapon is not used in deadly fashion and the actual force employed is not more than would be reasonably necessary for purposes of protection. FSM v. Ruben, 1 FSM R. 34, 38 (Truk 1981).

Whether a particular item is dangerous often depends upon the use to which it is being put. Laion v. FSM, 1 FSM R. 503, 511 (App. 1984).

A "dangerous weapon" under 11 F.S.M.C. 919(1) is an object which, as used, may be anticipated to produce death or great bodily harm. Laion v. FSM, 1 FSM R. 503, 512 (App. 1984).

In considering whether the term "dangerous weapon" is so vague as to render 11 F.S.M.C. 919 unconstitutional, it is relevant that a court in the United States has held that term sufficiently definite to meet United States constitutional standards. Laion v. FSM, 1 FSM R. 503, 513 (App. 1984).

A gun with a defective trigger is a firearm under 11 F.S.M.C. 1204(4). The statute's purpose may not be evaded by such simple expedients as dismantling the weapon, maintaining weapons and ammunition in separate places, removing one easily replaceable part, or other similar ploys. Under the statute, current operability is not an essential element of the crime of possession of a firearm. Ludwig v. FSM, 2 FSM R. 27, 34 (App. 1985).

Because a Rule 41(e) motion for return of seized property is predicated on the seizure's illegality and the showing of a right to possession, return of unregistered firearms is improper because possession of unregistered firearms is unlawful there is thus no right to possession. FSM v. Santa, 8 FSM R. 266, 268 (Chk. 1998).

A dangerous weapon is any object that, as used or attempted to be used, can endanger life or inflict great bodily harm. Shoes worn on the feet are dangerous weapons when used to kick a victim. Stationary objects can also be dangerous or deadly weapons. Palik v. Kosrae, 8 FSM R. 509, 513 (App. 1998).

A Philippine slingshot consists of a forked piece of wood to which is attached an elastic that is used to propel a piece of sharpened metal that has been crafted into a dart-like object, often feathered at one end for aerial stability. It is this metal dart-like object that transforms a regular (not particularly dangerous) slingshot, which uses stones, into a dangerous Philippine slingshot. FSM v. Masis, 15 FSM R. 172, 174 (Chk. 2007).

A Philippine slingshot is a dangerous device within the statutory definition. FSM v. Masis, 15 FSM R. 172, 175 (Chk. 2007).

An individual who manufactures, produces, uses, sells, possesses, acquires, or disposes a slingshot, pachinko, arrow or dart nikapich or Indian pana has violated Chuuk state law. The legislature has defined possession as the holding of the slingshot or pachinko, arrow or dart or nikapich or Indian pana, which includes keeping inside or outside the house or within the premises of the owner, inside any vehicles, offices, or anywhere which a person suspected to be in possession placed it. Chuuk v. Roman, 21 FSM R. 138, 143 (Chk. S. Ct. Tr. 2017).

When, although the government did not present any direct evidence to prove its point, it presented compelling circumstantial evidence that before the victim was shot the defendant had been arguing with the witness, at which time he threatened her with non-specific bodily harm, and within seconds of his threat a dart was shot from the defendant's location toward the witness's location and hit her daughter, who she was holding in her arms, the government has met its burden to prove beyond a reasonable doubt that the defendant did unlawfully use a slingshot. Chuuk v. Roman, 21 FSM R. 138, 145 (Chk. S. Ct. Tr. 2017).

When an eyewitness saw the defendant with a slingshot in his possession, this account of the defendant holding an slingshot in his hand is sufficient to prove beyond a reasonable doubt that he did unlawfully possess a slingshot. Chuuk v. Roman, 21 FSM R. 138, 145 (Chk. S. Ct. Tr. 2017).

– Exemptions

Some exceptions under 11 F.S.M.C. 1203, whereunder possession of a firearm is permissible, relate to considerations separate from the essential elements of the crime and require the defendant to place them in issue. A defendant claiming exemption as a law enforcement officer or United States military person engaged in official duty, §§ 1203(1), (4), or as a designated crocodile hunter, § 1203(5), is not disputing any element of the government's basic case. Instead, these exemption claims bring into play new facts, uniquely within the knowledge of the defendant, which the government could overlook by focusing on whether the conduct prohibited by the Weapons Control Act has occurred. The defendant is in a far better position to place these exemptions in issue and it is fair to require that he do so. Ludwig v. FSM, 2 FSM R. 27, 36 (App. 1985).

The 11 F.S.M.C. 1203(1), (4) and (5) exemptions, whereunder possession of a firearm is permissible, are defenses within the meaning of 11 F.S.M.C. 107, although they are not affirmative defenses for they are not so designated. The ultimate burden of persuasion remains with the government, but the defendant has the burden of going forward with sufficient evidence to raise these exemptions as issues. Ludwig v. FSM, 2 FSM R. 27, 36 (App. 1985).

The 11 F.S.M.C. 1203(2) exemption for curios, ornaments and historical pieces whereunder possession of a firearm is permissible requires findings that the firearm be in "unserviceable condition" and "incapable of being fired or discharged." Ludwig v. FSM, 2 FSM R. 27, 37 (App. 1985).

