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FEDERAL BUREAU OF INVESTIGATION) )  
 J. Edgar Hoover Building )  
 935 Pennsylvania Avenue, N.W. )  
 Washington, D.C. 20535 )  
 )  
 Defendants. )  
 \_\_\_\_\_)

**COME NOW** the Plaintiffs, by and through undersigned counsel, and allege as follows:

**PARTIES**

1. Plaintiff Daniel A. Umbert (“Umbert”) is an adult male citizen of the State of Florida and is a duly licensed attorney by the State Bar of Florida.

2. Plaintiff Troy Brent Chodosh “(Chodosh”) is an adult male citizen of the State of Texas.

3. Plaintiff Errol Alexander Eaton (“Eaton”) is an adult male citizen of the State of Mississippi.

4. Plaintiff Chase W. Bickel (“Bickel”) is an adult male citizen of the State of Indiana.

5. Plaintiff Gary James LeComte (“LeComte”) is an adult male citizen of the State of Idaho.

6. Defendant United States of America (“USA”) is a jural entity and a proper defendant under 18 USC § 925A.

7. Defendant Jefferson Sessions is sued in his official capacity as the

Attorney General of the United States of America. As Attorney General, Defendant Sessions is responsible for administering and executing the laws, customs, practices and policies of the United States, and is currently enforcing the laws, customs, practices and policies complained of in this action.

8. Defendant Federal Bureau of Investigation is sued as the entity that oversees and conducts the National Instant Criminal Background Check System (“NICS”) and is responsible for enforcing the laws, customs, practices and policies complained of in this action.

### **JURISDICTION AND VENUE**

9. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §§1331, 1343, 1346, 2201, 2202; 18 U.S.C. §925A; and 42 U.S.C. §1983 and §1988, since the United States and the Federal Bureau of Investigation are Defendants and the case arises under the Constitution and laws of the United States.

10. Venue is proper under 28 U.S.C. §1391.

### **STATEMENT OF FACTS**

#### **a. Applicable Law**

11. 18 U.S.C. §922(g)(1) provides that:

“It shall be unlawful for any person-- (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

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to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive

any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

12. 18 U.S.C. §921(a)(20) provides that:

The term “crime punishable by imprisonment for a term exceeding one year” does not include—

(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. **Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.** (emphasis added).

13. The vast majority of firearms are purchased through Federally Firearm Licensee (“FFL”).

14. FFLs are required to preform a background check via the National Instant Criminal Background Check System (“NICS”) prior to selling a firearm to an individual

15. FFLs are unable to sell to individuals who fail a background check.

16. Prior to October 23<sup>rd</sup>, 2015 individuals who received a denial from NICS could file an appeal with the FBI.

17. After October 23<sup>rd</sup>, 2015, the FBI stopped processing appeals despite still be authorized to process them.

18. Individuals who wish to purchase suppressor are required by federal law to pass a NICS check because suppressors are regulated by the National Firearms Act (“NFA”)

19. Individuals who wish to purchase a firearm may do so by private transfer.

20. However, it is illegal under federal law for a person to sell a firearm to a prohibited person.

21. It is customary for private sellers to inquire as to whether a person is prohibited in order to avoid criminal liability.

22. Thus, it is virtually impossible to lawfully purchase a firearm if a person is deemed prohibited by the FBI even if the FBI is incorrect.

**b. Suppressors**

23. There are more than 1.7 million suppressors owned by private citizen in the United States.

24. Suppressors are a set of empty baffles that attach to the front of a firearm to suppress the report of the firearms to levels that are not harmful or less-harmful to human hearing.

25. They do not “silence” a firearm as seen in the movies.

26. They are legal in approximately forty-two states.

27. The Second Amendment applies to all items which are in common use for self-defense. *See Heller v District of Columbia*, U.S. App. D.C. 314, 679 F.3d 1244 (2011).

28. This principle applies to items such as magazines that are useful to self-defense even though they fail the definition of an “arm.” *Id.*

29. The D.C. Circuit has found that AR-15s are in common use by private citizens for lawful purposes.

30. The Second Circuit has found that AR-15s are in common use because “four million units of a single assault weapon, the popular AR–15, have been manufactured between 1986 and March 2013”. *See New York State Rifle & Pistol Ass’n, Inc. v. Cuomo* (“NYSRPA”), 804 F.3d 242, 254 (2d Cir. 2015).

31. Similarly, suppressors are in common use typically used for lawful purposes. Thus, they are afforded Second Amendment protection.

32. Suppressors can be attached to firearm at all times.

33. In a self-defense scenario it is generally infeasible to take the time to put on hearing protection.

34. Hearing protection makes it more difficult to ascertain the location of a home invader.

35. Thus, a suppressed firearm is the better option for home defense.

36. Home defense is the core right protected by the Second Amendment.

37. Training with a firearm is part of that core right. *See Ezell v. City of Chicago*, 651 F.3d 684 (7th Cir. 2011).

38. When defending oneself with a handgun in a confined area such as a house it is common to suffer temporary deafness due to the sound a firearm makes in an enclosed space.

39. A suppressor muffles the sound a firearm makes in an enclosed space to levels that will not deafen a person and lead to permanent hearing loss.

40. Additionally, firearms training can cause permanent hearing loss over time.

41. Suppressors alleviate this risk by reducing the sound a firearm produces to levels that are not harmful or less-harmful to human hearing.

42. Suppressors are regulated under the NFA and defined as a firearm. In order to purchase a suppressor, first it must be legal in the state where the plaintiff resides.

43. Eaton and Umbert both reside in states where suppressor ownership is legal as long as the ownership complies with federal law (i.e., approved by the ATF and registered in the National Firearms Registration and Transfer Record).

44. A prospective suppressor purchaser must then file an application on ATF Form 5320.4 (commonly referred to as a Form 4<sup>1</sup>), answer a number of questions

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<sup>1</sup> This Form 4 is available on the ATF's website, found at: <https://www.atf.gov/firearms/docs/form/form-4-application-tax-paid-transfer-and-registration-firearm-atf-form-53204/download>

regarding whether the person is a prohibited person, affix a photograph of themselves, and submit fingerprints to the ATF.

45. These applications can take anywhere from 8 months to over a year to approve and transfer the suppressor (or other NFA-regulated firearm) to the applicant.

46. The FBI conducts the background checks for the ATF with respect to a Form 4 application. There is no lawful way to transfer a suppressor to an individual without submitting the Form 4 and submitting to a background check by FBI NICS. In other words, Plaintiffs Eaton and Umbert could not purchase a suppressor from an individual without having to go through the process of filing all necessary forms with the ATF, waiting the unreasonable amount of time it takes to review the application, and receiving a background check through FBI NICS, and then (hopefully) approval from ATF.

47. After the denial, the Plaintiffs Eaton and Umbert are now left with having waited an unreasonable period of time with their application being processed, then denied, and now their appeals of the erroneous denial will take an unknown amount of additional time. Afterwards, assuming the appeals go through and their information is corrected and the FBI “approves” their background check, Eaton and Umbert will be forced to reapply and wait an additional number of months for the transfer by the ATF.

**c. Capable of Avoiding Review**

48. This Court is allowed to retain jurisdiction of a case if it is capable of repetition and avoiding review even if the underlying events which give rise to the case and controversy is later mooted. *Del Monte Fresh Produce Co. v United States* 386 App. D.C. 406, 570 F 3d 316 (2009).

49. Under the capable of repetition yet evading review exception to mootness, the plaintiff must demonstrate that "(1) the challenged action is in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there [is] a reasonable expectation that the same complaining party would be subjected to the same action again." *Clarke v. United States*, 915 F.2d 699, 704, 286 U.S. App. D.C. 256 (D.C. Cir. 1990) (en banc) (quoting *Murphy v. Hunt*, 455 U.S. 478, 482, 102 S. Ct. 1181, 71 L. Ed. 2d 353 (1982)) (alteration in original); *see also Honig v. Doe*, 484 U.S. 305, 318-20, 108 S. Ct. 592, 98 L. Ed. 2d 686 & n.6 (1988).

50. Here, it is Plaintiffs belief that Defendants will attempt to moot this case by correcting Plaintiffs records at the onset of litigation. As fully described below, that is what occurred in several prior cases.

51. If that event occurs, Plaintiffs request that this Court retain jurisdiction of this matter.

52. Plaintiffs' challenge will not be moot where it seeks declaratory relief as to an ongoing policy. *City of Houston, Tex. v. Dep't of Housing & Urban Dev.*, 24 F.3d 1421, 1429-30, 306 U.S. App. D.C. 313 (D.C. Cir. 1994). In *Super Tire Engineering v. McCorkle*, 416 U.S. 115, 125, 94 S. Ct. 1694, 40 L. Ed. 2d 1 (1974), the Supreme

Court held that although a claim for injunctive relief preventing payment of welfare benefits during a strike was moot because the strike had ended, the employers' request for declaratory relief was not moot because the state's ongoing policy of paying strike benefits was, on the employers' theory of the case, "immediately and directly injurious to the [employers'] economic positions."

53. Here, Plaintiffs challenge is to Defendants ongoing policy whereby it does not process NICS appeals.

54. Under 28 C.F.R. § 25.10, the FBI has an obligation to verify the record correction with the originating agency and take all necessary steps to correct the record in NICS. This is not a discretionary duty.

55. However, the Defendants and FBI in particular, is improperly shifting their burden to the individual to follow up with various courts or jurisdictions. This is the same scenario found in *Ross v. Fed. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 903 F. Supp. 2d 333, 341 (D. Md. 2012). In *Ross*, the district court found that the defendant was improperly shifting the burden and that:

[t]he regulations make clear that the burden falls on the NICS Section to conduct additional research "to determine whether the prospective transferee is disqualified from possessing a firearm by Federal or state law." 28 C.F.R. § 25.6(c)(1). The NICS Section has three business days to ascertain whether a buyer's criminal record bars receipt of a firearm, and if it is unable to make a final decision, the FFL can transfer the firearm to the purchaser.

*Id.* at fn. 13.

