

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI‘I

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

Plaintiffs,

v.

ARTHUR J. LOGAN, in his official
capacity as Police Chief of the City &
County of Honolulu; CITY &
COUNTY OF HONOLULU; and
HOLLY T. SHIKADA, in her official
capacity as Attorney General of
Hawai‘i,

Defendants.

Civil No. 1:19-cv-00157-JMS-RT

**DECLARATION OF
NICHOLAS M. MCLEAN**

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Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. I am a Deputy Attorney General in the Department of the Attorney General for the State of Hawai‘i and am one of the attorneys representing the Attorney General, Holly T. Shikada, in her official capacity in this action.

2. As explained in the accompanying memorandum of law, it is the position of Defendant Shikada that neither the Attorney General, nor the Department of the Attorney General or any employees or officers thereof, have a role in enforcing any of the provisions of HRS chapter 134 regarding the processing,

approval, or denial of applications to carry firearms. Defendant Shikada did not deny Plaintiffs’ applications. Nor do the relevant statutes authorize Defendant Shikada or her deputies or other staff of the Department of the Attorney General to play a role in processing, evaluating, granting, denying, or otherwise acting upon applications for licenses to carry firearms.

3. On July 7, 2022, the Attorney General issued a formal opinion, Opinion No. 22-02, in response to a request from the Governor of the State of Hawai‘i. A true and correct copy of this opinion is attached as Exhibit 1. In this formal opinion, the Attorney General opined that “[f]ollowing *Bruen*, the requirement in HRS § 134-9(a) that an applicant ‘[i]n an exceptional case . . . show[] reason to fear injury to the applicant’s person or property’ to obtain a concealed carry license should no longer be enforced.” Ex. 1 at 3. The Attorney General opinion further states that “[t]he chiefs of police should not deny an application for a concealed carry license, or impose restrictions on a concealed carry license, because an applicant fails to demonstrate a special need or a sufficiently good reason to carry a firearm,” and that “[a]ll other statutory requirements for obtaining a concealed carry license – except the citizenship requirement as applied to lawful permanent residents and U.S. nationals – remain in full force and effect, and should continue to be enforced by the chiefs of police.” *Id.*

4. Insofar as Defendant Shikada or the Department of the Attorney General is deemed by the Court to have any role in processing, determining,

overseeing, approving, or denying applications for licenses to carry firearms, I am authorized to represent that—following the Supreme Court’s decision in *Bruen* and the Attorney General’s July 7, 2022 opinion—it is the position and policy of the Attorney General that the language of HRS § 134-9(a) providing that an applicant “[i]n an exceptional case . . . show[] reason to fear injury to the applicant’s person or property” to obtain a concealed carry license is no longer applicable and is no longer being applied on a going-forward basis with respect to applications for concealed carry licenses.

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

DATED: Honolulu, Hawai‘i, November 1, 2022.

/s/ Nicholas M. McLean

NICHOLAS M. MCLEAN