Inapplicability of the 11 F.S.M.C. 1203(2) exemption whereunder possession of a firearm is permissible because it is in unserviceable condition, is incapable of being fired or discharged and is being kept as a curio, ornament or historical piece is an essential element of the government's case in prosecution for unlawful possession of a firearm under 11 F.S.M.C. 1202. Ludwig v. FSM, 2 FSM R. 27, 37 (App. 1985).

A trial court may not simply presume that a person who possesses a firearm is not keeping it as a curio, ornament or for historical significance. This would be an irrational or arbitrary, hence unconstitutional, presumption or inference because one cannot determine from mere possession of a firearm alone the purpose or nature of that possession. Ludwig v. FSM, 2 FSM R. 27, 37 (App. 1985).

The 11 F.S.M.C. 1203(2) exemption whereunder possession of a firearm is permissible applies only if the firearm is: 1) unserviceable; 2) incapable of being fired or discharged; and 3) being kept as a curio, ornament or for its historical significance. Ludwig v. FSM, 2 FSM R. 27, 37-38 (App. 1985).

When the accused produced no evidence to substantiate his claim that the weapon he allegedly possessed was in unserviceable condition (such as producing the weapon itself, or even a witness's report on the weapon's condition) and that it was kept as a curio, an ornament, or for historical purposes, but instead, argued that despite his repeated discovery requests, the government had failed to provide access to the firearm that he allegedly possessed so that it could, in turn, be inspected, this argument is more appropriately suited for a motion to compel discovery, rather than a motion to dismiss. The accused is free to raise at trial the defense that the weapon he allegedly possessed falls within the exemption. FSM v. Tosy, 15 FSM R. 463, 466 (Chk. 2008).

A "mini bag," which is an easily-transportable article similar in that nature to a purse, handbag, brief case, attache case, or backpack, is not an "enclosed customary depository" within the meaning of the statutory exception to the statutory presumption that a firearm, dangerous device, or ammunition found in a vehicle or vessel, is prima facie evidence that such firearm, dangerous device, or ammunition is in the possession of all persons in the vehicle or vessel. FSM v. Aliven, 16 FSM R. 520, 533 (Chk. 2009).

The inapplicability of the 11 F.S.M.C. 1003(2) exemption is an essential element of the government's case in a prosecution for unlawful possession of a firearm, and since it is an essential element 11 F.S.M.C. 1003(2)'s inapplicability must be pled. FSM v. Meitou, 18 FSM R. 121, 128-29 (Chk. 2011).

Under 11 F.S.M.C. 1003(2), in order to be exempt from criminal liability for possession of a firearm, the court must be persuaded beyond a reasonable doubt that the firearm is: 1) unserviceable; 2) incapable of being fired or discharged; and 3) being kept as a curio, ornament or for its historical value. All three of these requirements must be satisfied for this exemption to apply. FSM v. Meitou, 18 FSM R. 121, 129 (Chk. 2011).

Current operability of a firearm absolutely negates application of the Section 1003(2) exemption. For the exemption to apply, a firearm's current inoperability is not enough; it must also be proven that the firearm was not being kept as either a curio, or an ornament, or for its historical value or significance. FSM v. Meitou, 18 FSM R. 121, 129 (Chk. 2011).

An information charging firearms possession is sufficient if it or the supporting affidavit contains an allegation that negates any one of the three 11 F.S.M.C. 1003(2) requirements and the prosecution's proof at trial is sufficient if it negates beyond a reasonable doubt any one of the three requirements. FSM v. Meitou, 18 FSM R. 121, 129 (Chk. 2011).

A supporting affidavit's averment that the accused had been drinking and was openly displaying the handgun at the public market is viewed as just barely enough to give the accused notice of the essential element of the charges against him that the 11 F.S.M.C. 1003(2) exemption does not apply because in the appellate court's view, an intoxicated defendant displaying a firearm in public is inconsistent with the 1003(2) exemption because it is inconsistent with a claim that the accused was keeping the handgun as a curio, ornament, or a piece with historical value. FSM v. Meitou, 18 FSM R. 121, 129 (Chk. 2011).

Under 11 F.S.M.C. 1003(2), in order to be exempt from criminal liability for possession of a firearm, the court must be persuaded beyond a reasonable doubt that the firearm is: 1) unserviceable; 2) incapable of being fired or discharged; and 3) being kept as a curio, ornament, or for its historical value. All three of these requirements must be satisfied for this exemption to apply, and if any one of them is not met, this exception does not apply. FSM v. Sonis, 18 FSM R. 620, 622 (Chk. 2013).

When there is evidence before the court from which the court can infer that the handgun was serviceable – testimony of two officers that they had tried to and did get the firearm to work and from that evidence the court could infer that the handgun was capable of being fired or discharged; and when, from the circumstances under which the firearm was found and where it was found, abandoned by the accused in a mop bucket at Chuuk International Airport (right where he told the police he left it), the court could infer that he was not keeping the handgun as a curio, or as an ornament, or for its historical value but that his possession of the handgun must have been for some other reason. FSM v. Sonis, 18 FSM R. 620, 622 (Chk. 2013).