56. This has been an ongoing issue with Defendants and they have been on notice as early as May 8, 2016 when the case *Gregory Michael Ledet v. USA*, in the United States District Court for the District of Columbia, Civil Action No. 1:16-cv-00865-ABJ was filed. Since that case, four others were filed: *Robert Boyd Rood v. USA*, in the United States District Court for the District of Columbia, Civil Action No. 1:17-cv-00839-KBJ; *Robert Earl Rowe v. USA*, in the United States District Court for the District of Columbia, Civil Action No. 1:16-cv-01510-APM; and *Charles Norfleet Hughes v. USA*, in the United States District Court for the District of Columbia, Civil Action No. 1:16-cv-01425-APM.

57. All the aforementioned cases were filed and then quickly the government defendant(s) “voluntarily” provided the relief sought in the actions. All five plaintiffs in those cases were granted their certificates to purchase their firearms. This essentially mooted those cases, yet it is apparent that the issues underlying the present action are evading review and are repeating day in and day out.

58. Defendants are denying Plaintiffs their Second Amendment rights. There are no bases for Defendants to deny Plaintiffs their firearms and their Second Amendment rights.

59. On January 20, 2016, USA Today reported that the FBI is halting “the processing of thousands of appeals from prospective buyers whose firearm purchase attempts have been denied.”<sup>2</sup>

60. Pursuant to a Freedom of Information Act request made in April 2016, the FBI finally provided documents confirming that it in fact stopped processing appeals and “Incoming Appeal Mail will not be processed.” See Exhibit “1”.

61. In this production under FOIA, many emails referencing the stoppage are included. For instance, one heavily redacted email states “The AST has five business days to tell a denied individual the reason for their denial. However, the AST Examiners are not performing any appeal work due to the increased volume.” *Id.* This email is dated December 17, 2015.

62. On January 13, 2016, another email stated, “We stopped processing front-end mail on 11/25/2015.” *Id.*

63. This leaves Plaintiffs and all others similarly situated with an inadequate remedy to have their issues resolved without resorting to the courts.

64. Defendants refusal to process Plaintiffs NICS appeals infringes upon their Second Amendment rights.

65. Plaintiffs seek declaratory relief (as well as other relief) that this policy violates Plaintiffs Second Amendment rights.

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<sup>2</sup> <http://www.usatoday.com/story/news/nation/2016/01/19/fbi-guns-background-checks/78752774/?siteID=je6NUbpObpQ-BbTAhOhBe3xFjZr6NOLwLQ>

**I. Plaintiff Daniel A. Umbert**

66. Umbert is a Florida-licensed attorney and is in good standing with the Florida State Bar.

67. Umbert is not a prohibited person.

68. Umbert attempted to purchase a suppressor and submitted a Form 4 to the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) on or about August 1, 2017.

69. Umbert received correspondence from the ATF on or about March 13, 2018 stating that his transfer of the suppressor he purchased was denied.

70. There is no claim in this letter as to what specifically Umbert was denied for, but instead, he received a form letter reciting the various prohibitory laws and denying Umbert his transfer. See Exhibit “2”.

71. A NICS Transaction Number (NTN) was assigned to Umbert. The NTN for this specific purchase is 100HTC5GS.

72. Umbert appealed the denial of his purchase, however, the Federal Bureau of Investigation is not actively processing appeals of denial of a firearm transfer.

73. Umbert is not a prohibited person, but now fears that the federal government believes he is somehow prohibited from owning, possession, storing or transferring a firearm.

74. For someone in his position as an active member of the Bar in good standing, an erroneous belief of the federal government that he is a prohibited

person could cause significant issues in his life and has chilled his constitutionally protected activity of owning or possessing firearms because he does not want to be falsely arrested and/or prosecuted for enjoying his rights secured by the Second Amendment.

75. The Defendants' actions of denying the transfer infringe on Umbert's Second Amendment right to own and possess firearms, including a suppressor which is defined as a firearm under federal law.

## **II. Plaintiff Troy Brent Chodosh**

76. Chodosh was arrested on or about October 27, 1999 to possession of over five pounds but less than fifty pounds of marijuana and plead guilty to same. This action was in the 117<sup>th</sup> District Court of Nueces County, Texas, *The State of Texas v. Troy Chodosh*, Cause No. 99-CR-3346-B.

77. Chodosh was given deferred adjudication/felony probation and placed on three (3) years of community supervision, assessed a \$1,000 fine and court costs of \$207.25. See Exhibit "3".

78. Chodosh was dismissed from community supervision and fulfilled all obligations under his plea agreement. The court ordered that Chodosh be permitted to withdraw his guilty plea and "the accusation, complaint, information or indictment and all proceedings against [Chodosh] are hereby dismissed; the defendant is hereby released from all penalties and disabilities

resulting from the offense or crime to which the defendant has pleaded guilty...”

This was entered on or about October 2, 2011. See Exhibit “4”.

79. Chodosh is not a prohibited person as the charge to which he pleaded guilty was deferred and then his guilty plea withdrawn and the case dismissed. As such, there is no federal or state prohibition on Chodosh owning, possessing, storing or transferring firearms.

80. Chodosh had purchased a LaRue Tactical<sup>3</sup> rifle and had it shipped to a local Federal Firearm Licensee (FFL) in his state of residence. Upon attempting to pick up the rifle and after completing the federally required forms, FBI NICS denied Chodosh’s transfer erroneously.

81. After his denial, Chodosh was given NTN 1007MVSX4.

82. Chodosh appealed the denial on or about April 17, 2017 and has since had no activity on his appeal.

83. Chodosh, believing that the denial was erroneous, requested a copy of his FBI file, which confirmed that his record demonstrated he received deferred adjudication for his crime, but does not demonstrate that the charge was ultimately dismissed after the successful completion of community supervision.

84. As such, the FBI’s records are erroneous and need to be updated to reflect that Chodosh is not a prohibited person.

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<sup>3</sup> “LaRue is known world-wide for sniper targets, quick-detachable mounting solutions and hyper-accurate 7.62mm and 5.56mm rifle systems.” See <https://www.larue.com/>.

85. Chodosh, even though he knows he is not a prohibited person, fears that the federal government believes that he is a prohibited person and could reasonably attempt to prosecute him for attempting to purchase a firearm.

86. This is because after a denial, the FBI transmits its denials to ATF Denial Enforcement NICS Intelligence Branch (DENI). The ATF then submits these denials to various ATF field offices for investigation and prosecution if necessary.

87. This denial has chilled Chodosh's Second Amendment rights as guaranteed by the Second Amendment and has prevented Chodosh from exercising his rights.

### **III. Plaintiff Chase W. Bickel**

88. In 2005, Bickel was charged with two Class D felonies in Indiana in the matter styled *State v. Chase W. Bickel*, in the Bartholomew Superior Court 1, Cause No. 03D01-0510-FD-001817.

89. Bickel pleaded guilty to Count I, receiving stolen property, Class D felony, and he was sentenced as a Class A misdemeanor to one year in jail - all suspended. His sentence was probation. Count II was also dismissed against him upon the state's motion.

90. In 2007, the court granted Bickel's motion for modification changing his Class D felony to a Class A misdemeanor. *See* Exhibit "5". In Indiana, a Class

A misdemeanor is punishable by up to one year in jail and a fine of up to \$5,000.

A Class A misdemeanor is not a prohibitory offense for firearms rights.

91. Bickel has a current License to Carry a Handgun in Indiana and has passed numerous previous NICS checks. However, upon a recent attempt to purchase a firearm, NICS denied Bickel his transfer.

92. After the denial, NICS provided NTN 100MJLJC1 to Bickel.

93. Bickel appealed his denial.

94. Bickel is not a prohibited person as his prior felony conviction was reduced to a Class A misdemeanor which is not a prohibitory offense. As such, the FBI erroneously denied Bickel's firearm transfer.

95. Defendants have chilled Bickel's rights secured to him by the Second Amendment as they have prevented him from exercising his rights afforded him by the Second Amendment.

#### **IV. Plaintiff Erroll Alexander Eaton**

96. Eaton was found guilty of the charges of Possession of Marijuana in a Motor vehicle and Possession of False Identification on May 15, 2003. The matter was styled *State of Mississippi v. Erroll Alexander Eaton*, in the Municipal Court of the City of Starkville, Cause Nos. 03-2329 and 03-2331.

97. On July 10, 2008, the municipal court granted Eaton's motion to expunge and restored Eaton "in the contemplation of the law, to the status he occupied

before he was arrested on these charges and the affidavit was filed against him.”

See Exhibit “6”<sup>4</sup>.

98. As Eaton’s criminal convictions were expunged, they are a legal nullity and cannot serve as a basis to deny Eaton his constitutional rights preserved by the Second Amendment.

99. Eaton applied to the ATF on a Form 4 for a suppressor. He filled out all the required paperwork and submitted his tax payment as required.

100. In May 2018, Eaton’s application was “disapproved by ATF based on the FBI reporting a final status of “open” on the required background check after 88 days and have not received information back on the final disposition of potentially prohibiting information.” NTN 100J3SDH4 was assigned to Eaton. See Exhibit “7”.

101. The FBI erroneously denied this firearm transfer as Eaton is not a prohibited person.

**V. Plaintiff Gary James LeComte**

102. LeComte was denied a transfer of a firearm in June 2015 when he went to retrieve a firearm that he had pawned and then wanted to reclaim out of the pawn shop. The NTN is 2YCWZXX.

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<sup>4</sup> Certain redactions were made to this document as it contained the social security number of Eaton. If it is necessary to provide unredacted copies, Eaton will do so under seal with approval of this Court.

103. LeComte filed an appeal and the FBI responded with the attached letter saying he was a prohibited person. See Exhibit “8.”

104. On April 10, 2018, LeComte received correspondence from the FBI stating that the FBI had resolved some prohibitory information in his record, however, two potential prohibitor(s) still remained. The FBI then shifted the burden to LeComte to research and provide records to the FBI.

