Buyer of guns found at scene of Agent Terry's slaying gets 57 mos.

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PHOENIX - A man who purchased two rifles found at the scene of the fatal shooting of a Border Patrol agent north of the U.S.-Mexico border was sentenced Wednesday to nearly five years in federal prison.

Jaime Avila Jr., 25, received a sentence of 57 months, a penalty on the lower end of federal guidelines, for his acknowledged role in a gun smuggling ring targeted in a botched federal investigation known as Operation Fast and Furious.

Two assault weapons acquired by Avila from a suburban Phoenix gun store were found in the aftermath of a 2010 shootout that mortally wounded Border Patrol Agent Brian Terry near Nogales. The firefight was between border agents and five men who had sneaked into the country from Mexico for the purpose of robbing marijuana smugglers.

Avila looked on without any visible emotion as Terry's cousin, Robert Heyer, spoke on behalf of the agent's family.

"It probably goes without saying that the Terry family wishes there was some way that Mr. Avila could be held responsible for Brian's death," Heyer said as his voice cracked with emotion.

Avila, dressed in orange jail uniform and bound by handcuffs, said he wished he could change things and wants to be around for his young son.

"I just want to say sorry to the Terry family," Avila told the judge, adding that he was trying to change his life.

U.S. District Judge James Teilborg said it was clear that Avila showed remorse, but also pointed out the serious consequences of illegal gun purchases. "These were clearly weapons of war," Teilborg said.

Authorities say the ring that Avila worked for bought guns and smuggled weapons into Mexico for use by the Sinaloa

drug cartel.

Avila isn't charged in Terry's death. Prosecutors have said straw buyers can't be held criminally liable for violence committed by others with such illegally purchased guns.

Authorities have a separate case pending in federal court in Tucson against five men charged with murder in Terry's death.

Prosecutor Shane Harrigan had asked for a stiff penalty, saying Avila's involvement in the illegal weapons buys went beyond the 52 guns he bought for the ring and extended to the recruitment of two others who purchased dozens of weapons. "He was more than just a mere straw purchaser," he said.

Avila's attorney, Candice Shoemaker, sought leniency, saying her client wasn't a leader in the ring and had an expensive drug problem.

Federal authorities conducting the Fast and Furious investigation have faced tough criticism for allowing suspected straw gun buyers for the ring to walk away from gun shops in Arizona with weapons, rather than arresting the suspects and seizing the guns there.