A 9mm handgun that was not kept as a curio, ornament, or for its historical significance or value is not exempt under 11 F.S.M.C. 1003(2). FSM v. Buchun, 22 FSM R. 529, 533 n.2 (Yap 2020).

– Identification Card

In requiring an identification card in order to possess a dangerous device there was not an intent to require such a card for that category of dangerous devices which can be used to inflict bodily harm and which under the circumstances of its possession serves no lawful purpose. 11 F.S.M.C. 1204(3). Este v. FSM, 4 FSM R. 132, 136-37 (App. 1989).

There is no Weapons Control Act provision that bans the importation of an otherwise legal firearm without possessing a valid identification card issued by the FSM Department of Justice. FSM v. Mumma, 21 FSM R. 387, 398, 399 n.6 (Kos. 2017).

A person without an identification card can violate either 11 F.S.M.C. 1005(1) or 11 F.S.M.C. 1006(1) by acquiring or purchasing, or by possessing, or by using a firearm. But if that person, without a valid identification card, does any of those things but does not carry the firearm, that person has not committed the lesser misdemeanor of 11 F.S.M.C. 1007. The misdemeanor's key element is the carrying of a firearm. FSM v. Buchun, 22 FSM R. 529, 537 (Yap 2020).

If a defendant holds a valid identification card, then he cannot be convicted of violating either 11 F.S.M.C. 1005(1) or 11 F.S.M.C. 1006(1), even though the firearm he possesses is illegal and cannot be registered under 11 F.S.M.C. 1019, but he could be prosecuted under 11 F.S.M.C. 1023(5). FSM v. Buchun, 22 FSM R. 529, 538 (Yap 2020).

A person does not need to own or possess any firearm, dangerous device, or ammunition to apply for and to be issued an identification card. FSM v. Buchun, 22 FSM R. 529, 538 (Yap 2020).

The statutory scheme in FSM Weapons Control Act, chapter 10 of the FSM Code, clearly

requires that a person must hold a valid identification card before obtaining possession of a firearm or ammunition. FSM v. Buchun, 22 FSM R. 529, 538 (Yap 2020).

Section 1023(5) is directed to the evil of prohibited firearms and 11 F.S.M.C. 1005(1) and 11 F.S.M.C. 1006(1) are directed to the evil of persons not obtaining a valid identification card before possessing firearms or ammunition. Thus, Congress clearly intended to address different evils with these different statutory provisions. FSM v. Buchun, 22 FSM R. 529, 538 (Yap 2020).

– Importation

Pleading whether the firearms in question were .22 caliber handguns or .22 caliber rifles is essential because importing the former is banned by the statute, while importing the latter is not. FSM v. Mumma, 21 FSM R. 387, 398 (Kos. 2017).

There is no Weapons Control Act provision that bans the importation of an otherwise legal firearm without possessing a valid identification card issued by the FSM Department of Justice. FSM v. Mumma, 21 FSM R. 387, 398, 399 n.6 (Kos. 2017).

The purchase, possession, or use of a firearm is prohibited without a proper identification card, but this prohibition does not include importation. FSM v. Mumma, 21 FSM R. 387, 398 (Kos. 2017).

The Weapons Control Act does not forbid a person from importing a .22 caliber rifle through the postal service, without holding a license, and applying for a permit before or upon the legal firearm's arrival in the FSM so that he may legally possess and use the imported firearm, with the weapon being seized by FSM Customs Officers until the permit application is granted or denied. FSM v. Mumma, 21 FSM R. 387, 399 (Kos. 2017).

There cannot be a conspiracy when the achievement of the alleged conspiracy was the importation, without a valid identification card, of two firearms that are permitted to be licensed, which is not a national crime. FSM v. Mumma, 21 FSM R. 387, 400 (Kos. 2017).

The court will dismiss charges for illegal possession of ammunition when the factual basis for the charges is entirely insufficient since no one in the FSM ever actually possessed the ammunition because customs officers seized it after postal officials notified them of an incoming package's contents. FSM v. Pelep, 22 FSM R. 400, 403 (Pon. 2019).

– National Government Jurisdiction

The national government has an interest in controlling the proliferation and use of firearms throughout Micronesia; the classifications singled out for a 10-year prohibition on possession appear reasonable. 11 F.S.M.C. 1205. FSM v. Nena, 1 FSM R. 331, 335 (Kos. 1983).

The government has a serious interest, and Congress deserves the support of the FSM Supreme Court, in carrying out policy established to control firearm use. Open violations, without punitive results, weaken the congressional policy and thwart efforts to assure that firearms will be available only to responsible people. Courts must assure that the policy is carried out against those convicted. FSM v. Nena, 1 FSM R. 331, 335-36 (Kos. 1983).

The Transition Clause of the FSM Constitution effectively adopts statutes of the Trust Territory, including the Weapons Control Act, and serves as the original enactment of a body of law, criminal as well as civil, for the new constitutional government. Further action by the FSM Congress is not necessary to establish that violations of the Weapons Control Act are prohibited within the FSM. Joker v. FSM, 2 FSM R. 38, 43 (App. 1985).

