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January 7, 2011

VIA ELECTRONIC FILING & U. S. MAIL

Ms. Molly C. Dwyer, Clerk
United States Court of Appeals for the Ninth Circuit
Post Office Box 19339
San Francisco, California 94119-3939

Re: *Nordyke, et al. v. King, et al.*, Case No. 07-15763

Dear Ms. Dwyer:

This letter responds to the Rule 28(j) letter filed by appellants on January 5, 2011.

United States v. Chester, 2010 WL 5396069 (4th Cir. 2010), cited by appellants, involves a Second Amendment challenge by a domestic violence misdemeanant. Defendant possessed in his home a shotgun and handgun, discovered after law enforcement responded to a domestic violence disturbance. Chester appealed from denial of his motion to dismiss his indictment under 18 U.S.C. Section 922(g)(9), asserting the statute violated his right under the Second Amendment to possess a firearm in his home for self-defense. 2010 WL 5396069 at *3, *16.

Because the prosecution did not contend that “Chester, having been convicted of a domestic violence misdemeanor, is wholly unprotected by the Second Amendment,” the Fourth Circuit concluded “[w]e must assume therefore that Chester’s Second Amendment rights are intact and he is entitled to some measure of Second Amendment protection to keep and possess firearms in his home for self-defense.” *Id.*, at *14, *15.

The Fourth Circuit determined that Chester’s challenge should be analyzed under intermediate scrutiny because Chester was not a law abiding, responsible citizen, and therefore “[a]lthough Chester asserts his right to possess a firearm in his home for the purpose of self-defense, we believe his claim is not within the core right identified in *Heller*....” 2010 WL 5396069 at *16.

Chester did not consider firearms possession for any purpose other than “defense of hearth and home” and has no bearing on this case. The challenged Ordinance does not regulate home possession of firearms. By law, it is subject to a self-defense exception. Appellants do not seek to possess firearms on the County-

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owned Fairgrounds for self-defense. Appellants wish to have firearms for display, sale, viewing, and demonstration at TS Trade Show events, and to require the County to allow them to do so. That conduct is outside the core Second Amendment right identified in *Heller* and reiterated in *Chester*, that is, the right of a law abiding citizen to possess a firearm in the home for self-defense.

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. Peter Pierce', with a stylized flourish at the end.

T. Peter Pierce

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