

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

FREDRIC RUSSEL MANCE, JR. *et al.*,

VS.

ERIC HOLDER, ATTORNEY GENERAL
OF THE UNITED STATES, and B. TODD
JONES, DIRECTOR, BUREAU OF
ALCOHOL, TOBACCO, FIREARMS &
EXPLOSIVES

Civil Action No. 4:14-CV-00539-O

**DEFENDANTS' MOTION TO DISMISS, OR IN
THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

Pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6), and 56, Defendants hereby move this Court to dismiss Plaintiffs' First Amended Complaint, or, in the alternative, to enter summary judgment for Defendants. In accordance with Local Rule 56.5, this motion is accompanied by a brief that sets forth the arguments and authorities on which Defendants rely in support of this motion. A proposed order also accompanies this motion.

SUMMARY

Defendants move the Court to dismiss this case under Fed. R. Civ. P. 12(b)(1) and 12(b)(6). In the alternative, Defendants move for summary judgment. At the outset, jurisdiction is absent because Plaintiffs have not alleged any redressable injury-in-fact traceable to the commercial firearms restrictions they are challenging. Moreover, the statute and regulation challenged by Plaintiffs are "presumptively lawful" restrictions that "impos[e] conditions and qualifications on the commercial sale of arms," as described in *District of Columbia v. Heller*, 554 U.S. 570, 626-27 (2008). These laws impose no substantial burden on conduct that is

protected by the Second Amendment and would pass constitutional muster in any event.

Accordingly, the Court should dismiss the case or enter summary judgment for Defendants.

Dated: September 23, 2014

Respectfully submitted,

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United States Attorney

/s/ Lesley Farby
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CERTIFICATE OF SERVICE

On September 23, 2014, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2) or the local rules.

/s/ Lesley Farby
Lesley Farby