There is nothing absurd about a weapons control scheme that recognized that both the national and the state governments have an interest in controlling the possession, use and sale of weapons. While Congress and the states may eventually wish to allocate their respective roles with more precision, the current Weapons Control Act appears to provide a workable system during these early years of transition and constitutional self-government. Joker v. FSM, 2 FSM R. 38, 44 (App. 1985).

Congress may legislate regulation of firearms and ammunition under the foreign and interstate commerce clause of article IX, section 2(g). FSM v. Fal, 8 FSM R. 151, 154 (Yap 1997).

Because Congress has the present authority to enact firearms and ammunition statutes, such previously enacted statutes have continuing vitality. FSM v. Fal, 8 FSM R. 151, 154 (Yap 1997).

The 1991 constitutional amendment that removed national government jurisdiction over major crimes did not remove national government jurisdiction over firearms and ammunition possession under the Weapons Control Act since there was an independent jurisdictional basis for it under the Constitution's foreign and interstate commerce and national defense clauses and Congress has always had the power to define national crimes. Jano v. FSM, 12 FSM R. 569, 574 (App. 2004).

In an examination to determine whether it is a national crime, the focus is: Does the regulation of the possession of firearms and ammunition involve a national activity or function, or is it one of an indisputably national character? Jano v. FSM, 12 FSM R. 569, 575 (App. 2004).

The national government can regulate firearms and ammunition possession since there is an international commerce aspect to the regulation of possession of firearms and ammunition that is related to its manufacture outside of the FSM and to its movement through the nation's customs and immigration borders and on the additional jurisdictional basis rooted in the national defense clause. Jano v. FSM, 12 FSM R. 569, 576 (App. 2004).

There is a national government interest in regulating the possession of firearms and ammunition in order to provide for the national security, which furthers the nation's interest in its defense, and this, in combination with the international commerce aspects, provides a jurisdictional basis for the national government's regulation of the possession of firearms and ammunition. Jano v. FSM, 12 FSM R. 569, 576 (App. 2004).

The power to provide for the national defense includes the inherent authority to protect the nation from threats both foreign and domestic. Protecting from these threats includes regulating the possession of firearms and ammunition. Jano v. FSM, 12 FSM R. 569, 576 (App. 2004).

The regulation of possession of firearms and ammunition involves a national activity or function because of the international commerce aspects of its manufacture and movement, together with the national government interest in protecting the national security under the national defense clause. In combination, these provide the national government with a jurisdictional basis to regulate the possession of firearms and ammunition. Jano v. FSM, 12 FSM R. 569, 576 (App. 2004).

Even if Congress took no position on its jurisdiction based on Article IX, Section 2(a), the court is well within its power to determine jurisdiction based on this constitutional provision when it is not a situation where the action of the government is being challenged for attempting to implement a non-self-executing provision of the Constitution, but is one where the court determined what authority Congress had to enact statutes regulating the possession of firearms and ammunition. In doing so, the court did not usurp the powers of Congress. Jano v. FSM, 12 FSM R. 633, 635 (App. 2004).

The national government has the power to ban the possession and use of Philippine slingshots in those places under its jurisdiction and in those circumstances that make the offense "inherently national in character" such as when the offense is committed in the FSM Exclusive Economic Zone or in FSM airspace, or on FSM-flagged vessels, or is committed against an FSM public servant in connection with that servant's service. FSM v. Masis, 15 FSM R. 172, 175-76 (Chk. 2007).

The regulation of possession of firearms and ammunition involved a national activity or function because of the international commerce aspects of their manufacture and movement together with the national government interest in protecting the national security under the national defense clause, and that these, in combination, provided the national government's jurisdictional basis to regulate the possession of firearms and ammunition. FSM v. Masis, 15 FSM R. 172, 176 (Chk. 2007).

When the imported materials in a Philippine slingshot are not manufactured abroad with the intent that they be assembled into a Philippine slingshot but are manufactured abroad as other articles or as parts of other articles and are legitimately imported for other purposes but are then recycled into Philippine slingshot parts, a Philippine slingshot is manufactured locally, out of locally available materials. It does not pass through foreign or interstate commerce. That some of those materials were once imported as something else to be used for some other purpose is not enough to implicate the national government's activity or function to regulate foreign commerce. FSM v. Masis, 15 FSM R. 172, 176 (Chk. 2007).

The possession or use of a Philippine slingshot does not implicate the national government's functions and activities in the sphere of national defense or security and the connection, if there is one, is too tenuous to give the national government authority to regulate Philippine slingshots. FSM v. Masis, 15 FSM R. 172, 176 (Chk. 2007).

The national government certainly has the power to criminalize possession or use of explosive, incendiary or poison gas bomb, grenade, mine or similar devices on the same basis that it has the power to regulate the possession and use of firearms and ammunition because these items definitely implicate both national defense and security and foreign commerce interests on which the Jano court concluded that the national government had the authority to regulate firearms and ammunition. But Philippine slingshots do not. FSM v. Masis, 15 FSM R. 172, 176 (Chk. 2007).

