



THE CALIFORNIA RIFLE & PISTOL ASSOCIATION

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March 20, 2008

CC COPY

Clerk of the Supreme Court
California Supreme Court
350 McAllister Street
San Francisco, CA 94102

Re: Fiscal et al., v. City and County of San Francisco et al.,
Supreme Court Case No. S160968
Court of Appeal Case No. A115018 (First District Court of Appeal, Division Four)
Superior Court Case No. 505960
City and County of San Francisco's Request for Depublication of Court of Appeal
Opinion (Rule 8.1125)

Dear Justices of the Supreme Court:

The California Rifle and Pistol Association ("CRPA") hereby opposes the request of the Legal Community Against Violence ("LCAV") for depublication of the Court of Appeal's decision in the above-captioned matter.

The CRPA is a non-profit association of over 65,000 members dedicated to protecting firearms freedoms and promoting shooting sports. The organization was founded in 1875 and has played an important role in promoting the shooting sports by conducting state championship matches for adults and young shooters and by teaching firearms safety. Among its other activities, the CRPA works to preserve constitutional and statutory gun ownership rights, including the right to self-defense and the right to keep and bear arms.

As a brief look at the LCAV's website reveals, the ultimate goal of the LCAV is not, as the gun-control community often professes, the passage of "reasonable firearms regulations." Rather, the LCAV is a gun control advocacy group that seeks to enact the complete ban of wide classes of firearms, including "assault weapons," fifty caliber rifles, and handguns. (See Model Laws of LCAV at www.lcav.org/library/model_laws.asp.) The LCAV even seeks a complete ban on the sale and possession of air rifles. (*Id.*) The LCAV believes that with respect to firearms laws, "federal reform, even under the most favorable political conditions, is difficult to achieve." (See Mission & Philosophy of LCAV at <http://www.lcav.org/about/index.asp>.) Therefore, the LCAV advocates the passage of restrictive firearms legislation at both the state and local level. (*Id.*)

The LCAV's approach to securing restrictive firearms legislation has been incremental. Since its inception in 1993, the LCAV has advocated for a series of increasingly restrictive local firearms ordinances. Some of these are permissible under state law, but many are preempted or would be preempted. Despite the incremental path to restrictive firearms legislation followed by the LCAV, the LCAV's "Model Laws," along with its fervent advocacy of the complete handgun ban before this Court leave little doubt that the ultimate goal of the LCAV is to ban all or nearly all firearms.

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Perhaps this is why the LCAV so strenuously objects to the Appellate Court's citation to *California Dreamin'* (1996) 30 U.S.F.L.Rev. 395, a law review article written in 1996 by the LCAV's Local Ordinance Committee Chairperson. That article confirms the LCAV's ultimate goal of banning all firearms: "Short of a complete ban on the possession and use of firearms, particularly handguns, no single intervention will end the epidemic [of gun violence]." (*California Dreamin'*, supra, 30 U.S.F.L.Rev. 395, 426.)

Recognizing that its ultimate goal is presently not achievable, the article proposes a series of local regulations which, though far less restrictive than the complete handgun ban represented by Prop H, could run afoul of state preemption law depending on how restrictively they are drafted. The regulations proposed by the article include bans on the sale of "Saturday Night Specials" (which, as the Appellate Court correctly noted on page 18 of its Slip Opinion, are now preempted in light of the passage of the state's Unsafe Handgun Act), land-use regulations on firearms dealers, local regulations on the sale of ammunition, and business taxes on firearms dealers. (*Id.* at pp. 14-16.)

As is obvious by the LCAV's participation in this case, the LCAV's ultimate goal is to argue for and secure legal validity for the most restrictive firearms ordinances possible. Prop H overreached, and the decision below has re-articulated the conclusion of *Doe v. City and County of San Francisco* (1982) 186 Cal.Rptr. 380 that local bans on handgun possession are preempted by California law. The LCAV has been attacking this decision for years, posturing hopefully for that decision to be overruled. The published Opinion below, though unremarkable in its restatement of firearms preemption law, dashes the LCAV's hopes in that regard.

That is not sufficient reason for this Court to order depublication.

Sincerely,

CALIFORNIA RIFLE & PISTOL ASSOCIATION

A handwritten signature in black ink, appearing to read "John C. Fields", with a long horizontal flourish extending to the right.

John C. Fields
Executive Director

JCF/ca

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

I, Claudia Ayala, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Blvd., Suite 200 Long Beach, CA 90802.

On, March 20, 2008, I served the foregoing document(s) described as

**CALIFORNIA RIFLE & PISTOL ASSOCIATION OPPOSITION TO
LEGAL COMMUNITY AGAINST VIOLENCE LETTER REQUESTING
DEPUBLICATION OF COURT OF APPEAL OPINION**

on the interested parties in this action by placing

the original

a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

“SEE ATTACHED SERVICE LIST”

X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after date of deposit for mailing an affidavit.

Executed on March 20, 2008, at Long Beach, California.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



CLAUDIA AYALA

CITY AND COUNTY OF SAN FRANCISCO et al.,
v.
PAUL FISCAL et al.,

First District Court of Appeal Case No.: A115018
San Francisco Superior Court Case No.: 505-960

SERVICE LIST

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