



Sunday, March 29, 2020

VIA E-MAIL (Greg.Ford@wakegov.com)

Chairman Greg Ford
Board of Commissioners
Wake County, North Carolina
P.O. Box 550
Raleigh, NC 27602

URGENT

Dear Chairman Ford,

I write to you on behalf of Firearms Policy Coalition (“FPC”), Second Amendment Foundation (“SAF”), and their members, including individuals in Wake County, who are concerned about the County’s “Proclamation of Emergency Restrictions” issued on March 26, 2020 (the “March 26 Proclamation”) (online at bit.ly/wake-proclamation-2020-3-26). The March 26 Proclamation states, *inter alia*:

For purposes of this Proclamation, individuals may leave their residence to provide any services or perform any work necessary to the operations and maintenance of "Essential Infrastructure," as described in Section 10 of this Proclamation and as identified by the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) as work performed by the Essential Critical Infrastructure Workforce, provided that they carry out those services or that work in compliance with social distancing requirements as defined in Section 12 of this Proclamation to the extent possible.

Section 10.a. of the March 26 Proclamation exempts those under the “CISA Critical Infrastructure Workers as **identified in the March 19, 2020**, the [*sic*] U.S. Department of Homeland Security, Cybersecurity Infrastructure & Security Agency (CISA), Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response,” and holds that “[a]ll workers and professions identified in the CISA Memorandum are exempt.” (Emphasis added.)

However, the March 26 Proclamation section 10.dd. further exempts “Any entities to the extent that they employ workers identified by the U.S. Department of

Homeland Security, Cybersecurity Infrastructure & Security Agency (CISA) as part of the Essential Critical Infrastructure Workforce.”

Yesterday, CISA issued an “Advisory Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response” dated March 28, 2020, in which the Director of CISA determined that “[w]orkers supporting the operation of firearm or ammunition product manufacturers, retailers, importers, distributors, and shooting ranges,” are “essential critical infrastructure workers.” (CISA Guidance online at bit.ly/cisa-guidance-2020-3-28.) As such, Wake County should refrain from enforcing its March 26 Proclamation against any operation of firearm or ammunition product manufacturers, retailers, importers, distributors, and shooting ranges.

Moreover, the Supreme Court of the United States held that the right to keep and bear arms “guarantee[s] the individual right to possess and carry” firearms and “elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home.” *D.C. v. Heller*, 554 U.S. 570, 635 (2008). The Court continued to define the term “bear arms” to mean “wear, bear, or carry ... upon the person or in the clothing or in a pocket, for the purpose ... of being armed and ready for offensive or defensive action in a case of conflict with another person.” 554 U.S. at 584.

The Fourteenth Amendment to the United States Constitution provides in pertinent part:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Second Amendment is fully applicable to the States and local government through the Fourteenth Amendment’s Due Process and Privileges or Immunities Clauses. *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010); *id.* at 805 (Thomas, J., concurring). In *McDonald*, the Court confirmed that the rights protected by the Second Amendment are “among those fundamental rights necessary to our system of ordered liberty.”

In the last week, on behalf of various parties including SAF and FPC, the undersigned filed lawsuits against the Governor of Pennsylvania, Governor of New Jersey, the Governor of California, and the Sheriff of Los Angeles, among others, for

acts and orders that shutter firearms retailers, ranges, and violate constitutional rights. And two days ago, FPC, SAF, and GRNC instituted a federal civil rights action against Wake County Sheriff Gerald M. Baker (complaint available online at bit.ly/baker-lawsuit-complaint).

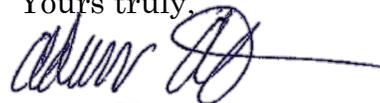
* * *

Should the County enforce its March 26 Proclamation and any other law, policy, practice, or custom that restricts firearm retailers and ranges from operating and/or infringes constitutionally guaranteed rights, FPC, SAF, and others are prepared to bring legal action against the County and its enforcement officials.

It is my hope that you will take all appropriate actions to avoid litigation. Please contact me via email at akraut@fpclaw.org before 3:00 p.m. Eastern time on Monday, March 30, 2020 to open a line of communication and confirm in writing that the County has taken the requested action.

Thanking you for your time and consideration, I am

Yours truly,



Adam Kraut
Director of Legal Strategy
Firearms Policy Coalition

cc: County Attorney Scott W. Warren (via fax to 919-856-5504)
All Wake County Commissioners (via email to commissioners@wakegov.com)
Denise Hogan, Clerk to the Board (via email to denise.hogan@wakegov.com)
Stafford v. Baker litigation counsel