Weapons control has long been recognized as a subject on which both the national and state governments may legislate. It is thus within the power of the State of Chuuk to regulate the possession and use of Philippine slingshots. If it has not done so, that does not mean that it cannot. FSM v. Masis, 15 FSM R. 172, 177 (Chk. 2007).

It has long been recognized that both the national and state governments may enact legislation regulating the possession of firearms. There is nothing particularly absurd about a weapons control scheme that recognizes that both the national and the state governments have an interest in controlling the possession, use and sale of weapons. FSM v. Louis, 15 FSM R. 206, 211 (Pon. 2007).

Congress has an independent jurisdictional basis for the Weapons Control Act under FSM Constitution Article IX, Section 2(g) on foreign and interstate commerce and Article IX, Section 2(a) on national defense. FSM v. Louis, 15 FSM R. 206, 212 (Pon. 2007).

The 1991 constitutional amendment did not proscribe Congress's authority to enact legislation pursuant to its independent authority under the national defense and foreign and interstate commerce clauses. Thus, the 1991 amendment did nothing to curtail Congress's authority to regulate the possession of firearms. FSM v. Louis, 15 FSM R. 206, 212 (Pon. 2007).

Congress does not lack the authority to regulate possession of firearms because it was the framers' clear intent that commerce within a particular state should be regulated locally since there is an international commerce aspect to the regulation of possession of firearms and ammunition that is related to its manufacture outside of the FSM and to its movement through the nation's customs and immigration borders. FSM v. Louis, 15 FSM R. 206, 212 (Pon. 2007).

In concluding that Congress has the authority to regulate the possession of firearms as part of its power to provide for the national defense, the court does not focus on the defendant's intended use of the firearm at issue, but instead focuses on the potential uses of firearms in general. FSM v. Louis, 15 FSM R. 206, 212 (Pon. 2007).

Congress's authority to regulate firearms is not dependent on the defendant's subjective intent because the national government interest in regulating the possession of firearms and ammunition in order to provide for the national security in combination with the international commerce aspects provides a jurisdictional basis for the national government's regulation of the possession of firearms and ammunition. Congress's jurisdiction over the possession of firearms is not tied to the intent of a particular defendant. FSM v. Louis, 15 FSM R. 206, 212 (Pon. 2007).

The national government's power to regulate firearms is derived from both its ability to protect the national security under its power to provide for the national defense and its power to regulate international commerce aspects because of the international commerce aspect of firearms manufacture and movement. In combination, these provide the national government with a jurisdictional basis to regulate the possession of firearms and ammunition. FSM v. Tosy, 15 FSM R. 238, 239 (Chk. 2007).

The national government's jurisdiction over firearms is not limited to only certain circumstances or certain quantities. What the national government can regulate in aggregate, it

is able to regulate piece by piece; otherwise it would not be able to regulate it at all, and that, is clearly not the case. FSM v. Tosy, 15 FSM R. 238, 239 (Chk. 2007).

A contention that the FSM Supreme Court lacks subject matter jurisdiction over a case's firearms charges because there was no nexus between those charges and the national government's powers to regulate interstate and foreign commerce and to provide for the national defense or because national defense and foreign or interstate commerce was not involved or not implicated in the case is without merit. FSM v. Sam, 15 FSM R. 457, 459-60 (Chk. 2007).

– Weapons Control Act

The Trust Territory Weapons Control Act is not inconsistent with any provision of the Constitution. It therefore continued in effect. When the National Criminal Code was enacted, and major crimes were defined, the Trust Territory Weapons Control Act became national law and trials for violations thereof were within the FSM Supreme Court's jurisdiction. 11 F.S.M.C. 1201-1231. FSM v. Nota 1 FSM R. 299, 302-03 (Truk 1983).

National court jurisdiction over the Trust Territory Weapons Control Act is consistent with 12 F.S.M.C. 102 which states in part that criminal prosecutions shall be conducted in the name of the Federated States of Micronesia for violations of the statutes of the Trust Territory which continued in effect by virtue of the transition article of the Constitution and which are within the FSM national government's jurisdiction. 11 F.S.M.C. 1201-1231. FSM v. Nota, 1 FSM R. 299, 303 (Truk 1983).

8 F.S.M.C. 206 authorizes the transfer of authority from the Trust Territory and its officials to the Federated States of Micronesia government and its officials. Thus the reference in the Trust Territory Weapons Control Act to the High Commissioner and the Attorney General of the Trust Territory does not prevent its effectiveness as national law of the Federated States of Micronesia. 11 F.S.M.C. 1201-1231. FSM v. Nota, 1 FSM R. 299, 303 (Truk 1983).

The Weapons Control Act is clear as to its intent in its definition of "dangerous device," that is, to proscribe weapons of violence; its terms become clear in the light of that intent. 11 F.S.M.C. 1204(3). FSM v. Nota, 1 FSM R. 299, 304 (Truk 1983).

While proof of current operability is not essential to a finding of guilt for illegal possession of a firearm, the design and the capacity of the instrument to fire are at the very heart of the Weapons Control Act's definition of a firearm. To prove its case, the government must show that the device "is designed or may be converted to expel . . . projectiles." Ludwig v. FSM, 2 FSM R. 27, 37 (App. 1985).