105. The FBI listed two arrests: One with the U.S. Yosemite National Park Service for an arrest on January 5, 1975 and one with the Santa Cruz County Sheriff’s Office for an arrest on January 6, 1975. *Id.*

106. The FBI then directed LeComte to provide “**court documentation containing the final disposition, level of conviction, and/or convicting statute and subsection; police report or court documentation containing victim information.**” *Id.* Further, it instructed LeComte that once he has “obtained **ALL** of the requested documentation listed above, please submit it to our office. Please be advised, a ‘no record found’ document is not sufficient documentation and should not be provided.” *Id.*

107. For background, LeComte was arrested on or about January 5, 1975 by a National Park Service Park Ranger for malicious mischief – writing on a public restroom. LeComte was convicted of malicious mischief and to his recollection, was sentenced to ninety days probation and had to pay a fifty (\$50) dollar fine to repaint the bathroom.

108. This was not a felony conviction.

109. On January 6, 1975, LeComte was arrested by Capitola Police Department who arrested LeComte on a warrant from Santa Cruz County Sheriff's Office for an assault charge.

110. LeComte was convicted of a misdemeanor battery after it was reduced from a felony assault.

111. This conviction is not a prohibitory offense.

112. The FBI has improperly shifted its burden to LeComte to prove he is not a prohibited person with records which may or may not exist contrary to the FBI's burden of researching and finding these records on its own. See *Ross v. Fed. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 903 F. Supp. 2d 333, 341 (D. Md. 2012).

113. LeComte has routinely passed background checks in both California and Idaho and has even held a Class 1 Federal Firearms License in the 1990's.

114. LeComte is not a prohibited person.

**COUNT I - 18 U.S.C. § 925A**

115. Plaintiffs incorporate each previous paragraph as if set forth herein again.

116. 18 U.S.C. § 925A provides

Any person denied a firearm pursuant to subsection (s) or (t) of section 922—

(1) due to the provision of erroneous information relating to the person by any State or political subdivision thereof, or by the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act; or

(2) who was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 922,

may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be. In any action under this section, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs.

117. Plaintiffs requests that orders issue directing that any erroneous information be corrected, and the transfers be approved without delay.

118. Plaintiffs also request that an order issue directing Defendants to issue Plaintiffs a UPIN (Unique Personal Identification Number) so future transactions, for which delays or denials could reasonably reoccur, would be less likely to do so.

## **COUNT II – VIOLATION OF THE SECOND AMENDMENT**

119. Plaintiffs incorporate each previous paragraph as if set forth herein again.

120. Defendants' conduct burdens Plaintiffs' Second Amendment and all similarly situated individuals' rights as it prohibits them from purchasing firearms in their state of residence.

121. Defendants' conduct additionally burdens Plaintiffs' Second Amendment rights as Defendants act to arbitrarily and capriciously revoke Plaintiffs Second Amendment rights without due process of law.

122. Plaintiffs and all non-prohibited individuals have a right to purchase a firearm from an FFL and but for Defendants denying Plaintiffs their rights, Plaintiffs and all other similarly situated individuals would be allowed to purchase a firearm from an FFL.

123. Additionally, Plaintiffs are not prohibited persons and the Defendants should be immediately enjoined from denying Plaintiffs and all similarly situated individuals their Second Amendment rights.

124. Plaintiffs also request their attorneys' fees and costs be awarded to Plaintiffs and request any other relief that they may be entitled to.

### **COUNT III - (DECLARATORY JUDGMENT)**

125. Plaintiffs repeat and reallege the allegations of the preceding paragraphs as if set forth herein.

126. The Declaratory Judgment Act provides: "In a case of actual controversy within its jurisdiction, any court of the United States may declare the

rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought." 28 U.S.C. 2201(a).

127. Absent a declaratory judgment, there is a substantial likelihood that Plaintiffs will suffer irreparable injury in the future.

128. There is an actual controversy between the parties of sufficient immediacy and reality to warrant issuance of a declaratory judgment.

129. This Court possesses an independent basis for jurisdiction over the parties.

130. A judgment declaring regarding the complained about policies will serve a useful purpose in clarifying and settling the legal relations in issue and will terminate and afford relief from the uncertainty, insecurity, and controversy giving rise to the proceeding.

131. Defendants' laws, customs, practices and policies violates the Second Amendment to the United States Constitution and applicable statutory law, facially and as applied against the Plaintiffs in this action, damaging them. Plaintiffs are therefore entitled to a declaration declaring such laws, customs, policies, and practices unconstitutional.

**WHEREFORE**, Plaintiffs respectfully requests that the Court:

- (1) Order Defendants to correct their records on Plaintiffs to reflect that they are not forbidden to purchase, receive, or possess a firearm;
- (2) Order that Defendants allow the transfer of the firearm; and

- (3) Order Defendants to issue Plaintiffs a UPIN;
- (4) Declaratory relief to find that Defendants conduct violate applicable statutory law and the Second Amendment;
- (5) Find that suppressors are in common use by law abiding citizens for lawful purposes; and
- (6) That Plaintiffs be awarded their costs and attorneys' fees and any and all other relief they are entitled to.

Dated: June 5th, 2018.

Respectfully Submitted,

/s/ Stephen D. Stamboulieh  
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*\* Pro Hac Vice paperwork forthcoming*

[Redacted] (CJIS) (FBI)

b6  
b7C

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 7:51 AM  
**To:** [Redacted] (CJIS) (FBI)  
**Subject:** FW: Phones

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Thursday, June 09, 2016 9:42 AM  
**To:** [Redacted]  
**Subject:** FW: Phones

b6  
b7C

For the FOIA request

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Thursday, October 22, 2015 4:54 PM  
**To:** [Redacted]  
[Redacted]  
**Subject:** Phones

Hey guys,

Starting tomorrow 10/23 all AST is halting all Research/VAF Appeal cases as well as Explosives/Permits. All of our staff will be utilized same as the R and A Examiners. We've already sent up names for Escalation for next week, however change it however you see fit. Please add all of our Teams to the phone and e-check schedules as needed, just a couple exceptions –

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

b6  
b7C  
b7E

This will remain in effect until further notice [Redacted] None of our Teams will be needed under the Escalation plan due already being incorporated.

b5

If you have any questions please let me know.

Thanks!! [Redacted]

b6  
b7C

[Redacted] (CJIS) (FBI)

b6  
b7C

From: [Redacted] (CJIS) (FBI)  
Sent: Tuesday, June 14, 2016 7:52 AM  
To: [Redacted] (CJIS) (FBI)  
Subject: FW Thanksgiving workload

From: [Redacted] (CJIS) (FBI)  
Sent: Tuesday, November 24, 2015 12:31 PM  
To: [Redacted]  
Subject: RE: Thanksgiving workload

b6  
b7C  
b7E

Sorry, one more item I just thought about! [Redacted] Is that being stopped as well? Now I have time to think! Lol

----- Original message -----

From: [Redacted]  
Date: 11/24/2015 12:25 PM (GMT-05:00)  
To: [Redacted]

b6  
b7C

Cc: [Redacted]  
Subject: Thanksgiving workload

Looking at the forecast for the next few days and early next week (see attached), we will have checks very, very likely hitting the fourth day without being worked if things remain as they are now. Based on discussions with various staff and [Redacted] we are changing the plan for Friday (11/27), Monday (11/30) and Tuesday (12/1). We may also have to put these measures in place on Wednesday (12/2) but are trying to avoid it with the changes for Friday, Monday and Tuesday.

b6  
b7C

- 1) [Redacted]
- 2) [Redacted]

b7E

- 3) [Redacted]
- 4) [Redacted]
- 5) [Redacted]

b7E

In summary, we need everyone’s help to get through this week and next; therefore, everyone who can help and work the Queue need to be working the Queue when they are not scheduled for the phones or E-check. I am working very hard to be as transparent as possible and utilizing all necessary NOU and support staff resources to evaluate the forecasts and staffing to minimize the impact all I can. If you have any questions or suggestions, please feel free to let me know. Each Unit Chief should submit names to [Redacted] (and the normal email group) by COB today if possible but no later than COB 11/25 indicating who is capable to work the Queue and who is not. In addition [Redacted] (and group) needs names of available staff for each day next week as we anticipate we will be at Maximum all week. [Redacted] can then staff the E-check and TP schedules as applicable.

b6  
b7C

Thanks to everyone for helping out!!

[Redacted] (CJIS) (FBI)

b6  
b7C

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 2:51 PM  
**To:** [Redacted] (CJIS) (FBI)  
**Subject:** FW: Thanksgiving workload  
**Attachments:** NICS Escalation Plan Worksheet xlsx

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 2:44 PM  
**To:** [Redacted]  
**Subject:** FW: Thanksgiving workload

b6  
b7C

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Wednesday, November 25, 2015 7:34 AM  
**To:** [Redacted]  
[Redacted]  
**Subject:** FW: Thanksgiving workload

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Wednesday, November 25, 2015 7:27 AM  
**To:** [Redacted]  
[Redacted]  
**Cc:** [Redacted]  
**Subject:** FW: Thanksgiving workload

b6  
b7C

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Wednesday, November 25, 2015 7:26 AM  
**To:** [Redacted]  
**Subject:** FW: Thanksgiving workload

Here is what we got

From: [redacted] (CJIS) (FBI)  
Sent: Tuesday, November 24, 2015 12:36 PM  
To: [redacted]

b6  
b7C

Subject: FW: Thanksgiving workload

FYI

From: [redacted] (CJIS) (FBI)  
Sent: Tuesday, November 24, 2015 12:26 PM  
To: [redacted]

b6  
b7C

Cc: [redacted]

Subject: Thanksgiving workload

Looking at the forecast for the next few days and early next week (see attached), we will have checks very, very likely hitting the fourth day without being worked if things remain as they are now. Based on discussions with various staff and [redacted] we are changing the plan for Friday (11/27), Monday (11/30) and Tuesday (12/1). We may also have to put these measures in place on Wednesday (12/2) but are trying to avoid it with the changes for Friday, Monday and Tuesday.

- 1) [redacted]
- 2) [redacted]
- 3) [redacted]
- 4) [redacted]
- 5) [redacted]

b7E

In summary, we need everyone's help to get through this week and next; therefore, everyone who can help and work the Queue need to be working the Queue when they are not scheduled for the phones or E-check. I am working very hard to be as transparent as possible and utilizing all necessary NOU and support staff resources to evaluate the forecasts and staffing to minimize the impact all I can. If you have any questions or suggestions, please feel free to let me know. Each Unit Chief should submit names to [redacted] (and the normal email group) by COB today if possible but no later than COB 11/25 indicating who is capable to work the Queue and who is not. In addition, [redacted] (and group) needs names of available staff for each day next week as we anticipate we will be at Maximum all week. [redacted] can then staff the E-check and TP schedules as applicable.

b6  
b7C

Thanks to everyone for helping out!!

