

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

TEMPEST HORSLEY,

Plaintiff,

v.

**JESSICA TRAME, in her official capacity as
Chief of the Firearms Services Bureau,**

Defendant.

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Case No. 13-cv-00321-WDS-SCW

Comes now Plaintiff Tempest Horsley, by and through her attorneys Thomas G. Maag and the Maag Law Firm, LLC, and for her cause of action, states as follows:

COMPLAINT

1. At all times relevant, Plaintiff Tempest Horsley (“Horsley”) is a citizen of the State of Illinois, and a resident of the Southern District of Illinois.
2. At all times relevant Defendant Jessica Trame is the Chief of the Firearms Services Bureau, of the Illinois State Police, and is personally directly responsible for the approval and issuance of Firearms Owners Identification Cards, or the denial thereof.
3. This action is brought pursuant to 42 U.S.C. 1983.
4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. 1331 (federal question jurisdiction).
5. Venue is proper as Plaintiff is a resident of the Southern District of Illinois, applied for the card at issue in the Southern District of Illinois, received the rejection letter in the Southern District of Illinois and is being prevented from acquiring or possessing firearms in the Southern District of Illinois.
6. That on March 14, 2013, Plaintiff Horsley mailed to the address listed on the Application for a Firearms Owners Identification Card for applications to be so sent, a properly

completed Application for Firearm Owners Identification Card, along with a check in the amount of \$10.00, which was proper and complete with the exception that Plaintiff's parent or legal guardian did not sign the application.

7. That on March 14, 2013, Plaintiff Horsley was a few months over 18 years of age, and had not yet reached 21 years of age.

8. That per the terms of the Firearms Owners Identification Card Act, as referenced on the application, an applicant must submit evidence that

“He or she is 21 years of age or over, or if he or she is under 21 years of age that he or she has the written consent of his or her parent or legal guardian to possess and acquire firearms and firearm ammunition and that he or she has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, provided, however, that such parent or legal guardian is not an individual prohibited from having a Firearm Owner's Identification Card and files an affidavit with the Department as prescribed by the Department stating that he or she is not an individual prohibited from having a Card;”

9. That Defendant will not approve an Application for a Firearms Owners Identification Card for an application who is at least 18, but not yet 21, who has not provided the written consent of his or her parent of legal guardian to possess and acquire firearms and firearms ammunition.

10. That on or about March 27, 2013, Defendant returned to Plaintiff her application, with a cover letter indicating that the application was “incomplete” because it lacked a notarized parental signature. Accordingly, Defendant has constructively denied Plaintiff's application.

11. That Plaintiff has no legal guardian, as she is in excess of 18 years of age, and thus, is an adult, having reached the age of majority.

12. In fact, under Illinois law, it would be impossible to even appoint a legal guardian for Plaintiff, unless she was in some way disabled, which she is not.

13. That at the time of the adoption of the Second Amendment to the U.S. Constitution, it was generally understood that that persons of at least 18 years of age could legally acquire and possess firearms for defense.
14. That Plaintiff's parents will not sign the FOID application for Plaintiff.
15. That subject only to various exceptions not relevant in this case, it is a criminal offense in Illinois to possess a firearm without being issued a Firearms Owners Identification Card.
16. That persons who possess firearms without a FOID card are routinely arrested, prosecuted and jailed.
17. That Plaintiff Horsley desires to possess a firearm for self defense inside of her home.
18. That Plaintiff Horsley cannot lawfully purchase or otherwise lawfully acquire or possess a firearm of any description for self defense, without a FOID card, either from a federally licensed firearms dealer, from a non-licensed secondary seller or from any other source.
19. That without a valid FOID card, Plaintiff Horsley cannot even lawfully make a firearm for her own use.
20. That Plaintiff Horsley cannot lawfully possess a firearms for self defense inside her home without a FOID card.
21. That Plaintiff murphy is under no legal disabilities under 18 U.S.C. 922(g), or any state law, that would render her unable to legally own a firearm, had she been issued a FOID card.
22. That in light of Illinois' FOID Act, Plaintiff has no choice but to either go unarmed and be defenseless inside of her own home, or to violate the law, resulting in irreparable harm to Plaintiff.

23. That in February, 2013, Vice-President Joe Biden suggested that “[i]f you want to protect yourself, get a double-barreled shotgun.”
24. That pursuant to the suggestion of Vice-President Joe Biden, Plaintiff Horsley sought to acquire, and became aware of a double barrel shotgun for sale, in a price that she could reasonably afford.
25. That pursuant to the United States Supreme Court decisions in *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. Chicago*, 561 U.S. 3025 (2010), Plaintiff Murphy has a constitutional right to possess a firearm for self-defense, pursuant to the Second and Fourteenth Amendments.
26. That by being denied a FOID card Plaintiff is being denied her constitutionally protected right to keep and bear arms, under the Second and Fourteenth Amendments to the U.S. Constitution, and thus, is suffering irreparable harm, as she cannot lawfully purchase or otherwise acquire and lawfully possess a double barrel shotgun, as suggested by Vice-President Joe Biden, or any other firearm for self defense.

WHEREFORE, Plaintiff Tempest Horsley humbly requests that this Honorable Court enter judgment in her favor, and against Defendant Jessica Trame, in her official capacity as Chief of the Firearms Services Bureau, of the Illinois State Police, and enter an order directing Defendant to accept for processing Plaintiff’s Application for a FOID card without a signature of a parent or legal guardian, and enjoining Defendant from denying, failing to process and/or failing to issue an Illinois Firearms Owners Identification Card to a person of at least 18 years of age on the basis that their application is not signed by a parent or legal guardian, and an award of attorney fees and costs, pursuant to 42 U.S.C. 1988, plus such other further and different relief as is allowed by law.

Dated: April 1, 2013

Respectfully Submitted,

By: s/Thomas G. Maag

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