Although not always essential, current operability of a firearm should be shown by the government, where possible, as standard procedure. Ludwig v. FSM, 2 FSM R. 27, 37 (App. 1985).

The Weapons Control Act violations punishable by imprisonment of three or more years are national crimes. Joker v. FSM, 2 FSM R. 38, 41 (App. 1985).

"Dangerous device" as defined under the Weapons Control Act is not unconstitutionally vague. The language, properly interpreted, affords sufficient notice so that conscientious

citizens may avoid inadvertent violations, and constructs sufficiently definite standards to prevent arbitrary law enforcement. Joker v. FSM, 2 FSM R. 38, 45 (App. 1985).

Three categories of devices are identified in the definition of "dangerous device" under the Weapons Control Act and the standards of proof for each differ slightly. Joker v. FSM, 2 FSM R. 38, 45 (App. 1985).

The second category of "dangerous device" under the Weapons Control Act requires demonstration by the government that the item in question was designed or redesigned as a weapon and that the person whose possession is at issue is aware that the instrument was created or modified for that purpose. The intent and knowledge normally might be inferred from the nature of the instrument itself. It does not appear necessary that the possessor be shown to have actually intended to use the instrument as a weapon or for a wrongful purpose. Joker v. FSM, 2 FSM R. 38, 45 (App. 1985).

For the last category of "dangerous device" under the Weapons Control Act, the forbidden instrument in question must not only be capable of causing bodily injury but it must also be possessed without any "lawful purpose." A violation occurs only when the possession is coupled with a wrongful purpose, that is, a purpose to use the instrument to cause bodily injury, or a complete absence of any lawful purpose, shown through statements or overt conduct of the possessor manifesting wrongful purpose. Joker v. FSM, 2 FSM R. 38, 45 (App. 1985).

Dangerous device is defined in three categories, 1) explosive, etc., 2) an instrument designed or redesigned as a weapon, and 3) an instrument which can be used to inflict bodily harm and which under the circumstances of its possession serves no lawful purpose. Este v. FSM, 4 FSM R. 132, 136 (App. 1989).

Because of the verbs in the statute, only "carry" is defined in the Weapons Control Act, "possess" is given its usual meaning of taking into one's possession, and possession means to have in one's control. FSM v. Fal, 8 FSM R. 151, 155 (Yap 1997).

Because the defendant was affirmatively prevented from taking possession of the cooler which contained the bullets he never had present control or possession of the bullets and therefore was acquitted of the charge of possession of ammunition. FSM v. Fal, 8 FSM R. 151, 155 (Yap 1997).

The absence of an intent element in 11 F.S.M.C. 1223(6) (which prohibits any person from boarding or attempting to board a commercial airliner while carrying a firearm either on his person or in his luggage) evinces a legislative intent to dispense with the mens rea element and make the proscribed conduct a strict liability crime. The court can properly infer from Congress's silence in subsection (6) and lack of silence in subsections (1) and (2) that Congress intended that subsection (6) constitute a strict liability offense, whereas subsections (1) and (2) do not. Sander v. FSM, 9 FSM R. 442, 447 (App. 2000).

Although 11 F.S.M.C. 1223(6) does not dispense with the mental element that the defendant must know or be aware that he had the shotgun in his possession, the statute does dispense with the specific intent to board the aircraft knowing that it was illegal to do so with a shotgun. Sander v. FSM, 9 FSM R. 442, 447 (App. 2000).

Because violation of 11 F.S.M.C. 1223(6) is not a case of an attempt to commit a crime but a case where "attempt to board" is an element of the offense, 11 F.S.M.C. 201 (the attempt

statute) does not apply to the crime of attempting to board a commercial aircraft with a firearm. Sander v. FSM, 9 FSM R. 442, 448 (App. 2000).

When sufficient evidence was before the trial court such that it could reasonably have been persuaded beyond a reasonable doubt that the defendant did not attempt to turn in the shotgun to an appropriate official because the trial court could reasonably have concluded that the defendant's actions at the security screening area were consistent with the way any passenger might have dealt with any piece of carry on luggage, and that it did not constitute turning in the shotgun to an "appropriate official" under 11 F.S.M.C. 1223(6), its findings were not clearly erroneous and will not be disturbed. Sander v. FSM, 9 FSM R. 442, 449 (App. 2000).

Since there is no language in the aid or abet statute, 11 F.S.M.C. 301(1)(d), or in the firearms possession or use statutes, 11 F.S.M.C. 1023(5) and (7), that limits the application of one statute to the other, a defendant may be charged with aiding or abetting firearms possession or use. FSM v. Sam, 14 FSM R. 328, 333 (Chk. 2006).

Subsection 1023(7) does not restrict liability to use of a firearm to commit crimes defined by Title 11 (the national criminal code) of the FSM Code or to the FSM Code in general. It prohibits use in connection with or in aid of the commission of "any crime against the laws of the Federated States of Micronesia," a term which must refer to any or all criminal laws in the Federated States of Micronesia, national, state, or local because if it were otherwise, it would not be possible for the statute to have its obviously intended purpose and effect – to discourage the use of, and to punish the use of, firearms during the commission of other crimes. FSM v. Sam, 14 FSM R. 328, 333-34 (Chk. 2006).

