



Texas Judge Issues Temporary Restraining Order Against ATF

Matthew Kacsmark, district judge for the Northern District of Texas, [stopped the ATF from enforcing its new rule](#) claiming that anyone selling, or even offering to sell, a firearm must register as a gun dealer. The temporary restraining order remains in place for just two weeks, and it only applies to the individual named in the complaint along with Gun Owners of America, Gun Owners Foundation, the Tennessee Firearms Association, and the Virginia Citizens Defense League.



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Erich Pratt, senior VP of GOA, celebrated:

President Biden and his anti-gun administration have aggressively pursued an agenda meant to harass, intimidate, and criminalize gun owners and dealers at every turn.

This ruling is a compelling rebuke of their tyrannical and unconstitutional actions that purposely misinterpreted federal law to ensure their preferred policy outcome.

Pratt has let his enthusiasm exceed the extent of the alleged victory. The ruling is limited and temporary. The other plaintiffs — Louisiana, Mississippi, and Utah — failed to “demonstrate standing” in the complaint, according to Kacsmark, “by not explaining, or even alleging, any injury to each State’s sovereign or semi-sovereign interests.”

Having said that, there is much to applaud in the TRO, and an important confirmation that the ATF is determined, by any means, to obtain the names of every gun owner in America.

While the plaintiffs complained that their rights would be violated by the newly expanded definition, Judge Kacsmark found the ATF guilty of lesser crimes sufficient to issue the TRO. It is assumed that the two-week extension will give him enough time to consider those other issues and make a final ruling in June.

There was plenty of evidence for the judge to rule against the ATF. The new definition demands that “a single firearm transaction or **offer** to engage in a transaction” may require a citizen to register as a gun dealer and be subject to a violation of Fourth Amendment-protected rights to be “secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”

The judge built his case for issuing the TRO on four points:

1. The final rule asserts that there is no “minimum number of firearms to actually be sold to be ‘engaged in the business’ for the purposes of the licensing requirement”;
2. “Actual profit is not a requirement of the statute — it is only the predominant **intent** to earn a profit.”;
3. The final rule “arbitrarily eviscerates ... a ‘safe harbor provision’ protecting owners who



Written by [Bob Adelman](#) on May 21, 2024

purchased their firearms primarily for self-defense purposes ... thereby necessitating the absurdity that the statute's safe harbor provision ***provides no safe harbor at all*** for the majority of gun owners; and

4. The ATF requires "that firearm owners prove innocence rather than the government prove guilt."

He scoffs at the ATF's claim that its "knowledge of existing case law" and "subject-matter expertise" will prevent misuse or abuse of the newly expanded definition. Wrote Kacsmaryk, "In other words, 'just trust us.'"

The real intent of the ATF was revealed during the hearing when the agency claimed that the gun groups bringing the complaint had no standing, that "the organizations must identify their members by ***name*** to have associational standing."

That's what this is all about. The ATF cannot confiscate the firearms if they don't know where they are and who owns them.

As for the other two lawsuits brought by Kansas and Florida on the same issue, they remain active in other courts.

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