[Redacted] (CJIS) (FBI)

b5  
b6  
b7C

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 7:50 AM  
**To:** [Redacted] (CJIS) (FBI)  
**Subject:** [Redacted]

-----Original Message-----

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Thursday, June 09, 2016 10:13 AM  
**To:** [Redacted]  
**Subject:** [Redacted]

b5  
b6  
b7C

-----Original Message-----

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Friday, November 27, 2015 8:33 AM  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** [Redacted]

b5  
b6  
b7C

[Redacted]

[Redacted]

Thanks,

[Redacted]

[redacted] (CJIS) (FBI)

---

b6  
b7C

**From:** [redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 7:52 AM  
**To:** [redacted] (CJIS) (FBI)  
**Subject:** FW: Hot Topics

-----Original Message-----

**From:** [redacted] (CJIS) (FBI)  
**Sent:** Monday, November 30, 2015 8:23 AM  
**To:** [redacted]  
**Subject:** Hot Topics

b6  
b7C

[redacted]

Please add to Hot Topics.

On November 28, 2015, the Appeal Services Team missed the five business day deadline to respond with the reason for denial on three appeals. Appeal worked was stopped for two weeks due to the delay queue volume.

Thanks,

[redacted]

[Redacted] (CJIS) (FBI)

b6  
b7C

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 2:48 PM  
**To:** [Redacted] (CJIS) (FBI)  
**Subject:** FW: Workload Meeting

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 2:46 PM  
**To:** [Redacted]  
**Subject:** FW: Workload Meeting

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Monday, December 07, 2015 9:56 AM  
**To:** [Redacted]

b6  
b7C

[Redacted]

**Subject:** FW: Workload Meeting

*FYI*

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Monday, December 07, 2015 9:54 AM  
**To:** [Redacted]  
**Subject:** FW: Workload Meeting

b6  
b7C

Please get this out to your teams!

Thanks,

[Redacted]

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Monday, December 07, 2015 9:41 AM  
**To:** [Redacted]

b6  
b7C

[Redacted]

**Subject:** FW: Workload Meeting

Please share with staff.

[redacted] not sure who is here and who isn't so please ensure Team Leads receive this.

b6  
b7C

Thanks,

[redacted]

From [redacted] (CJIS) (FBI)  
Sent: Monday, December 07, 2015 9:40 AM  
To [redacted]

[redacted]

b6  
b7C

Subject: Workload Meeting

Per our conversation in this morning's workload meeting. Please let your staff know. Thanks!

- [redacted]
- Incoming Appeal Mail will not be processed.
- [redacted]
- Tuesday (12/8) through Friday (12/11)– leave is cancelled for all NICS Section Staff
- NICS will try to minimize as much as possible any leave restrictions; however, Mondays and Tuesdays for the remainder of December will potentially have leave cancelled. Decisions will be made from week-to-week in an effort to minimize the days restricted.
- All days previously provided for NICS as being 0% leave will still be in effect through the remainder of 2015.
- All NICS Section and Division Assistance Staff must report to the NCC if they are working E-Check/TP, but were not scheduled. The NCC will assign functions based on the need and will pull Examiners off to work the delay queue. This includes Supervisors and Area Managers.
- The NICS Management Team is doing all we can to avoid mandatory overtime; however, the potential exists due to the increased volume being received.
- Over the weekend, the NICS Section received 9,728 more E-Check transactions than was forecasted
- We are currently running 30% higher than expected and this will run through Christmas

b7E

b7E

I know it isn't enough, but we thank you and your staff for all of the assistance. Also, hats off to the R&A staff for all of their hard work!

Thanks,

[redacted]

b6  
b7C

[Redacted] (CJIS) (FBI)

b6  
b7C

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 3:12 PM  
**To:** [Redacted] (CJIS) (FBI)  
**Subject:** FW: Five Day Responses for Appeals

-----Original Message-----

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 3:10 PM  
**To:** [Redacted]  
**Subject:** FW: Five Day Responses for Appeals

b6  
b7C

-----Original Message-----

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Thursday, December 17, 2015 3:58 PM  
**To:** [Redacted]

[Redacted]

b6  
b7C

**Subject:** FW: Five Day Responses for Appeals

-----Original Message-----

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Thursday, December 17, 2015 3:57 PM  
**To:** [Redacted]

[Redacted]

b6  
b7C

**Subject:** FW: Five Day Responses for Appeals

-----Original Message-----

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Thursday, December 17, 2015 12:40 PM  
**To:** [Redacted]

[Redacted]

b6  
b7C

Cc: [Redacted]

b6  
b7C

[Redacted]

**Subject: Five Day Responses for Appeals**

**Please share with the Supervisors and ask them to share with their staff.**

**The AST has five business days to tell a denied individual the reason for their denial. However, the AST Examiners are not performing any appeal work due to the increased volume.** [Redacted]

b5

[Redacted]

[Redacted]

b5  
b7E

[Redacted]

**Thanks,**

[Redacted]

b6  
b7C

[Redacted] (CJIS) (FBI)

b6  
b7C

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 7:49 AM  
**To:** [Redacted] (CJIS) (FBI)  
**Subject:** FW: Backlogs because of surge of staff

FOIA

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Thursday, June 09, 2016 10:16 AM  
**To:** [Redacted]  
**Subject:** FW: Backlogs because of surge of staff

b6  
b7C

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Friday, December 18, 2015 4:13 PM

**To:** [Redacted]  
**Cc:** [Redacted]

[Redacted]

b6  
b7C

**Subject:** RE: Backlogs because of surge of staff

[Redacted]

In light of the sensitivity – the rewrite looks good.

Thanks,

[Redacted]

**From:** [Redacted] (FD) (FBI)  
**Sent:** Friday, December 18, 2015 4:08 PM

**To:** [Redacted]

[Redacted]

**Cc:** [Redacted]

[Redacted]

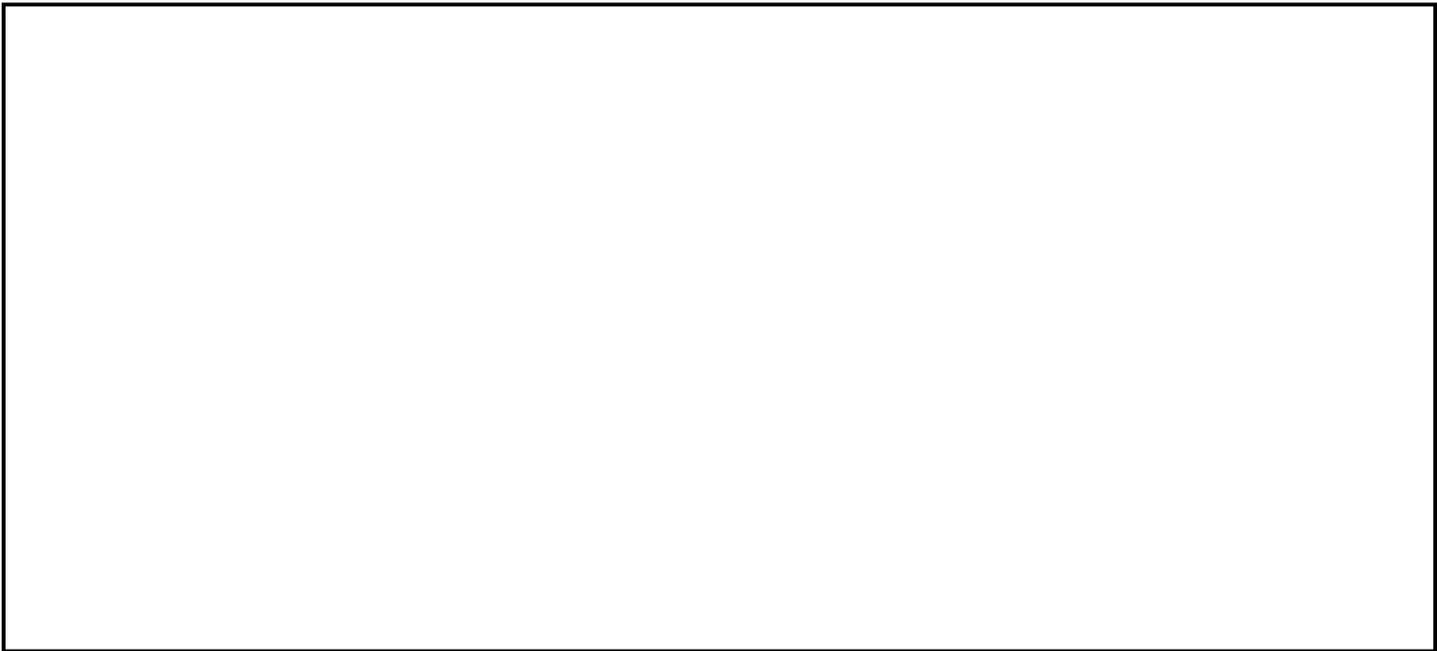
b5  
b6  
b7C

**Subject:** RE: Backlogs because of surge of staff

[Redacted]

