



on the district court docket: July 9, 2013

4. Does the judgment or order to be reviewed dispose of **all** claims by and against **all** parties? *See* Fed. R. Civ. P. 54(b).  
Yes.

**(If the order being appealed is not final, please answer the following questions in this section.)**

- a. If not, did district court direct entry of judgment in accordance with Fed. R. Civ. P. 54(b)? When was this done?  
\_\_\_\_\_
- b. If the judgment or order is not a final disposition, is it appealable under 28 U.S.C. § 1292(a)? \_\_\_\_\_
- c. If none of the above applies, what is the **specific** statutory basis for determining that the judgment or order is appealable? \_\_\_\_\_
5. Tolling Motions. *See* Fed. R. App. P. 4(a)(4)(A); 4(b)(3)(A).
- a. Give the filing date of any motion under Fed. R. Civ. P. 50(b), 52(b), 59, 60, including any motion for reconsideration, and in a criminal appeal any motion for judgment of acquittal, for arrest of judgment or for new trial, filed in the district court:  
\_\_\_\_\_
- b. Has an order been entered by the district court disposing of that motion, and, if so, when? \_\_\_\_\_
6. Bankruptcy Appeals. (To be completed only in appeals from a judgment, order or decree of a district court in a bankruptcy case or from an order of the Bankruptcy Appellate Panel.)

Are there assets of the debtor subject to administration by a district or bankruptcy court? \_\_\_\_\_

Please state the approximate amount of such assets, if known.

---

---

**B. REVIEW OF AGENCY ORDER** (To be completed only in connection with petitions for review or applications for enforcement filed directly with the Court of Appeals.)

- 1. Date petition for review was filed: \_\_\_\_\_
- 2. Date of the order to be reviewed: \_\_\_\_\_
- 3. Specify the statute or other authority granting the court of appeals jurisdiction to review the order: \_\_\_\_\_  
\_\_\_\_\_
- 4. Specify the time limit for filing the petition (cite specific statutory section or other authority): \_\_\_\_\_  
\_\_\_\_\_

**C. APPEAL OF TAX COURT DECISION**

- 1. Date notice of appeal was filed: \_\_\_\_\_  
(If notice was filed by mail, attach proof of postmark.)
- 2. Time limit for filing notice of appeal: \_\_\_\_\_
- 3. Date of entry of decision appealed: \_\_\_\_\_
- 4. Was a timely motion to vacate or revise a decision made under the Tax Court’s Rules of Practice, and if so, when? *See* Fed. R. App. P. 13(a) \_\_\_\_\_

**II. LIST ALL RELATED OR PRIOR RELATED APPEALS IN THIS COURT WITH APPROPRIATE CITATION(S).** If none, please so state.

There are no prior related appeals. On September 18, 2013, plaintiffs filed a notice of appeal in this case. That appeal has been docketed as number 13-1391.

**III. GIVE A BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW.**

Plaintiffs challenge, on Second Amendment grounds, a Postal Service regulation prohibiting weapons and explosives on postal property. The district court upheld the regulation as applied to the Post Office building, but ordered the government to allow plaintiff Tab Bonidy to use the public parking lot adjacent to the Post Office building with a firearm secured in his car in a reasonably prescribed manner.

**IV. ISSUES RAISED ON APPEAL.**

Whether the district court erred in concluding that the Postal Service regulation may not lawfully be applied to possession of a firearm in a Postal Service parking lot.

V. **ADDITIONAL INFORMATION IN CRIMINAL APPEALS.**

- A. Does this appeal involve review under 18. U.S.C. § 3742(a) or (b) of the sentence imposed? \_\_\_\_\_
- B. If the answer to question in A is yes, does the defendant also challenge the judgment of conviction? \_\_\_\_\_
- C. Describe the sentence imposed. \_\_\_\_\_  
\_\_\_\_\_
- D. Was the sentence imposed after a plea of guilty? \_\_\_\_\_
- E. If the answer to question D is yes, did the plea agreement include a waiver of appeal and/or collateral challenges? \_\_\_\_\_
- F. Is defendant on probation or at liberty pending appeal? \_\_\_\_\_
- G. If the defendant is incarcerated, what is the anticipated release date if the judgment of conviction is fully executed? \_\_\_\_\_

**NOTE:** In the event expedited review is requested, the defendant shall consider whether a transcript of any portion of the trial court proceedings is necessary for the appeal. Necessary transcripts must be ordered at the time of appeal by completing and delivering the transcript order form to the clerk of the district court when a notice of appeal is filed. Defendant/appellant must refrain from ordering any unnecessary transcript as this will delay the appeal. If the court orders this appeal expedited, it will set a schedule for preparation of necessary transcripts, for designation and preparation of the record on appeal, and for filing briefs. If issues other than sentencing are raised by this appeal, the court will decide whether bifurcation is desirable.

**VI. INDICATE WHETHER ORAL ARGUMENT IS DESIRED IN THIS APPEAL.** If so, please state why.

The district court concluded that the Postal Service regulation at issue was unconstitutional as applied to the Postal Service parking lot. The government requests oral argument to advance its arguments in defense of the constitutionality of a duly promulgated and longstanding regulation.

**VII. ATTORNEY FILING DOCKETING STATEMENT:**

Name: Daniel Tenny Telephone: (202) 514-1838

Firm: U.S. Department of Justice, Civil Division

Email Address: daniel.tenny@usdoj.gov

Address: 950 Pennsylvania Avenue, NW, Room 7215

Washington, DC 20530

**PLEASE IDENTIFY ON WHOSE BEHALF THE DOCKETING STATEMENT IS FILED:**

- A.  Appellant
- Petitioner
- Cross-Appellant



**CERTIFICATE OF SERVICE**

I, Daniel Tenny hereby certify that on  
[appellant/petitioner or attorney therefor]

September 20, 2013 I served a copy of the foregoing **Docketing Statement**,  
[date]

to:

James Manley, at jmanley@mountainstateslegal.com  
[counsel for/or appellee/respondent]

\_\_\_\_\_, the last known  
address/email address, by CM/ECF.  
[state method of service]

s/ Daniel Tenny  
Signature

September 20, 2013  
Date

Daniel Tenny

U.S. Department of Justice, Civil Division

950 Pennsylvania Avenue, NW, Room 7215

Washington, DC 20530  
[Full name and address of attorney]