

## 13-1487 HENDERSON V. UNITED STATES

DECISION BELOW: 555 Fed.Appx. 851

LOWER COURT CASE NUMBER: 12-14628

QUESTION PRESENTED:

"The general rule is that seized property, other than contraband, should be returned to its rightful owner once \* \* \* criminal proceedings have terminated." *Cooper v. City of Greenwood*, 904 F.2d 302, 304 (5th Cir. 1990) (quoting *United States v. Farrell*, 606 F.2d 1341, 1343 (D.C. Cir. 1979) (quoting *United States v. La Fatch*, 565 F.2d 81, 83 (6th Cir. 1977)). 18 U.S.C. § 922(g) makes it "unlawful for any person \* \* \* who has been convicted in any court of[] a crime punishable by imprisonment for a term exceeding one year \* \* \* to \* \* \* possess \* \* \* any firearm."

The question presented is whether such a conviction prevents a court under Rule 41(g) of the Federal Rules of Criminal Procedure or under general equity principles from ordering that the government (1) transfer non--contraband firearms to an unrelated third party to whom the defendant has sold all his property interests or (2) sell the firearms for the benefit of the defendant. The Second, Fifth, and Seventh Circuits and the Montana Supreme Court all allow lower courts to order such transfers or sales; the Third, Sixth, Eighth and Eleventh Circuits, by contrast, bar them.

CERT. GRANTED 10/20/2014