Hi [Redacted]

b5  
b6  
b7C

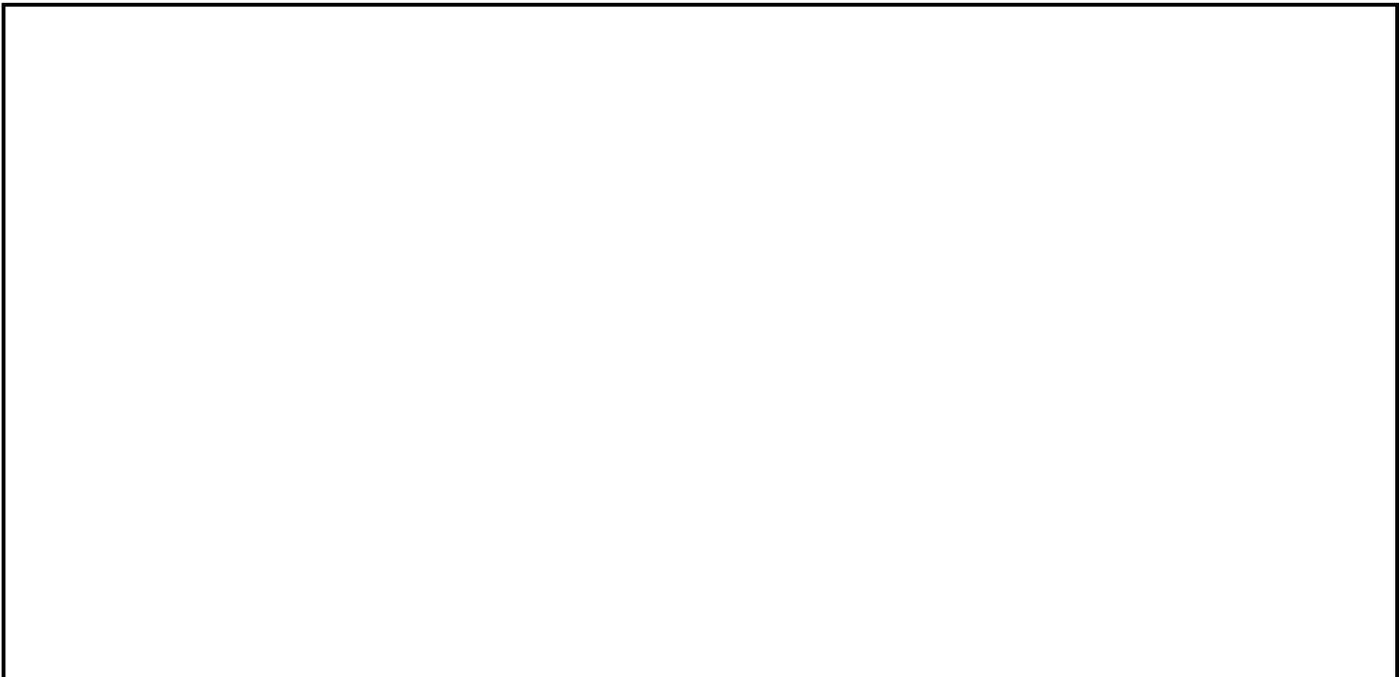


**From:** [redacted] (CJIS) (FBI)  
**Sent:** Friday, December 18, 2015 2:06 PM  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** RE: Backlogs because of surge of staff

b5  
b6  
b7C

[redacted]

Please see responses below from NICS.



[Redacted]

b5

[Redacted]

FBI CJIS Division  
Unit Chief, Financial Management Unit  
Module D-3

b6  
b7C

Office: [Redacted]  
Cell: [Redacted]  
Email: [Redacted]

From: [Redacted] (FD) (FBI)  
Sent: Friday, December 18, 2015 12:38 PM

To: [Redacted]

[Redacted]

Cc: [Redacted]

[Redacted]

Subject: RE: Backlogs because of surge of staff

b5  
b6  
b7C

[Redacted]

[Redacted]

Thanks

[Redacted]

From: [Redacted] (CJIS) (FBI)  
Sent: Friday, December 18, 2015 12:02 PM

b6  
b7C

To: [Redacted]

Cc: [Redacted]

Subject: FW: Backlogs because of surge of staff

[Redacted]

I did not include everyone on the email – wanted to get this to you quickly. Please see [Redacted] note below and the attached.

Thank you,

[Redacted]

From: [Redacted] (CJIS) (FBI)  
Sent: Friday, December 18, 2015 11:56 AM

To: [Redacted]

Subject: Backlogs because of surge of staff

b5  
b6  
b7C

[Redacted]

[Redacted] (CJIS) (FBI)

b6  
b7C

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 2:45 PM  
**To:** [Redacted] (CJIS) (FBI)  
**Subject:** FW: Five Day Responses for Appeals

-----Original Message-----

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 2:39 PM  
**To:** [Redacted]  
**Subject:** FW: Five Day Responses for Appeals

b6  
b7C

Not sure if this is what you are looking for

-----Original Message-----

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Friday, December 18, 2015 5:57 AM  
**To:** [Redacted]

[Redacted]

b6  
b7C

**Subject:** FW: Five Day Responses for Appeals

-----Original Message-----

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Thursday, December 17, 2015 3:57 PM  
**To:** [Redacted]

[Redacted]

b6  
b7C

**Subject:** FW: Five Day Responses for Appeals

-----Original Message-----

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Thursday, December 17, 2015 12:40 PM  
**To:** [Redacted]

[Redacted]

**Cc:** [Redacted]  
[Redacted]

b6  
b7C

**Subject: Five Day Responses for Appeals**

**Please share with the Supervisors and ask them to share with their staff.**

**The AST has five business days to tell a denied individual the reason for their denial. However, the AST Examiners are not performing any appeal work due to the increased volume.** [redacted]

b5

[redacted]

[redacted]

b5  
b7E

[redacted]

**Thanks,**

[redacted]

b6  
b7C

[Redacted] (CJIS) (FBI)

b6  
b7C

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, June 14, 2016 7:52 AM  
**To:** [Redacted] (CJIS) (FBI)  
**Subject:** FW: 5 Day Appeal Responses--who to notify?

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Wednesday, January 13, 2016 1:29 PM  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: 5 Day Appeal Responses--who to notify?

b6  
b7C

We stopped processing front-end mail on 11/25/2015. [Redacted]  
[Redacted]

b7E

Thanks,  
[Redacted]

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Wednesday, January 13, 2016 8:15 AM  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: 5 Day Appeal Responses--who to notify?

b6  
b7C

[Redacted]

After reading through the SMT update I am not clear on when we "began" not processing 5 Day Appeal letters and when we resumed processing 5 Day Appeal letters. If you can provide clarification on that I believe I have all I need.

Thank You!

[Redacted]

**From:** [Redacted] (CJIS) (FBI)  
**Sent:** Tuesday, January 12, 2016 5:20 PM  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: 5 Day Appeal Responses--who to notify?

b6  
b7C

[Redacted]—The risks identified thus far include:

[Redacted]

b5

[Redacted]

Let me know if there is anything else you need.

Thanks,

[Redacted]

b5  
b6  
b7C  
b7E

From: [Redacted] (CJIS) (FBI)

Sent: Tuesday, January 12, 2016 2:46 PM

To: [Redacted]

Cc:

Subject: RE: 5 Day Appeal Responses--who to notify?

[Redacted] However I still need the risks if you can provide those and the message we provided to the appellants when they called the NICS.

From: [Redacted] (CJIS) (FBI)

Sent: Tuesday, January 12, 2016 2:23 PM

To: [Redacted]

Cc:

Subject: 5 Day Appeal Responses--who to notify?

b5  
b6  
b7C  
b7E

[Redacted]

[Redacted]

The paper stalled during the Maximum Escalation and I am able to pick it back up today to work on it.

[Redacted]

NICS Section Workload Management Meeting – Discussion Points:

- The decision was made to go with Maximum Escalation up to 12/25/15 based on expected incoming transaction volume.
- [REDACTED] This will be evaluated on a weekly basis. b7E
- [REDACTED] This will be evaluated on a weekly basis.
- Division Assistance for December 2, 3 and 4, 2015, will be determined by close of business Tuesday, December 1, for staff planning purposes.
- For this week the following leave requirements will be in effect for the NICS Section's staff:
  - o Monday (11/30) – leave was cancelled
  - o Tuesday (12/1)– leave is cancelled
  - o Wednesday (12/2)– NOU Staff 20%, Support Staff N/A, Division Assistance N/A
  - o Thursday (12/3)– NOU Staff 20%, Support Staff N/A, Division Assistance N/A
  - o Friday (12/4)– NOU Staff 10%, Support Staff 50%, Division Assistance N/A
- NICS will try to minimize as much as possible any leave restrictions; however, Mondays and Tuesdays for the remainder of December will potentially have leave cancelled. Decisions will be made from week-to-week in an effort to minimize the days restricted.
- Action for NOU and [REDACTED] Need to determine Division Assistance and any leave restrictions for them for next week. b6 b7C
- All days previously provided for NICS as being 0% leave will still be in effect through the remainder of 2015.
- 11/30/2015 – [REDACTED] b7E
- There is still a maximum total of 12 hours an employee can work for any given day
- NOU Management requested a Section IDR report to gauge performance
- Discussions about work being delayed by those assisting and the number of quicks being processed was raised to support the 5215 transactions processed from the delay queue on 11/30/2015
- December 1, 2014, versus 2015 start of the day Delay Queue comparison:
  - o 2014 – 4684 total transaction
  - o 2015 – 6978 total transactions
- [REDACTED] is working on accesses and logons for Division assistance so that the Command Center can more closely monitor and appropriately assign staff to TP/E-Check and the Delay Queue b6 b7C
- All NICS Section and Division Assistance Staff must report to the NCC if they are working E-Check/TP, but were not scheduled. The NCC will assign functions based on the need and will pull Examiners off to work the delay queue. This includes Supervisors and Area Managers.
- [REDACTED] b7E
- [REDACTED]
- Action for each Unit Chief: If you have staff that cannot work the Delay Queue, please send those names to [REDACTED] in the Command Center no later than COB today (12/1). b6 b7C



Bureau of Alcohol, Tobacco,  
Firearms and Explosives

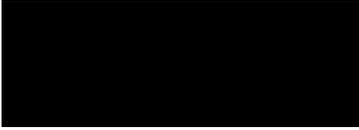
*National Firearms Act Branch*

244 Needy Road  
Martinsburg, WV 25405

March 13, 2018

[www.atf.gov](http://www.atf.gov)

Daniel Angel Umbert



Mr. Umbert

This letter responds to your recent submission of an ATF Form 4 Application for Tax Paid Transfer and Registration of a Firearm. Specifically, you are listed as the transferee on the ATF Form 4 and therefore seek possession of a Silencer S/N .

