



THE COUNTY COUNSEL  
COUNTY OF ORANGE

333 W. SANTA ANA BLVD., SUITE 407  
SANTA ANA, CA 92701  
MAILING ADDRESS: P.O. BOX 1379  
SANTA ANA, CA 92702-1379  
(714) 834-3300  
FAX: (714) 834-2359

Marianne Van Riper  
Supervising Deputy  
(714) 834-6020

May 23, 2012

NICHOLAS S. CHRISOS  
COUNTY COUNSEL

JACK W. GOLDEN  
CHIEF ASSISTANT

JEFFREY M. RICHARD  
SENIOR ASSISTANT

WANDA S. FLORENCE  
SENIOR ASSISTANT

ADRIENNE SAURO HECKMAN

KAREN R. PRATHER  
GEOFFREY K. HUNT  
CHRISTOPHER J. MILLER

JOHN H. ABBOTT  
JANELLE B. PRICE  
ANN E. FLETCHER

MARGARET E. EASTMAN  
MARK R. HOWE  
DANA J. STITS

MARIANNE VAN RIPER  
JAMES C. HARMAN  
JULIE J. AGIN

LAURIE A. SHADE  
DANIEL H. SHEPHARD  
JOYCE RILEY

PAULA A. WHALEY  
THOMAS A. MILLER  
STEVEN C. MILLER

CAROLYN S. FROST  
ROBERT N. ERVAIS  
LAURA D. KNAPP

ROGER P. FREEMAN  
NICOLE A. SIMS  
NIKHIL G. DAFTARY

JEANNIE SU  
JAMES C. HARVEY  
WENDY J. PHILLIPS

TERI L. MAKSOUDIAN  
LEON J. PAGE  
ANGELICA CASTILLO DAFTARY

KAREN L. CHRISTENSEN  
MICHAEL A. HAUBERT  
RYAN M. F. BARON

BRAD R. POSIN  
SAUL REYES  
AURELIO TORRE

MARK D. SERVINO  
DEBBIE TORREZ  
JACQUELINE GUZMAN

ANDREA COLLIER  
PAUL M. ALBARIAN  
D. KEVIN DUNN

LORI A. TORRISI  
MASSOUD SHAMEL  
SHARON VICTORIA DURBIN

REBECCA S. LEEDS  
NICOLE M. WALSH  
ELIZABETH A. PEJEAU

LAUREN C. BAUER  
GABRIEL J. BOWNE  
JULIA C. WOO

LAUREL M. TIPPETT  
MARK A. BATARSE  
ADAM C. CLANTON

KRISTEN K. LECONG  
ERIC A. DIVINE  
COURTNEY S. WUCETICH

JAMES D. P. STEINMANN  
VANESSA D. ATKINS  
SUZANNE E. SHOAI

DEBORAH B. MORSE  
DEPUTIES

**VIA E-FILE**

Molly Dwyer, Clerk of Court  
U.S. Court of Appeals for the Ninth Circuit  
95 Seventh Street  
San Francisco, California 94103

Re: *Dorothy McKay, et al. v. Sheriff Sandra Hutchens, et al.*  
U.S. Courts for the Ninth Circuit Case No. 12-57049  
D.C. No.: 8:12-cv-01458-JVS-JPR

Dear Ms. Dwyer:

Pursuant to FRAP, Rule 28(j), counsel for Defendants-Appellees, Sheriff Sandra Hutchens and the Orange County Sheriff-Coroner Department, hereby inform the Court that new case authority came to the attention of counsel after briefing has been completed. The case is *Woollard v. Gallagher*, 712 F.3d 865 (4<sup>th</sup> Cir. March 21, 2013). (The *Woollard* District Court unpublished decision was cited by Appellants in their opening brief for the proposition that the right to bear arms extends beyond the home, and was previously distinguished in Respondents' brief at pp.24-27.) The unpublished decision has since been overruled.

In *Woollard*, Plaintiffs filed an action against Maryland's state officials ("Defendants") seeking to enjoin the enforcement of a section of the Public Safety Article of the Maryland Code, which imposed conditions for a permit to carry a handgun in public. Under the permitting scheme, the Secretary of the Maryland State Police must make certain findings including that the applicant "has good and substantial reason to wear, carry, or transport a handgun" and that a "permit is necessary as a reasonable precaution against apprehended danger." The "apprehended danger cannot be established by, inter alia, a 'vague threat' or a general fear of 'liv[ing] in a dangerous society.'" The Plaintiffs alleged that the permit requirement violated the Second Amendment and prevailed in the District Court. Defendants appealed.

The Court of Appeal reversed, declining to decide the issue of whether the challenged statute implicates Second Amendment protections, reasoning that analysis was not necessary because "the good-and-substantial-reason requirement passes constitutional muster under what we have deemed to be the applicable standard—intermediate scrutiny." The Court rejected the proposition that it must apply strict

Molly Dwyer, Clerk of Court  
U.S. Court of Appeals for the Ninth Circuit  
May 23, 2013  
Page 2

scrutiny whenever the law impinges upon a fundamental right. The Court also found that the good-and-substantial-reason requirement was reasonably adapted to Maryland's significant interests of crime prevention. The Court also rejected Plaintiffs' facial challenge.

The case is relevant to Respondents' arguments about the proper standard of review (Resp. Brief, pp. 33-376) and that requiring a certain reason to obtain a permit is reasonably adapted to the state's interest in public safety and crime reduction (Resp. Brief, pp.38-48).

Very truly yours,

NICHOLAS S. CHRISOS  
COUNTY COUNSEL

By Marianne Van Riper  
Marianne Van Riper, Senior Deputy

MVR:ml

ec/cc: All Parties of Record (via ECF/U.S.PS.—see attached Proof of Service)

9th Circuit Case Number: 12-57049

CERTIFICATE OF SERVICE

Page 1

I hereby certify that I electronically filed the foregoing letter dated May 23, 2013, to Molly Dwyer, Clerk of Court of the U.S. Court of Appeals for the Ninth Circuit with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on May 23, 2013.

The following participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

Anna Barvir, Esq.  
Sean Anthony Bardy, Esq.  
Glenn McRoberts, Esq.  
Carl D. Michel, Esq.  
Matt Bower, Esq.  
Sean Anthony Brady, Esq.  
John C. Eastman, Esq.  
Stephen Porter Halbrook, Esq.  
Don Kates, Esq.  
David Kopel, Esq.  
Cameron Robert Cloar, Esq.  
Neil R. O'Hanton, Esq.

9th Circuit Case Number: 12-57049

CERTIFICATE OF SERVICE

Page 2

I further certified that on May 23, 2013, I mailed a copy of the above-stated letter via United States Postal Service to the following:

Molly Dwyer, Clerk of Court  
Office of the Clerk  
James R. Browning Courthouse  
U.S. Court of Appeals for the Ninth Circuit  
P.O. Box 193939  
San Francisco, California 94119-3939

Kamala D. Harris, California Attorney General  
Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814

Executed this 23<sup>rd</sup> day of May, 2013.

  
\_\_\_\_\_  
Marzette L. Lair