No. 24-5566

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

GARY SANCHEZ,
Plaintiff and Appellant,

V.

ROB BONTA, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE STATE OF CALIFORNIA,
Defendant and Appellee.

On Appeal from the United States District Court
for the Southern District of California
No. 24-cv-767-RSH-MSB
Hon. Robert S. Huie, District Judge

PLAINTIFF-APPELLANT'S RESPONSE TO DEFENDANT-APPELLEE'S OPPOSITION TO PLAINTIFF-APPELLANT'S MOTION FOR INJUNCTION PENDING APPEAL

GARY SANCHEZ
In Pro Per
5941 Rio Valle Dr
Bonsall, CA 92003

October 1, 2024

I. Out of ignorance Plaintiff failed to adhere to Rule 8 of this court, if the court must deny this motion let it be for this reason and not for any of the other reasons set forth by the Defendants.

II. Defendants argue that Plaintiff needs to fulfill the four requirements for an injunction, Plaintiff will lay out the reasoning for each requirement below:

1) Likelihood of success on the merits does not need to be 100%, as *Roland Machinery Co. v. Dresser Indus., Inc.*, 749 F.2d 380, 387 (7th Cir. 1984) explains, a "better than negligible" chance of succeeding is enough to obtain a preliminary injunction.

2) "a violation of a constitutional right constitutes irreparable injury…" *Gordon v. Holder*, 721 F.3d 638 (D.C. Cir. 2013). If we believe that the Second Amendment is not a "Second Class Right" then we must also treat it the same way we treat the First Amendment, that is to say: "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v Burns*, 427 U.S. 347, 373 (1976). If this court agrees that the Second Amendment is a Right equal to all others then this requirement is satisfied.

3) Due to the reasoning set forth in the second requirement, the irreparable injury caused by the infringement of a right tips the balance of equities strongly in favor of the Plaintiff.

4) An injunction in this case is in the public interest of advancing proficiency in arms and protecting the hearing of millions of Californians

A. Defendants point to "Dangerous and Unusual" many times as a point of fact, but as shown in the District Court Docket ECF No 13-1, Silencers are not unusual, since the threshold of 200,000 set in *Caetano v Massachusetts*, 577 U.S. 411 (2016) is more than satisfied. Because the item in question must be Dangerous *and* Unusual their argument here, is moot.

B. Being an almost exact copy paste of their argument in the District Court proceedings I will not waste the ink or the time of the Judges by re-stating arguments I made in the District Court.

1. "Thus, even though the Second Amendment's definition of "arms" is fixed according to its historical understanding, that general definition covers modern instruments that *facilitate* armed self defense." (emphasis added) *New York State Rifle and Pistol Assn v. Bruen* 597 U.S. 19 (2022). As shown an item need not be integral to the operation of a firearm but need only to *facilitate* armed self-defense. Silencers therefore are arms, QED.
2. The argument made by Defendants here is moot, as mentioned in this text in my rebuttal to section A and Section B1, Silencers are in "common use" when applying the *Caetano* test and the Defendants point to no evidence that Silencers are not in use for self-defense.
3. Just as in the District Court the Defendants argument does not point to any "relevantly similar" historical regulations to support it.

CONCLUSION

The Court should grant Plaintiff's motion for an injunction pending appeal.

Dated: October 1, 2024

Respectfully submitted,

Gary R. Sanchez
In Pro Per

UNITED STATES COURT OF APPEALS
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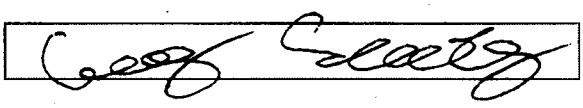
Signature  **Date** 10/1/2024

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CONCLUSION

The Court should grant Plaintiff's motion for an injunction pending appeal.

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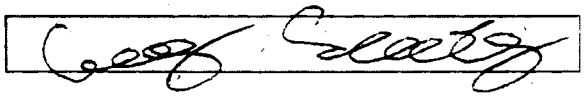
Signature  **Date** 10/1/2024

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