THE
Gun Owners

33 YEARS OF NO COMPROMISE – 1975-2008

As GOA brief offers unique arguments in landmark case …

Supreme Court Strikes Down DC Gun Ban!

by Erich Pratt

The Supreme Court handed down a historic decision on June 26, 2008, when it decided the *DC v. Heller* case.

The judges struck down the handgun ban and gun lock-up requirement that had existed in the nation's capital for more than 30 years, and in doing so, sent shockwaves through the gun-hating legal community.

With one stroke of the pen, the Supreme Court not only vetoed the most draconian ban on guns in the country, it refuted a myriad of myths that have been peddled by the gun control crowd for so many years.

Remember hearing that no court has ever used the Second Amendment to strike down a gun control law?

Or how about this one: There is no individual right to keep and bear arms apart from membership in a militia … and guns should only be used by the military and police?

The Brady Bunch has peddled all of these myths for years and years prior to the *Heller* decision. But now, groups like the Brady Campaign to Prevent Gun Violence are scrambling for new talking points. The judges effectively dismantled each one these assertions in its 64-page majority opinion.

In fact, the Court spent an entire 54 of those pages analyzing the history behind the Second Amendment … and they got it right! Much of what they said could have been written by one of GOA's staff attorneys:

- They clearly stated that the right to keep and bear arms is an "individual right" which is not dependent upon membership in a state militia (pp. 5-7, 11-12).
- The court recognized that keeping a despotic federal government from disarming the people was a central purpose of the amendment (pp. 24-26).
- The judges said that the Second Amendment right protects modern firearms — not just eighteenth century weapons — just as the First Amendment protects electronic communications (such as radio and TV) and the Fourth Amendment guards against current methods of seizing illegal information by using computers, listening devices, etc. (p. 8).

Supreme Court sides with many of the principles in the GOA brief

Gun Owners of America submitted an *amicus* brief in the *Heller* case and, among other things, urged the Court not to use the *Heller* case as a springboard to resolve the constitutionality of all of the nation's firearms laws.

Were the Court to have done this, it could have been a disaster. After all, the majority stated its opinion should "not be taken to cast doubt" on at least some prohibited persons' restrictions, gun free school zone bans and dealer licensing requirements. This dicta implies that courts might go further than the Constitution allows in upholding these gun restrictions in the future.

Thankfully, this "dicta" is just that — it's editorializing by the judges, which is non-binding on future courts.

The GOA brief was the only one making the request not to rule on these other gun issues, thus upholding their obligation to discover the law in this case alone. We were most pleased to see that the judges heeded our admonition to limit the

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CNN televised a meeting between GOA Executive Director Larry Pratt (right) and David Olofson, just before he surrendered to authorities in July to begin his 30-month prison sentence. The BATFE went after Olofson on machine gun charges because his AR-15 malfunctioned, misfiring two bursts of three rounds each before it jammed. (See page 8 for the full story on this miscarriage of justice and what GOA is doing to help.)

Inside:

Supreme Court Strikes Down DC Gun Ban

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Court's holding to the case before it.

In so doing, the U.S. Supreme Court followed GOA's request to shoot down both the DC government and the Bush Administration on one important point — the mistaken idea that the Court should set a "standard" to "balance" our liberties against the government's interest in enforcing restrictions.

Thankfully, the Court struck down the DC gun ban, simply ruling the ban was prohibited by the text of the Amendment. The majority said that the language elevates, above all other interests, the "right of law-abiding, responsible citizens to use arms in defense of hearth and home."

Gun control advocates were clearly distraught by much of what the Court said.

Notable gun banner, Sen. Dianne Feinstein (D-CA), was quite upset, saying she was "profoundly disappointed" in the Court decision.

Paul Helmke, President of the Brady Campaign, lamented the Court's decision, saying that it will most likely "embolden" gun rights activists to file "new legal attacks on existing laws."

Supreme Court Justice Stephen Breyer — in his dissent — mourned that the majority opinion "threatens to throw into doubt the constitutionality of gun laws throughout the United States."

Anytime these three gun haters are upset, gun owners should be happy.

GOA to continue going on the offensive

The Court's ruling opens the door to future lawsuits that take direct aim at many different kinds of gun control laws around the country:

(1) Gun bans. By stating that handgun bans are unconstitutional at the federal level, the Court has given pro-gun activists the green light to challenge the types of bans — or *de facto* bans — that exist in cities like San Francisco, Chicago and New York City.

Arguably, there are different jurisdictions involved — namely, striking a gun ban in a federal enclave (such as Washington, DC) versus a ban in a state or locality.