The GCA, 18 U.S.C. § 922(g), prohibits certain persons from shipping, transporting, possessing, or receiving firearms. These are known collectively as "prohibited persons." The NFA, 26 U.S.C. § 5812, requires that an application to transfer NFA firearms "*shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.*" This includes any transfers to individuals who are prohibited from possessing firearms pursuant to 18 U.S.C. § 922(g).

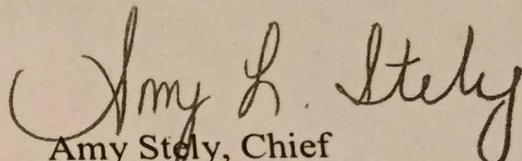
Because ATF is prohibited from approving any transfer to a prohibited person, the NFA implementing regulations require that "in addition to any other records checks that may be conducted to determine whether the transfer, receipt, or of a firearm would place the transferee in violation of law, the Director shall contact the National Instant Criminal Background Check System."

The National Instant Criminal Background Check System (NICS) was created by section 103 of the Brady Handgun Violence Prevention Act of 1993 (Brady Act), 103 P.L. 159. NICS is a name check system that queries available records in the National Crime Information Center (NCIC), the Interstate Identification Index (III), and the NICS Index to determine if prospective firearm purchasers are disqualified from receiving or possessing firearms. When FBI/NICS informs ATF that their records indicate that an individual is a prohibited person, a NICS Transaction Number (NTN) is assigned to the individual. Federal law requires that ATF deny any application to transfer firearms to that individual. Your NTN is **100HTC5GS**.

The Federal Bureau of Investigations (FBI) is responsible for operating NICS. Pursuant to the requirements of the Brady Act, the FBI has published implementing regulations regarding the operation of NICS, 28 Code of Federal Regulations CFR, Part 25, subpart A. These regulations, 28 CFR § 25.6 (j)(2), permit NICS to respond to inquiries by ATF in connection with a civil or criminal law enforcement activity relating to the Gun Control Act of 1968 or the National Firearms Act.

We trust that the foregoing has been responsive to your request. Please contact Diane Wood at (304)-616-4500, if you have further questions.

Respectfully,

A handwritten signature in cursive script that reads "Amy L. Stely". The signature is written in dark ink and is positioned above the printed name and title.

Amy Stely, Chief  
NFA Industry Processing Branch

NO. 99 CR 3346 B

THE STATE OF TEXAS

VS.

TRCY CHODOSH

\* \* \* \* \*

IN THE 117TH DISTRICT COURT  
NUECES COUNTY, TEXAS

JUDGMENT ON PLEA OF GUILTY OR NOLO CONTENDERE TO THE COURT  
DEFERRED ADJUDICATION

Defendant was charged by indictment with the offense of POSSESSION OF MARIJUANA. This case was called for trial on DECEMBER 4, 2000. The parties appeared and announced ready for trial. The following attorneys appeared: for the State, MARK W. STOLLEY; for the defendant FRED JIMENEZ. The defendant was personally present with defendant's counsel during the trial.

The defendant stood charged with the offense of POSSESSION OF MARIJUANA and waived trial by jury. The Court approved the waiver after finding that all of the requirements of Article 1.13, Texas Code of Criminal Procedure, had been met.

Defendant waived reading of the indictment and entered a plea of guilty. The Court inquired as to the existence of any plea bargaining agreement. The parties informed the Court that one existed and advised the Court of its terms. Before making any finding on the plea the Court informed the defendant that it would follow the agreement.

Before accepting the plea, the defendant was advised by the Court of the elements of the offense, of the applicable range of punishment, and further admonished as required by Article 26.13, Texas Code of Criminal Procedure. The defendant was further advised that if the defendant was not a citizen of the United States of America, a plea of guilty or nolo contendere for the offense charged may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law.

Before accepting the plea, the Court found that the defendant was mentally competent. The Court found that the plea was being made knowingly, freely, and voluntarily. Based on representations by defendant and defendant's counsel, the Court finds that defendant has received effective assistance of counsel.

Evidence was submitted on the issues of guilt and punishment.

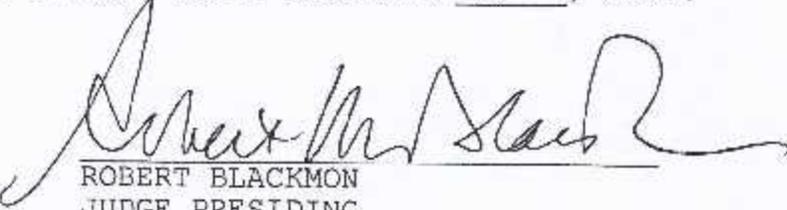
The Court accepts the defendant's plea of guilty, and based on the evidence submitted, the Court finds beyond a reasonable doubt that the evidence substantiates the defendant's guilt, but further finds that the best interest of society and the defendant will be served by deferring further proceedings without an adjudication of guilt and by placing the defendant on community supervision for a period of THREE YEARS and by assessing a fine of \$1,000.00. The State of Texas shall have and recover of the Defendant all costs for this prosecution in the amount of \$ 207.25 for which let execution issue.

The Court further finds beyond a reasonable doubt that the defendant, as a result of defendant's criminal conduct, caused monetary damages in this case in the amount of \$-0-.

The Court finds beyond a reasonable doubt that the offense was committed on OCTOBER 27, 1999.

In accordance with these findings, it is ordered, adjudged, and decreed that further proceedings in the cause are deferred and the defendant is placed on community supervision for a period of THREE YEARS. The community supervision term and the terms and conditions of community supervision are set out in a supplementary order to this judgment. The clerk of the court shall furnish a copy of the terms and conditions to the probationer and shall note the date of delivery on the docket.

Signed and entered on this date: DECEMBER 8, 2000.

  
ROBERT BLACKMON  
JUDGE PRESIDING

CONDITIONS OF COMMUNITY SUPERVISION  
DEFERRED ADJUDICATION-FELONY PROBATION

THE STATE OF TEXAS

IN THE 117TH DISTRICT COURT

VS

NO: 99-CR-3346-B

FILED

OF NUECES COUNTY, TEXAS

TROY CHODOSU

SID #10098630

OFFENSE: POSSESSION OF MARIJUANA/DRUG FREE ZONE

DATE PLACED ON PROBATION: DECEMBER 04, 2000

DEC 05 2000 5:50p  
CLERK OF DISTRICT COURT  
NUECES COUNTY TEXAS

You have been placed on community supervision this date for a period of **THREE (3) YEARS** by the Presiding Judge, 117TH District Court of Nueces County, Texas, and you shall comply with the following conditions of community supervision:

- (A) REPORT TO THE CSCD OFFICER AS DIRECTED and at least once each month while you are under supervision;
- (B) DO NOT VIOLATE THE LAWS of this State or of any other State or of the United States;
- (C) PAY the following as determined by the Court:

\$207.25	COURT COSTS:	at the rate of \$40.00 per month beginning 01-04-01 and due by 06-04-01.
\$1,000.00	FINE:	at the rate of \$40.00 per month beginning 07-04-01 and due by 07-04-03.
\$50.00	CRIME STOPPERS FEE:	due on or before 09-04-03.
\$25.00	PSI FEE:	due on or before 10-04-03.
\$40.00	PROBATION FEES:	beginning 01-04-01 and each and every month thereafter while under supervision.

- (D) ABSTAIN FROM THE CONSUMPTION OF ALCOHOL AND CONTROLLED SUBSTANCES and SUBMIT to random testing and urinalysis for same at your expense as directed by the CSCD Officer.
- (E) REPORT any change of residence, job, job status to the Probation Officer within 72 hours.
- (F) In lieu of serving your sentence in jail, you will participate in the daily/weekend SHERIFF'S UTILIZATION RELEASE PROGRAM (SPURS) supervised by the Nueces County Sheriff's Department for a period of 60 days beginning 12-09-00 (WEEKENDS).

ACKNOWLEDGED

Troy Chodosu  
DEFENDANT

ORDERED THIS DAY: 5 Dec 2000

[Signature]  
PRESIDING JUDGE

WITNESSED BY: Austin Skoppa  
PROBATION OFFICER

THE JUDGE WILL REVIEW YOUR PROBATION PROGRESS in the 117th District Court on:  
DECEMBER 14, 2000, at 3:45 p.m. for an Orientation Hearing

FEBRUARY 22, 2001, at 4:00 p.m. for a (90 day) Probation Progress Report

MAY 24, 2001, at 4:00 p.m. for a (180 day) Probation Progress Report  
YOU AND YOUR PROBATION OFFICER ARE EXPECTED TO ATTEND.



CAUSE NO. 99-CR-3346-B

THE STATE OF TEXAS  
VS  
TROY CHODOSH

IN THE 117TH DISTRICT COURT  
OF NUECES COUNTY, TEXAS

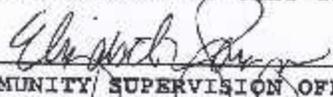
MOTION TO REDUCE PERIOD OF COMMUNITY SUPERVISION  
AND TERMINATE DEFENDANT FROM COMMUNITY SUPERVISION

NOW COMES THE COMMUNITY SUPERVISION OFFICER FOR NUECES COUNTY, TEXAS, and would show the Court the following:

At a previous hearing, the defendant entered a plea of guilty to the charges against him and the Court finding the evidence would substantiate the guilt of the defendant's deferred adjudication and placed defendant on community supervision.

It now appears that the best interest of society and the defendant would be served by the Court dismissing the proceeding herein and discharge said defendant prior to the expiration of the term of community supervision, to wit: while on community supervision, the subject has complied with Court's orders and no violation occurred. All court ordered financial obligations have been met.

Therefore, the Nueces County Community Supervision and Corrections Department requests the Court to dismiss the proceedings herein and discharge said defendant at this time.

  
COMMUNITY SUPERVISION OFFICER

  
REVIEWING AUTHORITY

=====

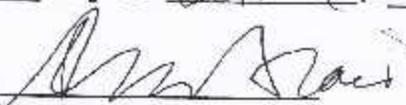
ORDER REDUCING AND TERMINATING COMMUNITY SUPERVISION  
AND RELEASING DEFENDANT FROM ALL PENALTIES AND DISABILITIES

This day the Court considered the above Motion, and is satisfied that the defendant has satisfactorily fulfilled the conditions of community supervision, and that the period of community supervision should be reduced, and cause dismissed.

