

Case No. 12-17808

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

GEORGE K. YOUNG, JR.,
Plaintiff-Appellant,

v.

STATE OF HAWAI'I, ET AL.,
Defendants-Appellees

On Appeal from the United States District Court
for the District of Hawai'i, Case No. 1:12-cv-00336-HG-BMK
Honorable District Judge Helen Gillmor

**DECLARATION OF CHIEF SUSAN BALLARD IN SUPPORT
OF BRIEF OF *AMICI CURIAE* CITY AND COUNTY OF
HONOLULU, COUNTY OF KAUA'I, AND COUNTY OF
MAUI, SUPPORTING PETITION FOR
REHEARING *EN BANC***

I, SUSAN BALLARD, declare under penalty of perjury that:

1. I am the Chief of Police of the Honolulu Police Department (HPD) and have been since November 2017. I have personal knowledge of, and am competent to testify to, the matters set forth below.

2. I joined the HPD in 1985, and have held every position within the HPD with the exception of the ranks of Assistant Chief and Deputy Chief. I have worked in a wide range of field and administrative assignments, including the Narcotics/Vice and the Downtown-Chinatown patrol district. As a commander, I have led the Kaneohe and Kalihi patrol districts and the Finance, Training, and Central Receiving divisions.

3. The HPD's Mission Statement provides that the HPD's official goal is to serve and protect with "aloha," which—as stated in the Hawaii Revised Statutes—"is more than a word of greeting or farewell or a salutation," but also "means mutual regard and affection and extends warmth in caring with no obligation in return," expressing "the essence of relationships in which each person is important to every other person for collective existence." HRS § 5-7.5. Accordingly, the HPD works together with the community to make Oahu safe for its nearly one million residents and five times as many visitors.

4. The Firearms Section of the HPD's Records and Identification Division is responsible for processing applications for open carry permits. Permit applications are forwarded to me through my Deputy Chief of Administrative Operations for consideration and approval.

5. The HPD does not deny open carry permits solely on the basis that the applicant is not a security guard or similarly employed in a job that entails

protecting life and property. On the contrary, the HPD reviews each application individually to determine whether, given the circumstances, a permit is warranted under Section 134-9 of the Hawaii Revised Statutes.

6. I have reviewed Opinion Letter No. 18-1 of the Department of the Attorney General of the State of Hawaii, and I agree with its interpretation of Section 134-9. Indeed, the Attorney General's opinion comports with the HPD's past and current practice. An applicant must satisfy four criteria to obtain an open carry permit. He or she must (1) meet the objective qualifications for possessing and carrying a firearm; (2) demonstrate a sufficient need to carry a firearm for the purpose of protecting life and property; (3) be of good moral character; and (4) present no other reason justifying the discretionary denial of a permit. To satisfy these requirements, an applicant must demonstrate, among other things, that he or she has a need for protection that substantially exceeds that held by ordinary law-abiding citizens.

7. The City and County of Honolulu has a low rate of violent crime compared to other big cities, and our community as a whole is satisfied with the current gun legislation and the way applications are scrutinized, which strikes an appropriate balance between citizens' Second Amendment rights—which I recognize and respect—and protecting public safety by minimizing the proliferation of guns in public places. This is evidenced by the passing of recent laws by the State legislature these past few years which were more restrictive of firearms – for example, statewide implementation of Rap Back; authorization for immediate confiscation of firearms for those diagnosed with mental health issues; and, most recently, the ban of trigger modification devices, including bump fire stocks, multi-burst trigger activators, and trigger cranks.

8. If the HPD is required to issue open carry permits to applicants who have no special need for such protection, police officers will be likely to face greater danger because they will encounter more armed individuals. An officer trying to issue a traffic citation, for example, has far more to fear if the driver is armed.

9. Indeed, any time guns are a factor in an interaction between officers and citizens, the risk of fatalities tends to increase. The same is true of interactions between citizens: the presence of one or more guns in any dispute increases the chances that dispute will become deadly. Even when an armed individual is attempting to aid police, that fact may not be immediately obvious to or verifiable by the officer, with potentially tragic consequences.

10. Moreover, an increase in the number of guns that may be lawfully carried in public is likely to result in an increase in the number of gun thefts, and thus an increase in the number of guns in the hands of criminals.

11. In sum, a requirement to issue open carry permits to people who have no special need for them is likely to make citizens and police officers less safe and, at the very least, will make it much more difficult for the HPD to carry out its mission of serving and protecting with aloha.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on September 19, 2018, in Honolulu, Hawaii.

A handwritten signature in cursive script that reads "Susan Ballard". The signature is written in black ink and is positioned above a horizontal line.

SUSAN BALLARD