

JAMES HOCHBERG (HI Bar No. 3686)
ATTORNEY AT LAW, LLLC
700 Bishop St., Ste. 2100, Honolulu, HI 96813
Telephone: (808) 256-7382
E-mail: jim@jameshochberglaw.com

C.D. MICHEL*
SEAN A. BRADY*
MATTHEW D. CUBEIRO*
MICHEL & ASSOCIATES, P.C.
180 E. Ocean Blvd., Ste. 200, Long Beach, CA 90802
Telephone: (562) 216-4444
E-mail: cmichel@michellawyers.com
*(ADMITTED *pro hac vice*)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

RONALD G. LIVINGSTON; MICHAEL J.
BOTELLO; KITIYA M. SHIROMA; JACOB
STEWART; and HAWAII RIFLE
ASSOCIATION,

Plaintiffs,

v.

SUSAN BALLARD, Police Chief of the
City & County of Honolulu; CITY &
COUNTY OF HONOLULU; and CLARE E.
CONNORS, Attorney General of Hawaii,

Defendants.

) Case No. 19-00157JMS-RT
)
) **DECLARATION OF RONALD**
) **LIVINGSTON IN SUPPORT OF**
) **PLAINTIFFS' MOTION FOR**
) **PRELIMINARY INJUNCTION;**
) **EXHIBIT D**

C:\Share\Firm Files\Active Clients\Michele Law Firm 2nd Amend Case 2018\2019-3-20 Dec of

R Livingston ISO MPI DOCX

DECLARATION OF RONALD LIVINGSTON

I, Ronald Livingston, an adult resident of the State of Hawaii, declare the following based on my personal knowledge:

1. I am a citizen of the United States and a resident of Honolulu, Hawaii.
2. I am 73 years of age.
3. I have never been convicted of a crime.
4. I suffer from post-polio syndrome, which causes weakness in my leg muscles and limits my ability to move quickly. Due to this disability, if I were threatened with a violent attack outside my home, I would not be able to escape quickly. As a result, I fear for my safety every time I leave my home, and presently desire to carry—and, if authorized, immediately would carry—a handgun outside the home for self-defense.
5. To carry a handgun outside the home for self-defense—whether concealed or openly—Hawaii law generally requires ordinary, law-abiding citizens to obtain a license issued by a county chief of police. H.R.S. §134-9(c).
6. As an ordinary, law-abiding citizen, I am not exempted from Hawaii’s firearms restrictions.
7. Therefore, in order to lawfully carry a handgun in public for self-defense, I must obtain a license.
8. I satisfy all applicable requirements to possess a handgun and obtain a

carry license: I am a United States citizen, above 21 years old, have completed appropriate safety training, have not been disqualified from possession under H.R.S. §134-7, have not been adjudged insane, am not mentally deranged, and am otherwise suitable to possess a firearm.

9. I inquired with the Honolulu Police Department as to what application form, if any, I should use in applying for both an open and/or concealed carry license. I was provided a form for conceal and for open carry license applications.

10. I submitted a cover letter accompanying my application for a concealed carry license. In this cover letter, I requested the Honolulu Police Department treat my application as both an application for a concealed carry and open carry license, while also referencing former Attorney General Suzuki's opinion letter clarifying the requirements for such licenses.

11. I received a February 11, 2019 letter from Chief of Police Susan Ballard denying my application; a true and correct copy is attached as Exhibit D.

12. Chief Ballard's letter stated that my application was denied because I did "not sufficiently meet the immediacy, urgency, or need necessary for protection of life and property" as required under Hawaii law.

13. If licensed to carry a handgun concealed or openly, I would immediately do so to protect myself outside my home.

14. The denial of my request to carry a handgun outside my home in any

manner prevents me from defending myself and makes me fear for my safety.

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

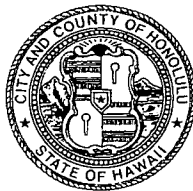
Executed on: 03/21/2019

Ronald D Livingston
Ronald Livingston

POLICE DEPARTMENT

CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.gov



KIRK CALDWELL
MAYOR

SUSAN BALLARD
CHIEF

JOHN D. McCARTHY
JONATHAN GREMS
DEPUTY CHIEFS

OUR REFERENCE DN-TH
Certified Mail 7017 3380 0000 0495 7020

February 11, 2019

Mr. Ronald Livingston
7021 Kamilo Street
Honolulu, Hawaii 96825

Dear Mr. Livingston:

This letter is to officially inform you that your application for a license to carry a concealed firearm has been denied.

Your application stated that your need to carry a firearm is to defend and protect yourself because you have post-polio syndrome, a condition which makes it "difficult to run away from possible trouble," and makes you an "easy target to be a crime victim." Your application does not indicate any specific or credible threats to your person or property that substantially exceed the need possessed by ordinary law-abiding citizens.

Your application does not sufficiently meet the immediacy, urgency, or need necessary for protection of life and property, as required by Chapter 134-9 of the Hawaii Revised Statutes, for the issuance of a license to carry a concealed firearm.

Chapter 134-9 of the Hawaii Revised Statutes deals with firearms and the issuance of licenses to carry a pistol or revolver and ammunition therefor concealed or unconcealed on the person and grants the Chief of Police of the appropriate county the authority to grant such licenses.

If you or any of those around you are placed in danger of bodily injury by word or deed, the police department should be contacted immediately so that proper action may be initiated.

Should you have any further questions, you may contact Sergeant Matthew Liana of the Firearms Unit, Records and Identification Division, at 723-3190.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan Ballard".

SUSAN BALLARD
Chief of Police