



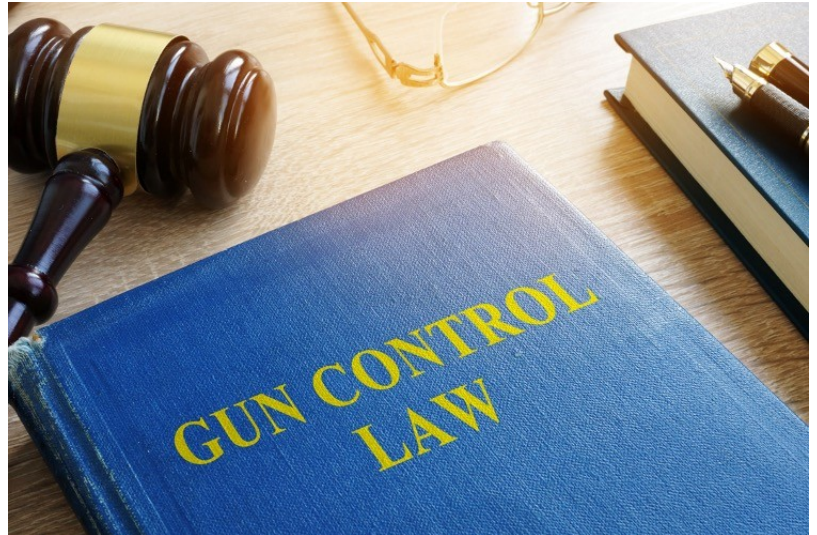
Written by [Bob Adelman](#) on March 29, 2021

Sixth Circuit Says ATF “Bump Stock” Ban Unconstitutional, Sends It Back to Lower Court

The U.S. Court of Appeals for the Sixth Circuit (Michigan) [finally ruled on Thursday](#) on the so-called bump stocks case that has been pending since December 2019, i.e., the attempt by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to arbitrarily and unilaterally rewrite its own rule about “bump stocks.” The court ruled that the effort by the ATF is unconstitutional:

It is not the role of the Executive [branch] — particularly the unelected administration state — to dictate to the public what is right and what is wrong....

That judgment is reserved to the people through their duly elected representatives in Congress.



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Following the October 2017 Las Vegas mass shooting, which cost the lives of 58 people, the ATF sought to rewrite its rule from 2010. The agency originally declared that fitting a rifle with a so-called bump stock — a mechanism placed over the stock and grip of a semi-automatic rifle that, by using the rifle’s own recoil, allows the shooter to essentially pull the trigger much faster, approximating a full-auto rate of fire — didn’t turn that rifle into a “machine gun.”

The change in the rule, i.e., saying bump stocks were now creating “machine guns,” was going through the ordinary process of eliciting public response, which generated more than 36,000 comments, most of them opposed.

But pressure was brought to bear on President Trump that became so intense from his anti-gun advisors that he violated his campaign pledge to defend the Second Amendment and ordered his then-Attorney General Jeff Sessions to “dedicate all available resources to complete the review of [those] comments and then, as expeditiously as possible, [support] the rule banning all devices that turn legal weapons into machine guns.”

That decision was challenged in court, to no avail. In April 2019, the Court of Appeals for the D.C. Circuit ruled that the ATF operated within its powers to change its rule.

However, another lawsuit was filed in Michigan by Gun Owners of American (GOA), one of its affiliates, and three individuals, which was appealed to the U.S. District Court of Michigan. When that court ruled in favor of the ATF, the case was appealed to the Sixth Circuit Court of Appeals.

It listened to arguments by the government that the agency was within its rights, based on precedent, to rewrite its own rule. The court disagreed, and sent the case back to the district level “for



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proceedings consistent with this opinion.”

Where it goes from here is anyone’s guess. The Supreme Court has been reluctant to take on Second Amendment cases, happy just to let lower court decisions — even those that rule in opposition to each other — stand.

What is worthy of note is this: Seven months after the ATF issued its ban, less than one percent of more than 500,000 bump stocks were surrendered. This bodes well for the future, in light of the Biden administration’s determination to disarm the American public piece by piece. Most citizens now know that these bans have nothing to do with preventing mass shootings but everything to do with removing all weaponry from the citizenry so that efforts to impose authoritarian government can proceed unimpeded.

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