

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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Edward Peruta, et al.,  
Plaintiffs-Appellants,  
v.

No. 10-56971

D.C. No. 3:09-cv-02371- IEG BGS

County of San Diego, et al.,

Defendants-Appelles

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**ALLAN JEROME MAYER (Mayer) SBN169962 AMICUS CURIE  
PRO BONO AND PRO SE SUBMISSION IN OPPOSITION TO THE  
BRADY CAMPAIGN (Brady) PETITION FOR REHEARING**

Mayer incorporates herein his prior application for permission to file amicus (which was accepted), in this case. (see att. 1,2&3)

The petition for rehearing should be denied and sanctions should be assessed against Brady for it's "unnecessary delay" (see FRCP Rule 11).

Brady is a large well-financed group, which has its finger on the pulse of all 2<sup>nd</sup> amendment issues raised in the US in various and multiple courts and legislative bodies and elections.

Brady was well aware of Peruta because they submitted amicus briefs in both courts. Why didn't Brady intervene at the district and then the circuit court level? The answer is because a contra result was definitely expected especially in the 9<sup>th</sup> circuit.

The 9<sup>th</sup> Circuit held that California would become the 41<sup>st</sup> state in the United States to issue a CCW permit for the reason that a person wished one for self-defense.

Brady awoke from its slumber to intervene. This court, after due deliberation, issued its opinion denying Brady and the state of California's attempt to intervene.

This court in due course would be issuing its MANDATE. Brady's reaction is to move for a "Rehearing."

Did Brady state in its application to rehear the date when it became aware of the Peruta case? No.

Brady could have applied for intervention earlier. They played the odds and lost. Brady now makes this improvident application to rehear in an effort to further stay the Mandate.

The State of California is constantly in federal courts with regard to the 2<sup>nd</sup> amendment. This is due to its proliferation of California's unconstitutional legislation and the California Department of Justice regulations. (see att. 4)

The undersigned was aware of Peruta and wrote amicus letters and statements with regard to this court requiring statistical analysis of the results in the 40 other states. These states required only a statement of self-defense to issue a CCW permit.

This court is over burdened. The argument that the right to bear, i.e. carry, concealed fire arms is expected to be 'shortly' heard by the US Supreme Court.

Think of the people presently before this over burdened court awaiting decisions regarding grave personal problems such as the death penalty and deportation.

This Peruta case has been well briefed by all sides. The court is well aware of all the facts, circumstances and issues regarding this case. What more can Brady add that was not articulated in their amicus briefs in this and the district court?

The right to free speech and to petition the government for redress should not be denied. However, Brady has gone too far in burdening an

already over burdened court with regards to an issue that will be ultimately decided by the US Supreme Court.

This court should promptly issue its Mandate.

Respectfully Submitted,

*JS/ALLAN J MAYER*

Dated: 12/3/14 Allan J. Mayer SBN169962

Amicus curie, Pro bono, and Pro-se.

1650 El Cerrito Court

San Luis Obispo, CA 93401-4610

1-805-544-5843

## CERTIFICATE OF COMPLIANCE

This objection to the petition for rehearing complies with the page limitations of Rule 27(d)(2) because it does not exceed 20 pages. This objection to the petition for rehearing also complies with the typeface requirements of Rule 32(a)(5)(A) and the type style requirements of Rule 32(a)(6) of the Federal Rules of Appellate Procedure because it has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point font and in Times New Roman. This objection will be sent to the persons set forth in the Certificate of Service herein. Also see attachments 1, 2 & 3, 4.

*AS*/Allan J. Mayer  
SBN 169962  
Dated 12/3 /14

Amicus curie, Pro bono, Pro-se

## **CERTIFICATE OF SERVICE**

I, the undersigned, am a citizen of the United States and am over the age of 83. My business address is 1650 El Cerrito Ct. San Luis Obispo, CA 93401.

I am not a party to the action set forth herein. I have caused the service of the above Opposition to Brady and the State of California's Application for Rehearing upon the parties set forth below by the United States mail by depositing the aforesaid opposition and exhibits in a postpaid envelopes at the post office in San Luis Obispo at Marsh Street.

