



P.O. Box 4008, Madison, MS 39130 | (601) 852-3440 | stephen@sdslaw.us

March 8, 2016

Mr. Lyle W. Cayce, Clerk
U.S. Court of Appeals for the Fifth Circuit
600 S. Maestri Place
New Orleans, LA 70130-3408

Re: JAY AUBREY ISAAC HOLLIS v. LORETTA E. LYNCH, et al.; No. 15-10803; Citation of Supplemental Authorities pursuant to Rule 28(j) of the Federal Rules of Appellate Procedure

Dear Mr. Cayce:

Mr. Hollis submits this supplemental letter under Fed. R. App. P. 28(j) and 5th Cir. R. 28.4 regarding additional new authority.

In a written response to a Freedom of Information Act request to the Bureau of Alcohol, Tobacco, Firearms and Explosives (“BATFE”), the BATFE released current numbers for lawfully registered, pre-May 19, 1986 machineguns registered in the National Firearms Registration and Transfer Record (“NFRTR”).¹ These machineguns can be lawfully owned by non-governmental entities. The numbers disclosed by the BATFE are as follows:

Restricted 922(o)	297,667
Sales Samples	17,020
Pre-May 19, 1986	175,977

This number further bolsters Mr. Hollis’ argument that there are many thousands of machineguns possessed by private individuals. *See* Appellant’s Opening Brief at p. 5. As the number of pre-May 19, 1986 machineguns have (allegedly) been frozen since 922(o) was enacted, this further demonstrates Mr. Hollis’ argument, and prior BATFE Director Stephen E. Higgins’ testimony, about registered machineguns not being a “law enforcement problem.” *Id.* at pp. 41-42.

This new information further evidences that between Director Higgins’ testimony in 1984 and the ban two years later, 91,351 machineguns were placed on the

¹ Attached hereto.

NFRTR that are legal to own by non-governmental entities. *Id.* at p. 42. The Restricted 922(o) firearms are machineguns made by a Special Occupational Taxpayer (“SOT”) after May 19, 1986, and are restricted to licensees, police departments or other governmental entities.² This does not typically include machineguns possessed by the federal government. Sales Samples are machineguns imported between 1968 and pre-May 19, 1986 used by SOTs for demonstration and can be kept by the SOT after it turns in its license.

Additionally, Mr. Hollis requested discovery on this very issue in the district court and was denied. This new information provides 297,667 opportunities to demonstrate some of these machineguns are in the hands of private individuals approved by the BATFE. *Id.* at pp. 49-52. This is directly relevant to ROA.433 and the Stemple machineguns the BATFE allowed to be possessed by non-governmental entities.

Yours very truly,

/s/ Stephen D. Stamboulieh
Stephen D. Stamboulieh

cc: All counsel of record (by the Court’s electronic filing system)

² See Appellant’s Opening Brief, pp. 51-52 and ROA.433.



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

February 24, 2016

REFER TO: 2016-0003 / AP-2015-05939

Mr. Jeffrey E. Folloder
NFATCA
20603 Big Wells Drive
Katy, TX 77449

Dear Mr. Folloder:

This is in response to your request for information that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) initially withheld, pursuant to the reasons stated in our August 25, 2015 correspondence. By letter dated September 16, 2015, you appealed our decision to withhold the information requested to the Office of Information Policy (OIP). By letter dated December 9, 2015, OIP remanded the case for further processing. Your request has been assigned number 2016-0003. Please refer to this number on any future correspondence.

The following information corresponds to your request for an exact count of transferrable pre 86 machineguns, post May 86 machineguns, and sale sample machineguns, registered in the National Firearms Registration Transfer Record System (NFRTR).

Restricted 922(o)	297,667
Sales Samples	17,020
Pre 86	175,977

Please note that ATF utilizes customized Standard Query Language (SQL) to collect information from system databases. In the instant case, an SQL query may not capture all methods in which the requested information has been manually entered into system data fields. Thus, while each individual record is accurate, there is an inherent albeit wholly unintentional margin of error as to the aggregate statistical information requested.

Sincerely,

Stephanie M. Boucher
Chief, Disclosure Division