Accordingly, it is ORDERED that the period of community supervision be and is hereby reduced, and the defendant be and is hereby discharged from community supervision.

It is further ORDERED that the defendant is permitted to withdraw his plea of guilty or nolo contendere; the accusation, complaint, information or indictment and all proceedings against the Defendant are hereby dismissed; the defendant is hereby released from all penalties and disabilities resulting from the offense or crime to which the defendant has pleaded guilty, except that upon conviction of a subsequent offense, the fact that the defendant had previously received community supervision shall be admissible before the Court or jury to be considered on the issue of penalty.

SIGNED this 11 day of October, 2002.

  
JUDGE PRESIDING

SID: 10098630  
F-ET.RB 081799

Indiana Michigan

Searching Bartholomew County, IN

11 / 20

welcome my doxpop court cases e-filing recorded documents tax warrants help notifications (50)

Criminal Case Detail go to advanced search OR bickel, chase Case Party Super Search Search

Parties Calendar Minutes Hard Copy References Financial

E-filers: A small change to document descriptions. Click here to learn how this affects you. New Feature: Get your Doxpop alerts right in Doxpop! Read about it here or visit the tab here.

Bartholomew Superior Court 1 03D01-0510-FD-001817

Information current as of 5/25/18, 8:59 AM EDT

+ Add

State Vs Chase W Bickel File date: 10/31/2005 Disposition Date: 06/28/2006

E-File On This Case

Printable View View CCS

Parties Involved

Table with 2 columns: Attorneys and Parties. Rows include Nash, William Moss [Attorney] and Molewyk, Kathryn Deneut [Attorney] on the left, and State of Indiana [State Plaintiff] and Bickel, Chase W [Defendant] on the right.

Charge Records

Table with 3 rows of charge records. Each row includes Count, Number, Charge description, Charge Type, Charge Date, Plea, and Disposition Date.

Hardcopy References

No documents available for this case

Exhibit "5"

**Calendar Entries**

No calendar entries exist for this case

**Minute Entries***(Most recent at top)*

<p>Minute Date: <b>10/2/2007</b>  Input Date: <b>Unavailable</b>  Type: <b>Converted Event</b></p> <p>HEARING HELD. COURT GRANTS DEFT'S MOTN FOR MODIFICATION TO A/MISDEMEANOR. COURT ORDERS CONVICTION ENTERED HEREUNDER BE AMENDED TO A CLASS A MISDEMEANOR. (RJO? N)   JTS Minute Entry Date: 09/24/2007</p>
<p>Minute Date: <b>10/2/2007</b>  Input Date: <b>Unavailable</b>  Type: <b>Converted Event</b></p> <p>REDOCKETED DISP: BENCH TRIAL (DISPOSED: REDBT) (RJO? N)   JTS Minute Entry Date: 09/24/2007</p>
<p>Minute Date: <b>9/24/2007</b>  Input Date: <b>Unavailable</b>  Type: <b>Converted Event</b></p> <p>Red. Disp REDBT</p>
<p>Minute Date: <b>9/24/2007</b>  Input Date: <b>Unavailable</b>  Type: <b>Converted Event</b></p> <p>Calendar: MODIFICATION HEARING (Time: 11:15:00) (Judge: D01)</p>
<p>Minute Date: <b>9/20/2007</b>  Input Date: <b>Unavailable</b>  Type: <b>Converted Event</b></p> <p>Set for Modification Hearing: 9/24/07 AT 11:15 A.M.. (RJO? N)   JTS Minute Entry Date: 09/18/2007</p>
<p>Minute Date: <b>8/23/2007</b>  Input Date: <b>Unavailable</b>  Type: <b>Converted Event</b></p> <p>Redocketed. DEFT FILED MOTN FOR MODIFICATION OF SENTENCE AND REQUEST FOR HEARING (RJO? N)   JTS Minute Entry Date: 08/16/2007</p>
<p>Minute Date: <b>8/23/2007</b>  Input Date: <b>Unavailable</b>  Type: <b>Converted Event</b></p> <p>STATE TO FILE ANY RESPONSE TO DEFT'S MOTION WITHIN 30 DAYS (RJO? N)   JTS Minute Entry Date: 08/23/2007</p>
<p>Minute Date: <b>8/20/2007</b>  Input Date: <b>Unavailable</b>  Type: <b>Converted Event</b></p> <p>MOTION FOR MODIFICATION OF SENTENCE AND REQUEST FOR HEARING; FILED BY KATHRYN MOLEWYK (RJO? N)   JTS Minute Entry Date: 08/16/2007</p>
<p>Minute Date: <b>7/5/2006</b>  Input Date: <b>Unavailable</b>  Type: <b>Converted Event</b></p> <p>DEFT SENTENCED AS A CLASS A MISDEMEANOR TO 1 YEAR AT BARTH CO JAIL, ALL SUSPENDED. DEFT SERVED 2 ACTUAL JAIL DAYS FOR 4 DAYS CREDIT. PROBATION FOR 1 YEAR. DEFT TO PAY \$156.00 COURT COSTS. \$50 INITIAL PROBATION FEE/\$50 PROBATION ADMIN FEE/\$15 WEEKLY DEFT RELEASED AND ORDERED TO REPORT IMMEDIATELY TO COURT SERVICES FOR PLACEMENT ON PROBATION. COUNT II DISMISSED ON STATE'S MOTION (RJO? N)   JTS Minute Entry Date: 06/28/2006</p>

Minute Date: **7/5/2006**  
Input Date: **Unavailable**  
Type: **Converted Event**

Disposition: Guilty Plea/Admissions. (DISPOSED: GP ) (RJO? N) | JTS  
Minute Entry Date: 06/28/2006

Minute Date: **6/28/2006**  
Input Date: **Unavailable**  
Type: **Disposition**

THEFT- For Probation Use Only  
Conversion Unknown

Minute Date: **6/28/2006**  
Input Date: **Unavailable**  
Type: **Disposition**

RECEIVING STOLEN PROPERTY-  
Conversion Unknown

Minute Date: **6/28/2006**  
Input Date: **Unavailable**  
Type: **Converted Event**

Calendar: SENTENCING (Time: 13:30:00) (Judge: D01)

Minute Date: **6/21/2006**  
Input Date: **Unavailable**  
Type: **Converted Event**

Pre-Sentence Investigation Report filed. (RJO? N) | JTS Minute Entry  
Date: 06/20/2006

Minute Date: **2/23/2006**  
Input Date: **Unavailable**  
Type: **Converted Event**

INITIAL HEARING HELD. AGREEMENT LETTER FILED. DEFT FILED WAIVER OF RIGHTS AND PLEADS GUILTY TO COUNT I, RECEIVING STOLEN PROPERTY, CLASS D FELONY. PSI ORDERED. SENTENCING SET: 6/28/06 AT 1:30 PM DEFT WAIVES RIGHT TO SENTENCING WITHIN 30 DAYS (RJO? N) | JTS Minute Entry Date: 02/13/2006

Minute Date: **2/13/2006**  
Input Date: **Unavailable**  
Type: **Converted Event**

Calendar: INITIAL HEARING (Time: 09:00:00) (Judge: D01)

Minute Date: **12/28/2005**  
Input Date: **Unavailable**  
Type: **Converted Event**

ATTY CONFERENCE HELD. SET FOR INITIAL HEARING: 2/13/06 AT 9 AM (RJO? N) |  
JTS Minute Entry Date: 11/29/2005

Minute Date: **11/29/2005**  
Input Date: **Unavailable**  
Type: **Converted Event**

Calendar: PRE-TRIAL (Time: 16:00:00) (Judge: D01)

Minute Date: **11/18/2005**  
Input Date: **Unavailable**  
Type: **Converted Event**

COURT GRANTS CONTINUANCE AND SCHEDULES AN ATTORNEY CONFERENCE FOR 11/29/05 AT 4 PM (RJO? N) | JTS Minute Entry Date: 11/16/2005

Minute Date: **11/10/2005**  
Input Date: **Unavailable**  
Type: **Converted Event**

**COPY**

**IN THE MUNICIPAL COURT OF THE CITY OF STARKVILLE  
STATE OF MISSISSIPPI**

**STATE OF MISSISSIPPI**

**VERSUS**

**CAUSE NUMBER: 03-2329 and  
03-2331**

**ERROLL ALEXANDER EATON**

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**AMENDED ORDER**

---

This action came before the Court upon the Motion to Expunge Record of Erroll Alexander Eaton, by and through his attorney of record, to expunge from all official public and nonpublic records all recordation related to his case. The Court having heard the evidence and duly considered the same, is of the opinion and so finds that the officers of the Starkville Police Department arrested him and he was later released.

The Defendant was found guilty of the charges of Possession of Marijuana in a Motor Vehicle and Possession of False Identification on May 15, 2003. The Defendant has exhibited good behavior since that date and is entitled, in the discretion of the Court, to an expungement of such record as prescribed by law.

I.

The relevant information for Erroll Alexander Eaton is:

Date of Birth: [REDACTED]  
Social Security Number: [REDACTED]  
Name of Arresting Agency: City of Starkville Police Department  
Race: Caucasian  
Sex: Male  
Date of Arrest: March 3, 2003  
Charges: Possession of False Identification, Possession of Marijuana in Motor Vehicle  
Court Handling the Charges: Municipal Court of the City of Starkville, MS  
Disposition of the Charges: Adjudicated

II.

The Court finds that the charges were adjudicated, that the case meets all of the requirements of Section 99-19-71, that the Motion is well taken and that the relief sought therein should be granted. The record of arrest is expunged and Erroll Alexander Eaton is restored to the same status as he was prior to his arrest on this charge.