Neil R. O'Hanlon  
1999 Avenue of the Stars Suite 1400  
Los Angeles, CA 90067

James Chapin, Senior Attorney Deputy County Counsel  
1600 Pacific Highway, Room 355  
San Diego, CA 92101

Carl D. Michel, Senior Attorney  
180 E. Ocean Blvd., Suite 200  
Long Beach, CA 90802

Paul Neuharth, Jr. APC  
1140 Union Street, Suite 102  
San Diego, CA 92101

Ross Moody, Deputy Attorney General  
1300 "I" Street  
Sacramento, CA 95814

Gregory David Brown, Deputy Attorney General  
1300 "I" Street  
Sacramento, CA 95814

Clerk of the 9<sup>th</sup> District Court of Appeals  
P.O. Box 193939  
San Francisco, CA 94119

Judge Diarmuid F. O'Scannlain  
P.O. Box 193939  
San Francisco, CA 94119

Judge Sidney R. Thomas  
P.O. Box 193939  
San Francisco, CA 94119

Judge Consuelo M. Callahan  
P.O. Box 193939  
San Francisco, CA 94119

Judge Thomas  
P.O. Box 193939  
San Francisco, CA 94119

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 11, 2014.

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Allan J. Mayer  
Attorney Amicus Curie, Pro Bono, Pro-se  
SBN 169962

Attachment 1

**From:** ca9\_ecfnoticing <ca9\_ecfnoticing@ca9.uscourts.gov>

**To:** lanyslo <lanyslo@aol.com>

**Subject:** 10-56971 Edward Peruta, et al v. County of San Diego, et al "Chambers Order Filed For Publication"

**Date:** Wed, Nov 12, 2014 7:07 am

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**United States Court of Appeals for the Ninth Circuit**

**Notice of Docket Activity**

The following transaction was entered on 11/12/2014 at 6:58:21 AM PST and filed on 11/12/2014

**Case Name:** Edward Peruta, et al v. County of San Diego, et al

**Case Number:** 10-56971

**Document(s):** Document(s)

**Docket Text:**

Filed Order for PUBLICATION (DIARMUID F. O'SCANNLAIN, SIDNEY R. THOMAS and CONSUELO M. CALLAHAN) (Dissent by Judge Thomas) We must rule on motions to intervene in this Second Amendment case which were filed after our opinion and judgment reversing the District Court were filed. (SEE ORDER FOR FULL TEXT) The State of California's Motion to Intervene is DENIED. The Brady Campaign's Motion for Leave to Intervene is DENIED. CPCA and CPOA's Petition for Rehearing En Banc, construed as a motion to intervene, is DENIED. [9308663] (RP)

**Notice will be electronically mailed to:**

Mr. Gregory David Brown, Deputy Attorney General  
James Chapin, Senior Deputy County Counsel

Attachment 2

Paul D. Clement  
Mr. Paul R. Coble, Attorney  
Doctor John C. Eastman  
Mr. Simon J. Frankel, Attorney  
Honorable Irma E. Gonzalez, Senior District Judge  
Mr. Alan Gura  
Stephen Porter Halbrook, Attorney  
Mr. Don Kates  
Professor David Kopel  
Allan Jerome Mayer, Attorney  
Mr. Carl D. Michel, Senior Attorney  
Ross Moody, Deputy Attorney General  
Mr. Paul Henry Neuharth, Jr., Attorney  
Mr. Neil R. O'Hanlon, Attorney  
USDC, San Diego

The following document(s) are associated with this transaction:

**Document Description:** Main Document

**Original Filename:** 10-56971 docket.pdf

**Electronic Document Stamp:**

[STAMP acecfStamp\_ID=1106763461 [Date=11/12/2014] [FileNumber=9308663-0]

[699be5ea908b371da38e72929cf9c47cef3db1761cc9ad1b6288ba5d2f9ead381db92e856db2c9f263bb71f287eb40299424f5c



Attachment 3

From: ca9\_ecfnoficing <ca9\_ecfnoficing@ca9.uscourts.gov>

To: lanyslo <lanyslo@aol.com>

Subject: 10-56971 Edward Peruta, et al v. County of San Diego, et al "File Prospective Amicus or Intervenor Motion"