Since, under 11 F.S.M.C. 1023(7), the government must prove beyond a reasonable doubt that the firearm was used to commit a crime, when the amended information does not allege what crime or crimes, the firearm was used to commit, or even that it was used to commit any crime, it therefore fails to allege an essential element of 11 F.S.M.C. 1023(7), and that count of the amended information will be dismissed for failure to state an offense. FSM v. Sam, 14 FSM R. 328, 334 (Chk. 2006).

A criminal information will not be dismissed on the ground that it fails to allege that the weapon in question was a handgun of .22 caliber or greater because the information alleges that the defendant possessed a .22 handgun and because a handgun's caliber is irrelevant since 11 F.S.M.C. 1023(5) prohibits the possession of any handgun, regardless of caliber. FSM v. Sato, 16 FSM R. 26, 28 (Chk. 2008).

All offenses involving a handgun are felonies under Title 11, chapter 10. FSM v. Aliven, 16 FSM R. 520, 527 n.1 (Chk. 2009).

11 F.S.M.C. 1023(7), which prohibits firearms use in connection with or in aid of the commission of "any crime against the laws of the Federated States of Micronesia," does not restrict liability for firearms use to only those crimes defined in the FSM Code because the term "any crime against the laws of the Federated States of Micronesia," when read in context must refer to any or all criminal laws in the Federated States of Micronesia, national, state, or local, since, if it were otherwise, it would not be possible for the statute to have its obviously intended purpose and effect – to discourage the use of, and to punish the use of, firearms during the commission of other crimes. FSM v. Suzuki, 17 FSM R. 70, 76 (Chk. 2010).

The use of a firearm to commit a Chuuk state law crime, such as robbery, is a national offense even though the robbery itself is not a national offense. FSM v. Suzuki, 17 FSM R. 70, 76 (Chk. 2010).

Since the possession of any handgun is banned, an information charging the illegal possession of a handgun is not deficient when the information does not allege the handgun's exact barrel length, color, caliber, or whether the handgun was a pistol or a revolver. The allegation that an accused possessed a handgun is an allegation that the firearm had a barrel length under twenty-six inches because that is the statutory definition of a handgun. FSM v. Meitou, 18 FSM R. 121, 127 (Chk. 2011).

The carefully written statutory language precludes evasion of the statute's purpose by such simple expedients as dismantling the weapon, maintaining weapons and ammunition in separate places, removing one easily replaceable part, or other similar ploys. Under the statute, current operability is not an essential element of the crime of possession of a firearm. FSM v. Meitou, 18 FSM R. 121, 128 (Chk. 2011).

The firearm statute's purpose cannot be evaded by such simple expedients as dismantling the weapon, maintaining weapons and ammunition in separate places, removing one easily replaceable part, or other similar ploys. Under the statute, current operability is not an essential element of the crime of possession of a firearm. FSM v. Sonis, 18 FSM R. 620, 622 (Chk. 2013).

An argument that the defendant never possessed the firearm is not fatal to a charge that he attempted to illegally possess a weapon. FSM v. Mumma, 21 FSM R. 387, 400-01 (Kos. 2017).

A defendant's contention that there was no attempt to commit the crime of possession of a firearm without a valid license because he applied for such license shortly after the firearm arrived in his postal box, may be raised at trial as evidence that he made no attempt to possess the firearm without a license, but the ultimate burden of persuasion remains with the government to prove the elements of attempt in spite of these assertions. FSM v. Mumma, 21 FSM R. 387, 401 (Kos. 2017).

When both the defendant's intent and whether he committed an act sufficient to amount to an attempt are questions of fact inappropriate for determination before trial, the defendant's motion to dismiss the charge of attempt to possess a firearm without having a valid identification card will be denied. FSM v. Mumma, 21 FSM R. 387, 401 (Kos. 2017).

The only elements needed for a successful 11 F.S.M.C. 1023(5) prosecution is that the firearm is something other than a .22 rile or a .410 shotgun and the defendant knows that he possesses a firearm. FSM v. Pillias, 22 FSM R. 334, 335 n.1 (Chk. 2019).

Unlawful firearms possession is almost a strict liability crime – the defendant need only know that he possesses a firearm, and in the case of prosecutions under 11 F.S.M.C. 1005, and that he does not possess a firearms identification card. FSM v. Pillias, 22 FSM R. 334, 338 (Chk. 2019).

Neither 11 F.S.M.C. 1005(1) nor 11 F.S.M.C. 1006(1) is the lesser included offense of the

other because both impose liability for possession of a firearm or ammunition without an identification card. Section 1005(1) imposes liability for acquiring a firearm or ammunition in any manner, while Section 1006(1) imposes liability only if the acquisition is by purchase, and Section 1006(1) imposes liability for the use of a firearm or ammunition, while Section 1005(1) does not, but it is difficult to see how someone could use a firearm or ammunition without actually also possessing that firearm or ammunition, and it is also difficult to see how a person could acquire or purchase a firearm or ammunition without also then necessarily actually possessing that firearm or ammunition. FSM v. Buchun, 22 FSM R. 529, 535 & n.4 (Yap 2020).

