IN THE SUPREME COURT OF THE UNITED STATES

SEAN M. DONAHUE

v.

COMMONWEALTH OF PENNSYLVANIA

19-6487

PETITION FOR REHEARING

The Petitioner seeks rehearing of the high Court's December 9, 2019 denial of *certiorari* regarding legal absurdities in the enforcement of the 1968 Gun Control Act. (GCA) *(See Order Denying Certiorari in Attachment A)*

This petition for rehearing is presented in good faith and not for delay and is limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

QUESTIONS PRESENTED

I. ARE THE HIGH COURT'S PREVIOUS OPINIONS REGARDUNG 18 U.S.C. §922(g)(1) AND 18 U.S.C. §921(a)(20)(B) UNCONSTITUTIONAL BECAUSE THEY CREATED A CIRCUMSTANCE THAT ALLOWS LOWER COURTS, THE FEDERAL GOVERNMENT AND STATE GOVERNMENTS TO TREAT GUN RIGHTS GUARANTEED BY THE US SECOND AMENDMENT AS CONTINGENT RIGHTS THAT ONLY EXIST IF ONE ALSO HAS THE RIGHTS TO SERVE ON A JURY, VOTE AND HOLD PUBLIC OFFICE? **SUGGESTED ANSWER: YES**

II. ARE THE HIGH COURT'S PREVIOUS RULINGS REGARDING 18 U.S.C. §922(g)(1) AND 18 U.S.C. §921(a)(20)(B) UNCONSTITUTIONAL BECAUSE THEY CREATED A CIRCUMSTANCE THAT ALLOWS THE FEDERAL AND STATE GOVERNMENTS TO REDEFINE THE MEANING OF FIREARM AS A MEANS OF DENYING GUN RIGHTS THAT ARE GUARANTEED BY THE US CONSTITUTION? **SUGGESTED ANSWER: YES**

III. ARE FIREARMS THAT DO NOT TRAVEL ACROSS STATE LINES EXEMPT FROM 18 U.S.C. §922(g)(1) AND 18 U.S.C. §921(a)(20)(B)?

SUGGESTED ANSWER: YES

WHY REHEARING SHOULD BE GRANTED ON QUESTION II:

On December 16, 2019, the Attorney General of Pennsylvania (AGP) issued a legal opinion that redefined "80% Lower Receivers" as firearms under the 1968 Gun Control Act (GCA). *(18 U.S.C. §§921-931)* (Attachment B) The AGP was careful to veil his legal opinion under the guise of the Pennsylvania Uniform Firearms Act. *(18 Pa. C.S. §§6101-6128)* The AGP fully intends to use its legal opinion to enforce *18 U.S.C. §§921-931.* Yet, the legal opinion of the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATF) is that "80% Lower Receivers" are not firearms. (Attachment C)

This circumstance creates an absurdity that both the Pennsylvania State Police and federal law enforcement must wrestle with when enforcing the GCA. *(Pennsylvania State Police v. Paulshock, Supreme Court of Pennsylvania, Middle District Nov 20, 2003, 836 A.2d 110 (Pa. 2003); Binderup v.Attorney Gen. U.S. 836 F.3d 336 (3d Cir.2016))*

WHY REHEARING SHOULD BE GRANTED ON QUESTION III:

In *Navarro v. Pennsylvania State Police, No. 72 MAP 2018, J-38-2019, WL 3209478 (Pa July 17, 2019),* the Pennsylvania Supreme Court found that a firearm that the Pennsylvania State Police failed to prove crossed state lines was exempt from state enforcement of the GCA. *(18 U.S.C. §922(g)(1) AND 18 U.S.C. §921(a)(20)(B))* This ruling creates a challenge for both state and federal

enforcement of the GCA. Because BATF does not define "80% Lower Receivers" to be firearms, they can legally be transported across state lines by individuals who are otherwise barred by the GCA from gun ownership or possession. If an "80% Lower Receiver" is then converted into a firearm but it never crosses state lines, then under *Navarro supra* it is exempt from the GCA. *(18 U.S.C. §922(g)(1) AND 18 U.S.C. §921(a)(20)(B))*

WHY REHEARING SHOULD BE GRANTED ON QUESTION I:

In *United States v. Caron, 941 F. Supp. 238, (D. Mass. 1996)* and *United States v. Cassidy, 899 F.2d 543 (6th Cir. 1990)* federal courts created a national precedent regarding the exercise of some US Second Amendment Rights by individuals who are prohibited from gun ownership and possession under the GCA. *(18 U.S.C. §922(g)(1) AND 18 U.S.C. §921(a)(20)(B))* The national precedent the courts created was that US Second Amendment Rights are contingent upon one also having the rights to sit on a jury, vote and hold office. This circumstance creates an absurdity because it treats Civil Rights as being cumulative and contingent upon each other.

The high Court adopted this precedent in *Caron v. United States, 524 U.S. 308, 118 S.Ct. 2007, 141 L.Ed.2d 303 (1998)* and *Logan v. U.S., 552 U.S. 23, 128 S.Ct. 475, 169 L.Ed.2d 432 (2007)* because the parties in those cases had agreed to that standard via stipulations. In its opinions in those cases, the Court did not adequately clarify for the states the fact that the standard prerequisite rights for a

return of US Second Amendment rights being the rights to sit on a jury, vote and hold public office were a matter of stipulation, not a matter of statute.

In different cases arising in different states, other rights may be used as the standard. In the state of Pennsylvania, gun rights are restored by operation of law and the application of *Cassidy supra, Logan supra and Caron 524 U.S. 308 supra* create an absurdity in which common law created by the high Court has impeded statutory and constitutional law in a manner that infringes upon US Second Amendment Rights.

The foregoing document is true in fact and belief and submitted under penalty of perjury.

Respectfully Submitted,

Dec 30, 2019
Date

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Additional material from this filing is available in the Clerk's Office.