

ALAN BECK (HI Bar No. 9145)
Attorney at Law
2692 Harcourt Drive
San Diego, California 92123
Telephone: (619) 905-9105
Email: alan.alexander.beck@gmail.com

STEPHEN D. STAMBOULIEH
STAMBOULIEH LAW, PLLC
P.O. Box 4008
Madison, MS 39130
Telephone: (601) 852-3440
Email: stephen@sdslaw.us

**UNITED STATE COURT OF APPEALS
NINTH CIRCUIT**

GEORGE K. YOUNG JR,)	
)	
Plaintiff,)	No. 12-17808
vs.)	
)	
STATE OF HAWAII ET. AL.)	CASE No. 1200336 HG BMK
)	
Defendants.)	MOTION FOR JUDICIAL NOTICE

MOTION FOR JUDICIAL NOTICE

COMES NOW the Plaintiff-Appellant George K. Young, and brings this motion for judicial notice.¹ “Fed.R.Evid. 201(b)(2) permits judicial notice of a fact that is not subject to reasonable dispute in that it is ... (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.”

¹ Mr. Young advised counsel for Defendants he would file this Motion, and counsel for Defendants advised they would not consent.

U.S. v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980) (citation and punctuation omitted). Mr. Young has recently received a letter from Defendant County of Hawaii to one of its residents (Mr. George Pace). Therein, the County of Hawaii concedes the fact contained in the Hawaii Attorney General's most recent firearms study which indicates there are no permits is accurate (attached)² and to its knowledge, the County of Hawaii has never issued a carry permit to a private citizen.

This letter and study supports the following three points from Mr. Young's Opening Brief:

1. County of Hawaii's Application of H.R.S. 134-9 Operates as an Unconstitutional Complete Ban on Handgun Carry;
2. If County of Hawaii Opted to Issue Handgun Carry Permits It Has Unbridled Discretion in How it Issues; and
3. County of Hawaii Has No Due Process Compliant Procedure in Place to Evaluate Handgun Carry Applications.

This Court should accept, on this 12(b)(6) appeal, the fact that the County of Hawaii has issued zero handgun carry permits. Accordingly, its evaluation of Mr. Young's handgun carry applications in 2011 was arbitrary and capricious because the County of Hawaii flatly denies handgun carry permits without evaluation. Thus, this application procedure violates Due Process. Simply put, the State of Hawaii maintains a complete ban on the carry of handguns by allowing the four issuing counties in Hawaii to deny all handgun carry applications. This policy is highly distinguishable from all other

² On page 9 of this report, it indicates that statewide there were 19 carry applications in 2014 and all were denied.

handgun carry licensing policies which have been evaluated by the federal courts. Three federal circuits have upheld licensing schemes where applicants are actually issued handgun carry permits if they meet certain criteria.

Similarly, San Diego's handgun licensing scheme is soon to be evaluated by this Circuit sitting *en banc*. If it is upheld, it will be because San Diego County does issue handgun carry permits and has Due Process compliant procedures³. Thus the only handgun carry laws the County of Hawaii's policy is similar to are those at issue in *Palmer v. D.C.* (D.C. Dist. 2014) and *Moore v. Madigan*, 702 F.3d 933 (7th Cir. 2012). Both of those cases dealt with their respective jurisdictions' complete bans on handgun carry and both Court found these laws unconstitutional. The County of Hawaii's policy is analogous and must be revised.

Mr. Young respectfully requests that this Court takes judicial notice of the fact that there are zero handgun carry permits issued by the County of Hawaii and that this fact demonstrates County of Hawaii maintains a complete ban of handgun carry. The State of Hawaii is the last jurisdiction in the country to completely ban handgun carry with the exception of the territories.

s/ Alan Beck
Alan Beck (HI Bar No. 9145)
s/ Stephen D. Stamboulieh
Stephen D. Stamboulieh

³ San Diego has well established procedures in place including an interview and appeal process. Those procedures are available for this court to view at <https://www.sdsheriff.net/licensing/ccw.html> (last visited March 30th 2016)

CERTIFICATE OF SERVICE

On this, the 30th day of March, 2016, I served the foregoing pleading by electronically filing it with the Court's CM/ECF system which generated a Notice of Filing and effects service upon counsel for all parties in the case. I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 30th day of March, 2016

s/ Stephen D. Stamboulieh