IT IS FURTHER ORDERED AND ADJUDGED that the City of Starkville Police Department request the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306 AND THE Criminal Information Center, State of Mississippi, 3891 Highway 468 West, Pearl, Mississippi 39208, to expunge

such records and copies thereof furnished to the FBI and the Criminal Information Center by such agencies, which include fingerprint records, "mug shot" photographs, and booking information concerning this case, and to advise the FBI that the Defendant's full name is Erroll Alexander Eaton, his date of birth is [REDACTED], his social security number is [REDACTED], the charges were Possession of Marijuana in Motor Vehicle and Possession of False Identification, the date of arrest was March 3, 2003, the docket numbers are 03-2329 and 03-2331, and the FBI number is unknown.

IT IS FURTHER ORDERED AND ADJUDGED that the agents and employees of the City of Starkville, Mississippi, the Court Administrators of this Court, and the Sheriff of Oktibbeha County, Mississippi, expunge (that is, erase, strike and obliterate) all official public and nonpublic records pertaining to the above styled and numbered case, and relating to the Defendant's arrest, affidavit, warrant, jail docket book entries, booking information, fingerprint cards and photographs taken during booking, the entire court file of this case, the data processing software, microfilm, and the Defendant's name on any minute book, docket book or index as the same applies to his case. This Order does not apply to the confidential records of the City of Starkville Police Department or the Oktibbeha County Sheriff's Department.

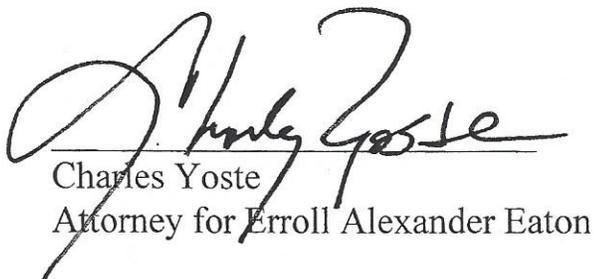
IT IS FURTHER ORDERED AND ADJUDGED that the effect of this Order shall be to restore this Defendant, in the contemplation of the law, to the status he

occupied before he was arrested on these charges and the affidavit was filed against him. This Defendant shall not be held hereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such affidavit, warrant or arrest in response to any inquiry made of him for any purpose.

SO ORDERED AND ADJUDGED, this the 10<sup>th</sup> day of July, 2008.

  
Municipal Court Judge

Presented By:

  
Charles Yoste  
Attorney for Erroll Alexander Eaton



Bureau of Alcohol, Tobacco,  
Firearms and Explosives

*National Firearms Act Division*

244 Needy Road  
Martinsburg, WV 25405

May 17, 2018  
[www.atf.gov](http://www.atf.gov)

Hardrock NFA Trust  
[REDACTED]

+

Mr. Eaton

This letter responds to your recent submission of an ATF Form 4, Application for Tax Paid Transfer and Registration of a Firearm. Specifically, you are listed as the transferee on the ATF Form 4 and therefore seek possession of a National Firearms Act **silencer/s/n#** [REDACTED]

The Gun Control Act (GCA), 18 U.S.C. § 922(g), prohibits certain persons from shipping, transporting, possessing, or receiving firearms. These are known collectively as “prohibited persons.” The NFA, 26 U.S.C. § 5812, requires that an application to transfer NFA firearms “*shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.*” This includes any transfers to individuals who are prohibited from possessing firearms pursuant to 18 U.S.C. § 922(g) or any state law.

Because ATF is prohibited from approving any transfer to a prohibited person, the NFA implementing regulations require that “in addition to any other records checks that may be conducted to determine whether the transfer, receipt, or possession of a firearm would place the transferee in violation of law, the Director shall contact the National Instant Criminal Background Check System.”

The National Instant Criminal Background Check System (NICS) was created by section 103 of the Brady Handgun Violence Prevention Act of 1993 (Brady Act), 103 P.L. 159. NICS is a name check system that queries available records in the National Crime Information Center (NCIC), the Interstate Identification Index (III), and the NICS Index to determine if prospective firearm purchasers are disqualified from receiving or possessing firearms.

Mr. Eaton

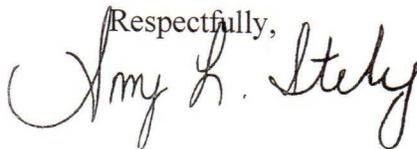
The Federal Bureau of Investigations (FBI) is responsible for operating NICS. Pursuant to the requirements of the Brady Act, the FBI has published implementing regulations regarding the operation of NICS, 28 Code of Federal Regulations CFR, Part 25, subpart A. These regulations, 28 CFR § 25.6 (j)(2), permit NICS to respond to inquiries by ATF in connection with a civil or criminal law enforcement activity relating to the Gun Control Act of 1968 or the National Firearms Act.

Your NFA application has been disapproved by ATF based on the FBI reporting a final status of “open” on the required background check after 88 days and have not received information back on the final disposition of potentially prohibiting information. One avenue to receive information relative to information in one’s background, the FBI can provide individuals with an Identity History Summary—often referred to as a criminal history record or a “rap sheet”—listing certain information taken from fingerprint submissions kept by the FBI and related to arrests and, in some instances, federal employment, naturalization, or military service. The FBI offers a method for requesting a copy of your Identity History Summary or proof that one does not exist. Your NTN is **100J3SDH4**. For additional information regarding the FBI’s identity history summary check, please visit the website below:

<https://www.fbi.gov/services/cjis/identity-history-summary-checks>

Please be advised that it is the responsibility of the individual to resolve any background related issues with the respective courts, arresting agency, or other state agency contributing firearms related information to the NICS. The NFA Division will **not** be able to assist you in resolving any issues regarding the “open” background check. Upon resolution and correction of source records, you may resubmit a new NFA application.

Respectfully,



Amy Stely,  
Branch Chief

NFA, Industry Processing Branch



**U.S. Department of Justice**

Federal Bureau of Investigation

Clarksburg, WV 26306  
July 21, 2015

Mr. Gary James LeComte  
[REDACTED]

SUBJECT: Firearm Appeal  
National Instant Criminal Background Check  
System (NICS) Transaction  
Number (NTN)-2YCWZXX

Dear Mr. LeComte:

This letter is in response to your appeal of the results of your firearm background check. By way of background, the NICS computer system searches databases containing records of persons who may be disqualified from possessing a firearm. The system screens individuals by name and descriptive information (i.e., date of birth, race, gender, etc.). A search resulting in a "deny" indicates the subject of the background check matches a prohibiting record containing a similar name and descriptive feature(s). Your transaction's federal prohibition is under Title 18, United States Code, Sections 921(a)(20) and 922(g)(1): A person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year or any state offense classified by the state as a misdemeanor and is punishable by a term of imprisonment of more than two years.

If you wish to challenge the accuracy of the denial, you may submit certified court documents pertaining to the prohibiting record identified above, or you may submit a set of your rolled fingerprints. A downloadable fingerprint card is available at <[www.fbi.gov/nics-appeals](http://www.fbi.gov/nics-appeals)> and may be submitted to the FBI Criminal Justice Information Services Division, National Instant Criminal Background Check System Section, Appeal Services Team, Post Office Box 4278, Clarksburg, West Virginia 26302-4278. The documents submitted will not be returned.

Please ensure all correspondence/submissions contain your NTN. Failure to do so will only delay your appeal.

Mr. Gary James LeComte

The Appeal Services Team (AST) of the FBI Criminal Justice Information Services (CJIS) Division's NICS Section is currently processing cases received in March 2015.

**Please be advised your appeal will not be processed until the AST receives a fingerprint card and/or certified court documentation.**

NICS Section  
CJIS Division



U.S. Department of Justice

Federal Bureau of Investigation

Clarksburg, WV 26306  
April 10, 2018

Mr. Gary James LeComte  
[REDACTED]

SUBJECT: Firearm Denial Appeal  
National Instant Criminal Background Check  
System (NICS) Transaction  
Number (NTN)-2YCWZXX

Dear Mr. LeComte:

The fingerprints you submitted are identical with those in a record that was used in the evaluation of your firearm purchase or pawn redemption. Based on further review and investigation, the original prohibitive information has been resolved. Your FBI identification record currently reveals potentially prohibitive arrests lacking final conviction level for date of arrest January 5, 1975, and incident report for date of arrest January 6, 1975.

The FBI Criminal Justice Information Services Division's NICS Section was unable to nullify the potential prohibitor(s). The potentially prohibiting arrests are highlighted on the enclosed copy of your FBI identification record. To obtain the missing information, you may contact:

U.S. Yosemite National Park Service  
5083 Foresta Road  
El Portal, CA 95318  
Date of Arrest: January 5, 1975  
Agency Case Number: 75-003

Santa Cruz County Sheriff's Office  
5200 Soquel Avenue  
Santa Cruz, CA 95062  
Date of Arrest: January 6, 1975  
Agency Case Number: S-31194

If you have or can obtain documentation that was available at the time of the arrest/court proceedings, please provide the **court documentation containing the final disposition, level of conviction, and/or convicting statute and**

Mr. Gary James LeComte

**subsection; police report or court documentation containing victim information.**

When you have obtained **ALL** of the requested documentation listed above, please submit it to our office. Please be advised, a "no record found" document is not sufficient documentation and should not be provided. You may submit the documentation to the FBI Criminal Justice Information Services Division's National Instant Criminal Background Check System Section, Appeal Services Team, Post Office Box 4278, Clarksburg, West Virginia 26302-9922.

Your firearm background check will remain in a delay status, unless you supply documentation that nullifies the potential firearm prohibitor(s). If you cannot obtain the documentation, you may confer with an attorney of your own choosing to determine what remedies may potentially be available to you.

NICS Section  
CJIS Division

Enclosure



<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input type="radio"/> <b>I. FOIA/Privacy Act</b>  <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input checked="" type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
 1 Original Proceeding  
  2 Removed from State Court  
  3 Remanded from Appellate Court  
  4 Reinstated or Reopened  
  5 Transferred from another district (specify)  
  6 Multi-district Litigation  
  7 Appeal to District Judge from Mag. Judge  
  8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 18 USC 925A, 42 USC 1983 - Violations of Second Amendment; Correct erroneous records and transfer firearms

<b>VII. REQUESTED IN COMPLAINT</b>	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: <u>6/5/2018</u>	SIGNATURE OF ATTORNEY OF RECORD <u>/s/ Stephen D. Stamboulieh</u>
-----------------------	---

**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.