The 11 F.S.M.C. 1006(2) statutory presumption about who possesses a firearm or ammunition found in a vehicle or a vessel applies generally to any charge based on the possession of firearms or ammunition found in a vehicle or vessel, and would apply to a prosecution under 11 F.S.M.C. 1005(1). FSM v. Buchun, 22 FSM R. 529, 536 (Yap 2020).

If a defendant is charged with violating both 11 F.S.M.C. 1005(1) and 11 F.S.M.C. 1006(1) and the court finds the defendant guilty of either 11 F.S.M.C. 1005(1) or 11 F.S.M.C. 1006(1), the court must then dismiss the other count because 11 F.S.M.C. 1005(1) and 11 F.S.M.C. 1006(1) charge the same crime. FSM v. Buchun, 22 FSM R. 529, 536 (Yap 2020).

11 F.S.M.C. 1007 is a misdemeanor because anyone convicted of it cannot be imprisoned for more than one year and because a felony is any crime which is punishable by imprisonment for more than one year. FSM v. Buchun, 22 FSM R. 529, 536 n.7 (Yap 2020).

A person without an identification card can violate either 11 F.S.M.C. 1005(1) or 11 F.S.M.C. 1006(1) by acquiring or purchasing, or by possessing, or by using a firearm. But if that person, without a valid identification card, does any of those things but does not carry the firearm, that person has not committed the lesser misdemeanor of 11 F.S.M.C. 1007. The misdemeanor's key element is the carrying of a firearm. FSM v. Buchun, 22 FSM R. 529, 537 (Yap 2020).

The prosecution, to secure a 11 F.S.M.C. 1007 conviction, has to prove an element that it does not have to prove to convict under either 11 F.S.M.C. 1005(1) or 11 F.S.M.C. 1006(1). It must prove that not only did the defendant possess the firearm without holding an identification card, but that the defendant also carried the firearm, which is not an element of either 11 F.S.M.C. 1005(1) or 11 F.S.M.C. 1006. Section 1007 is directed to a different evil – the carrying of a firearm, either unsafely or by someone without a valid identification card (or both), while Sections 1006 and 1005(1) are directed toward the evil of possession of a firearm or ammunition without an identification card. FSM v. Buchun, 22 FSM R. 529, 537 (Yap 2020).

The Section 1007 misdemeanor is not a lesser included offense of 11 F.S.M.C. 1023(5) because that felony can easily be committed without violating 11 F.S.M.C. 1007 because, to violate 11 F.S.M.C. 1007, the firearm, whether legal or illegal, must be carried. FSM v. Buchun, 22 FSM R. 529, 537 (Yap 2020).

To obtain a conviction under either 11 F.S.M.C. 1005(1) or 11 F.S.M.C. 1006(1), the prosecution must prove that the person in possession of a firearm does not hold a valid identification card. To obtain a conviction under 11 F.S.M.C. 1023(5), the prosecution must prove that the person possesses an illegal firearm, such as a handgun. Thus, each statutory provision (treating 11 F.S.M.C. 1005(1) and 11 F.S.M.C. 1006(1) as one provision) requires the proof of a fact that the other does not. FSM v. Buchun, 22 FSM R. 529, 538 (Yap 2020).

If a defendant holds a valid identification card, then he cannot be convicted of violating either 11 F.S.M.C. 1005(1) or 11 F.S.M.C. 1006(1), even though the firearm he possesses is illegal and cannot be registered under 11 F.S.M.C. 1019, but he could be prosecuted under 11 F.S.M.C. 1023(5). FSM v. Buchun, 22 FSM R. 529, 538 (Yap 2020).

The statutory scheme in FSM Weapons Control Act, chapter 10 of the FSM Code, clearly requires that a person must hold a valid identification card before obtaining possession of a firearm or ammunition. FSM v. Buchun, 22 FSM R. 529, 538 (Yap 2020).

Section 1023(5) is directed to the evil of prohibited firearms and 11 F.S.M.C. 1005(1) and 11 F.S.M.C. 1006(1) are directed to the evil of persons not obtaining a valid identification card before possessing firearms or ammunition. Thus, Congress clearly intended to address different evils with these different statutory provisions. FSM v. Buchun, 22 FSM R. 529, 538 (Yap 2020).

Since 11 F.S.M.C. 1007 requires proof that the weapon was carried, while 11 F.S.M.C. 1023(5) does not, and 11 F.S.M.C. 1023(5) requires proof that the firearm was illegal, while

11 F.S.M.C. 1007 does not, and since the two statutes are directed to different evils – Section 1023(5) is directed to the evil of prohibited firearms and 11 F.S.M.C. 1007 is directed to the evil of improper carrying of a firearm, a defendant can be convicted of both. FSM v. Buchun, 22 FSM R. 529, 538 (Yap 2020).