

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DICK ANTHONY HELLER, <i>et al.</i>)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 08-01289 (RMU)
)	
DISTRICT OF COLUMBIA, <i>et al.</i> ,)	
)	
Defendants.)	

DEFENDANTS' STATEMENT OF MATERIAL FACTS AS TO WHICH
THERE IS NO GENUINE ISSUE

1. In *District of Columbia v. Heller*, ___ U.S. ___, 128 S. Ct. 2783 (Jun. 26, 2008) (“*Heller*”), the Supreme Court invalidated two provisions of the District’s Firearms Control Regulations Act of 1975 (“1975 Act”), D.C. Law 1-85, *codified as amended at* D.C. Official Code § 7-2501.01 *et seq.* (2001 ed.). In a 5-4 decision, the Court invalidated the District’s ban on handguns and the “safe storage” provisions. *Heller*, 128 S.Ct. at 2818.

2. The Court stated that “the Second Amendment does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes.” *Id.* at 2816.

3. The Court stated that “[l]ike most rights, the right secured by the Second Amendment is not unlimited [and] not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” *Id.* (citations omitted).

4. The Court noted the “longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools or government buildings, or laws imposing conditions and qualifications on the

commercial sale of arms.” *Id.* at 2816–17 & n.26 (“We identify these presumptively lawful regulatory measures only as examples; our list does not purport to be exhaustive.”).

5. The Court expressly declined to establish a level of scrutiny for examining alleged restrictions on the Second Amendment. *Id.* at 2821.

6. The Court’s decision mentioned the “problem of handgun violence in this country,” and noted that “[t]he Constitution leaves the District of Columbia a variety of tools for combating that problem” *Id.* at 2822.

7. In response to *Heller*, the Council of the District of Columbia adopted a number of emergency and temporary measures. *See* Council of the District of Columbia, Committee on Public Safety and the Judiciary, Rep. on Bill 17-843, the “Firearms Control Amendment Act of 2008,” November 25, 2008, at 2 (“Comm. Rep.”) (*available online at* <http://www.dccouncil.washington.dc.us/images/00001/20090513152155.pdf> (as of May 29, 2009)).

8. The Council held a number of public hearings on amending the District’s gun laws. *Id.* at 3. The Council heard from dozens of witnesses during these hearings. *Id.* at 11–12.

9. The District changed the law to allow the registration of most semi-automatic handguns and rifles. *Id.* at 2.

10. The Firearms Registration Amendment Act of 2008, Act 17-708 (“the Act”) was passed unanimously and signed by the Mayor on January 28, 2009. *See* 56 D.C. Reg. 1380 (Feb. 13, 2009).

11. The Act was transmitted to Congress for review on or about February 10, 2009. 155 Cong. Rec. S2319-05 (Feb. 13, 2009). Congress failed to nullify the Act during its mandated 30-

day period of review, and the law became effective on March 31, 2009. *See* 56 D.C. Reg. 3438 (May 1, 2009).

12. On June 17, 2009, the Chief adopted emergency regulations establishing the District Roster of Handguns Determined Not to be Unsafe (“District Roster”). *See* 56 D.C. Reg. 4782–4873 (June 19, 2009).

13. The regulations, *inter alia*, include within the District Roster handguns listed on similar rosters from California, Massachusetts, and Maryland, and deem included on the District Roster those pistols cosmetically similar to other, listed handguns. 24 DCMR § 2323.3. The regulations also contain provisions allowing an applicant to register a pistol not otherwise included on the District Roster and to appeal any such registration denials. *Id.*, §§ 2323.4, 2323.5.

14. On June 25, 2009, the MPD promulgated additional emergency regulations to “exemp[t] certain single action pistols manufactured before 1985 from the application of section 504 of the Act, and establishes that certain other types of pistols manufactured before 1985 are deemed included on the newly created District Roster of Handguns Determined Not to be Unsafe.” *See* 56 D.C. Reg. 5434 (July 3, 2009).

DATE: August 5, 2009

PETER J. NICKLES
Attorney General for the District of Columbia

GEORGE C. VALENTINE
Deputy Attorney General, Civil Litigation Division

/s/ Ellen A. Efros
ELLEN A. EFROS, D.C. Bar No. 250746
Chief, Equity Section I
441 Fourth Street, N.W., 6th Floor South
Washington, D.C. 20001
Telephone: (202) 442-9886

/s/ Andrew J. Saindon

ANDREW J. SAINDON, D.C. Bar No. 456987

Assistant Attorney General

Equity Section I

441 Fourth Street, N.W., 6th Floor South

Washington, D.C. 20001

Telephone: (202) 724-6643

Facsimile: (202) 727-0431

E-mail: andy.saindon@dc.gov