

The Second Amendment: In Legal Brief

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Federal Court – Western District of New York, Rochester Division

1. *Montgomery, et al. vs. Cuomo, et al.*

Case: 6:14-cv-06709-CJS (federal court; Western District of NY, Rochester Division)

Complaint filed: 12/18/2014

Plaintiffs include: Donald Montgomery, Lois Reed, A.J. Carter, Karl Bechler

Claims include: Privacy, Equal Protection Clause (14th Amendment); Due Process Clause (4th, 5th, and 14th Amendments); 2nd Amendment

Nature of case: MHL §9.46 reporting system; MHL §9.41 false reporting of “involuntary commitment to a mental institution”

Status: awaiting decision from Justice Siragusa, oral arguments 09/2015, multiple additional submissions at court request through 03/2017; several motions pending.

* Montgomery still awaiting license hearing. Reid, Bechler, and Carter all cleared.

2. *Robinson, et al. vs. Jeff Sessions, U.S. Attorney General, et al.*

June 20th
NYC

new * Second Circuit Court of Appeals No.: 17-1427

District Court Decision and Order 04/10/2017: dismissed (standing), see 6:15-cv-6765

Claims include: 2nd Amendment, Due Process Clause (5th Amendment), Search & Seizure (4th Amendment), Equal Protection Clause (5th Amendment), Privacy

Nature of the case: FBI use of NICS data to cross-check against the “Terrorist Watchlist,” methods for cross-agency sharing of information from ATF Form 4473 (make, model, and serial number), including with foreign governments and private contractors, training FBI field agents on how to acquire information to which agency is not entitled, equating “gun owner” with “terrorist”

3. *McKay v. The State of New York*

* recent submission

Case No.: 6:16-cv-06834

Complaint filed: 12/21/2016

Plaintiffs include: Donna McKay

Claims include: Counsel (6th Amendment via 14th Amendment); 2nd Amendment

Nature of the case: inability of the indigent individual to protect fundamental rights against “mental health” allegations at a license hearing that begins with confiscation of all firearms pursuant to an *ex parte, sua sponte* Order

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Status: awaiting decision of the District Court on motions

State Court – Albany County

Recent submissions

4. *Fox, et al. v. NYS Police, et al.*

Docket No.: 03565-2016

Petitioners: 29, reflecting more than 2,000 participants in the "Stop the Secrecy!" campaign

Nature of case: FOIL Art. 78 for the "information" held by the NYS Police on individuals, allegedly originating with hospitals and medical providers.

Status: awaiting decision of the court; final submissions made 05/2017

6. *SCOPE v. NYS Police, et al.*

Docket No.: 5119-2014

Nature of case: FOIL Art. 78 for various documents, including drafts of NYS Police pamphlets on which firearms are and are not "assault weapons."

Status: on appeal to the Appellate Division, Third Department.

Federal Court – U.S. Supreme Court

New York State Rifle & Pistol Association, et al. vs. Cuomo, et al.

Case: 1:2013-cv-00291

Current status: **CONCLUDED**. (Finished under *Shew vs. Malloy* (CT), *cert denied*, at www.SupremeCourt.gov under Docket Number 15-1030.)

Claims: 2nd Amendment; Equal Protection Clause (14th Amendment); Due Process Clause (5th Amendment, 14th Amendment); Commerce Clause (Art. I, Sec. 8)

Issues: "assault weapons ban," "large capacity magazines"

Role: submission of an *Amicus Brief* on behalf of the "Second Amendment Coalition," comprised of 154 groups, including NYS Conservation Council, Safari Club International – Western/Central Chapter, Association of Former NYS Troopers, numerous rod and gun clubs, FFLs, and more.

SEE: *Murphy vs. Guerrero*, Case 1:14-cv-00026, ruling in favor of the Plaintiff, striking down the "assault weapons ban" (09/28/2016); *Kolbe v. Hogan*, Case 14-1945, ruling in favor of the government equating the "banned assault weapons" with the M-16 and, as such, falling outside of the protection of the Second Amendment (02/21/2017)