

FILED
LOS ANGELES SUPERIOR COURT

AUG 21 1998

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

DARWOOD HANCE, M.D., et al.,
Plaintiffs/Petitioners,
vs.
CITY OF LOS ANGELES, et al.,
Defendants/Respondents.

CASE NO. BC 181327

DEPT: 85

(~~STATEMENT~~) STATEMENT
OF DECISION

This matter came regularly before this Court on July 17, 1998, for hearing. Don B. Kates and C.D. Michel appeared as attorneys for Plaintiffs/Petitioners. James K. Hahn, City Attorney, by Byron R. Boeckman, Assistant City Attorney, appeared as attorney for the Defendants/Respondents. The Court having received Plaintiff's Exhibits A and B and Defendants' Exhibit A into evidence and arguments having been presented, and the matter having been submitted for decision, the Court makes the following statement of decision in support of its denial of declaratory relief:

1. A preliminary issue at trial was whether

1 Plaintiffs/Petitioners have sought a peremptory writ of mandate by
2 its Complaint or its attendant prayers for relief.

3 The Court has determined that based upon the
4 representation of Plaintiffs/Petitioners at the hearing on this
5 matter, and their prayers for relief, the case must be adjudged as a
6 plea for declaratory judgment only.

7 2. A principal controverted issue at trial was whether Los
8 Angeles Municipal Code Section 55.13 is preempted by State law. The
9 Court has determined the following:

10 a. Los Angeles Municipal Code Section 55.13 does not
11 contradict state laws regulating firearms or the cinematic use of
12 firearms and is not inimical thereto. Sherman-Williams Co. v. City
13 of Los Angeles (1993) 4 Cal.4th 893, 897 and 902; Water Quality
14 Assn. v. County of Santa Barbara (1996) 44 Cal.App.4th 732. There
15 is no implied or express intent on the part of the legislature to
16 preempt local regulation of the transfer of ammunition clips,
17 magazines or feeding devices. See Suter v. City of Lafayette (1997)
18 57 Cal.App.4th 1109.

19 3. A principal controverted issue at trial was whether the
20 restrictions contained in Section 55.13 relating to "readily
21 convertible" devices and to the "transfer" of particular devices are
22 vague.

23 The Court has determined that the term "readily
24 convertible" describing certain magazines, clips and feeding devices
25 is not vague but means that the device is one which can be converted
26 with promptness, speed or ease. Further, the term "transfer" must
27 be read in the context of the modifier which provides that one may
28 not "sell or otherwise transfer" certain devices, and read in

1 context "transfer" means more than a change in possessory interest
2 but refers to a change in ownership interest.

3 4. A principal controverted issue at trial was whether Los
4 Angeles Municipal Code is overbroad because it applies to weapons or
5 to owners which should not be included within its ambit.

6 The Court has determined that because the only interests
7 effected by the ordinance are interests related to the right to sell
8 or otherwise transfer ownership of personal property, and because
9 the test of the appropriate breadth of such a regulation is whether
10 it is reasonable, the Court may not inquire into the wisdom of the
11 regulation. People v. Sarai Co. (1976) 56 Cal.App.3d 531, 536. The
12 Court further finds that the ordinance which limits the sale of
13 large capacity clips, magazines and other feeding devices is an
14 ordinance which could reasonably be believed to be necessary to the
15 public welfare, and therefor not overbroad as a matter of law. See
16 Addison v. Addison (1965) 62 Cal.2d 558, 566.

17 5. The Court further finds that there is no case or
18 controversy relating to whether the ordinance applies to the sale or
19 other transfer of weapons with clips, magazines or other feeding
20 devices which are integral to the weapons because the defendants
21 have maintained ab initio that Section 55.13 does not apply to the
22 sale of weapons with affixed integrated feeding devices.

23 6. Judgment should be entered as follows:

24 a. Denying Plaintiffs/Petitioners application for
25 declaratory judgment.

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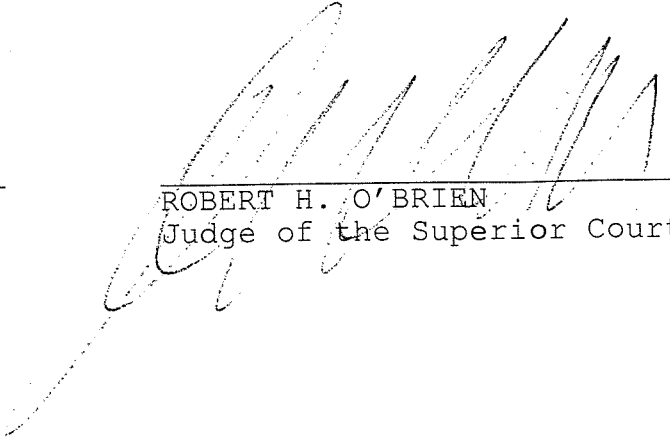
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1 b. The parties bear their own costs of suit in this
2 action.

3 Let judgment be entered accordingly.

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6 DATED: _____

AUG 21 1998



ROBERT H. O'BRIEN
Judge of the Superior Court