Date: Wed, Nov 26, 2014 4:57 pm

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United States Court of Appeals for the Ninth Circuit

Notice of Docket Activity

The following transaction was entered on 11/26/2014 at 4:56:43 PM PST and filed on 11/26/2014

Case Name: Edward Peruta, et al v. County of San Diego, et al

Case Number: 10-56971

Document(s): Document(s)

Docket Text:

Filed (ECF) Brady Campaign to Prevent Gun Violence Motion to intervene. Date of service: 11/26/2014. [9329149] [10-56971] (JC)

Notice will be electronically mailed to:

- Mr. Simon J. Frankel, Attorney
- Mr. Carl D. Michel, Senior Attorney
- Mr. Don Kates
- Mr. Neil R. O'Hanlon, Attorney
- Stephen Porter Halbrook, Attorney
- James Chapin, Senior Deputy County Counsel
- Mr. Paul R. Coble, Attorney
- Ross Moody, Deputy Attorney General
- Doctor John C. Eastman
- Mr. Alan Gura
- Mr. Gregory David Brown, Deputy Attorney General
- Paul D. Clement
- Professor David Kopel
- Mr. Paul Henry Neuharth, Jr., Attorney
- Allan Jerome Mayer, Attorney
- James Clayton

The following document(s) are associated with this transaction:

Document Description: Main Document

Original Filename: Peruta-Motion to Join 11-26-Final.pdf

Electronic Document Stamp:

[STAMP acecfStamp\_ID=1106763461 [Date=11/26/2014] [FileNumber=9329149-0]

[6ee946fa41c0f26fb2e44e1913ece6453ae78c3be60bd7d7ebf3da93811b72e068a3626295d027f86d31ebdf2e41b92505d73d8c39c0675aadba3e4da96cbb12]]

On November 26, 2014 Brady filed their motion to rehear. Three days later *The Fresno Bee* on November 29, 2014 published the below article showing that the California Attorney General (C.A.G.) using the same delaying tactics as Brady in another 2<sup>nd</sup> amendment case.

The Federal District Court Judge Anthony W. Ishii declared in August 2014 that a California statute violated the 2<sup>nd</sup> amendment.

The C.A.G. moved to reargue. The court denied the motion(s) to reargue in November 2014. Thus the case was delayed for three months.

Now the C.A.G. can appeal to the 9<sup>th</sup> Circuit and ask for or have a stay during the appeal procedure. Then elongate this procedure if it loses before 3 judges by asking for 11 judges, if it loses before 11 judges, ask for a further stay while it applies for Cert petition to the US Supreme Court.

For causing these periods of obstruction no entity, or person is punished, sanctioned for causing "unnecessary delay" (Rule 11) or every reprimanded in any of the opinions/ decision rendered by the Federal Courts.

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NOVEMBER 29, 2014

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CALIFORNIA

## Judge rejects waiting period for guns

By Jim Guy  
The Fresno Bee

Gun rights advocates intent on ending California's 10-day firearm waiting period are hailing a decision by Fresno-based federal Judge Anthony W. Ishii that slaps down a delaying effort by state Attorney General Kamala Harris.

The U.S. District Court ruled in August that the waiting period violated the Second Amendment of the U.S. Constitution. Harris sought to stay that ruling because of the harm it

would cause the state of California and to alter the judgment on the grounds of the difficulties the state Department of Justice faces in implementing it. Ishii denied both motions last week.

The case still faces review by the federal Ninth Circuit Court of Appeals before gun buyers would be able to take home a firearm the same day they purchase it. Most states allow same-day gun purchases after an Instant Background Check through the federal Bureau of Alcohol, Tobacco,

Firearms and Explosives.

"The court said no, this is a constitutional right," said Brandon Combs of the Calguns Foundation, noting Ishii "went so far as to say that fixing a constitutional wrong is at the top of the list" of things the department must do.

Harris had argued it will expensive to hire and train workers or change the state's computer system to accommodate the ruling. She said that the appellate court could overturn Ishii, wasting the state's money and time.