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August 17, 2015

The Hon. Molly Dwyer
United States Court of Appeals, Ninth Circuit
95 Seventh Street
San Francisco, CA 94103-1518

Re: *Pena v. Lindley*
U.S. Court of Appeals, Ninth Cir. No. 15-15449

Notice of Supplemental Authority, Fed. R. App. P. 28(j)

Dear Ms. Dwyer:

On August 13, 2015, California's Governor signed into law Assembly Bill 892, adding a new exemption from the handgun ban at issue in this case. See http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB892 (last visited August 17, 2015).

California Pub. Contracts Code § 10334(d) allows the surviving spouse or domestic partner of a state-employed peace officer who died in the line of duty to purchase that peace officer's state-issued handgun. Per AB 892, new Cal. Penal Code § 32000(b)(5) exempts such sales from the ban on selling "unsafe" handguns. "Since many of the state-issued handguns to law enforcement are included on the list of unsafe handguns," the new law allegedly closes a "loophole" barring sales of such guns to peace officers' survivors. Senate Floor Analysis, AB 892 at 4. Survivors may now obtain a "state-issued service weapon, regardless of whether it has been deemed unsafe by the Department of Justice." Assembly Pub. Safety Committee Report at 3.

Ms. Dwyer
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It is interesting that the new law's supporters claim it closes a "loophole," implying that the general condition is the availability of "unsafe" handguns. Of course the opposite is true. The new law *creates* another loophole, irrationally privileging another group of super-citizens to whom "safety" rules do not apply.

This latest exemption reconfirms that the "unsafe" handgun law has nothing to do with safety. Why should ordinary civilians, who happen to be police survivors, be allowed "unsafe" handguns? Plaintiffs note that survivors could legally sell these "unsafe" handguns to ordinary, non-privileged people at a hefty profit.

Plaintiffs are not unsympathetic to police spouses and domestic partners' desire to access common, modern handguns. But these individuals should not have to wait for their spouses and partners to die in the line of duty to obtain handguns of the kind in common use for traditional, lawful purposes. *All* law-abiding, responsible adults enjoy equal access to the ordinary handgun market as a matter of constitutional law.

Sincerely,

/s/ Alan Gura
Alan Gura

This body of this letter contains 318 words.

CERTIFICATE OF SERVICE

On this, the 17th day of August, 2015, I served the foregoing by electronically filing it with the Court's CM/ECF system, which generated a Notice of Filing and effects service upon counsel for all parties in the case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 17th day of August, 2015.

/s/ Alan Gura
Alan Gura