But it is interesting to note that the Court seemed to give credence to future efforts that would use the Second Amendment to strike down gun control restrictions in the states. The Court favorably reported on the Freedmen's Bureau Act of 1866, the Fourteenth Amendment, and the Civil Rights Act of 1871 — all of which were intended to strike down, among other things, Jim Crow (state) laws that were denying firearms to blacks after the Civil War (pp. 41-44).

"The U.S. Supreme Court followed GOA's request to shoot down both the DC government and the Bush Administration on one important point -- the mistaken idea that the Court should … 'balance' our liberties."

(2) Lock up your safety laws. Trigger locks, and other similar laws, are another type of restriction that could fall like dominos. The Court struck down DC's requirement that honest citizens lock up their guns, because it prevents or delays the ability of gun owners to defend themselves (p. 58).

(3) Licensure laws. The Court's opinion effectively "punted" on this issue, simply stating that Heller's attorney had conceded this point during oral arguments. The Court clearly said it would "not address the licensing requirement" (p. 59).

It is quite significant, however, that the Court did not lump licensing laws into the same batch of gun control laws that it thinks might pass constitutional muster in the future. This seems to indicate that the Court might, in fact, strike down a licensing law that is based on a Second Amendment challenge.

The GOA *amicus* brief was the only one that heavily emphasized the last four words of the Second Amendment — emphasizing that the right to keep and bear arms "shall not be infringed." Now that the Court has ruled the amendment protects an individual right, gun rights supporters can take the argument to the next step, stressing that this "enumerated constitutional right" (in the words of the Court) cannot be infringed without violating the constitutional text.

Remember the congressional veto

Finally, much has been made of the fact that the majority opinion only gained the ascendancy on a mere 5-4 vote, suggesting that we were one just vote away from losing our Second Amendment rights.

Nothing could be further from the truth. The Supreme Court is not the final arbiter of what the Constitution means. Article VI of the U.S. Constitution stipulates three things as the "supreme law" of the land: the Constitution itself, constitutional laws passed by Congress and treaties made under the authority of the United States.

Notice, there is no mention of Supreme Court opinions in that list. So if and when the Supreme Court rules in a manner that is inconsistent with our supreme law, then as stated by former Chief Justice John Marshall (who served from 1801-1835), we can turn to the "appellate jurisdiction" in the Congress for the "reversal of those [Supreme Court] opinions deemed unsound by the legislature."

Supreme Court Justice Stephen Breyer mourned that the majority opinion "threatens to throw into doubt the constitutionality of gun laws throughout the United States."

After all, each Congressman takes an oath to uphold the Constitution, not to follow the opinions of the Supreme Court.

Truly, it is a sad day for the Brady Bunch, because they have continuously put all their hopes and dreams in the opinions of the courts. And for now, the Supreme Court has turned its back on them. ■

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GOA in the News

The Washington Times
June 27, 2008

Gun ruling galvanizes groups

The NRA and Gun Owners of America both say they're planning to use the ruling as a springboard to challenge state and local laws across the country.

"Certainly things like the Chicago handgun ban, which is very similar to what Washington, D.C., had — those are the kind of things we would want to look at," said Erich Pratt, a spokesman for Gun Owners of America.

Immediately following the Supreme Court's Heller decision in June, GOA posted a YouTube video statement by Executive Director Larry Pratt for the TV media to use.

Mr. Pratt also noted comments by Justice Stephen G. Breyer that the decision "threatens to throw into doubt the constitutionality of gun laws throughout the United States."

"When Justice Breyer is sad, we're happy," Mr. Pratt said.

— Erich Pratt, GOA Director of Communications

CQ Today Print Edition
Legal Affairs
June 26, 2008

Supreme Court Decision on Handguns Could Cause Numerous Lawsuits

The [Heller] decision also seems to leave room for challenges to other federal laws by gun rights advocates and criminal defense attorneys representing individuals charged with federal gun crimes.

For instance, said Mike Hammond, counsel for Gun Owners of America, bans on guns in schools might be acceptable, but federal statutes barring gun possession within 1,000 feet of schools or resulting enhancements in prison sentences might still be open to challenge.

"This is the beginning of the battle rather than the end," Hammond said. "I suspect we'll spend the next 50 years arguing over how narrow or how broad the loophole is."

— Mike Hammond, GOA Legislative Counsel

National Public Radio
All Things Considered
June 26, 2008

Supreme Court Strikes Down D.C. Handgun Ban

"Well, that's a distinction without a difference, to go after an ammunition ban while telling people they can still have a gun. [There is a right] to keep and bear arms, and I think we can plausibly argue that ammunition is part of having arms."

— Larry Pratt, GOA Executive Director disputing that the Supreme Court opinion would allow for bullet bans.

OneNewsNow.com
July 18, 2008

DC defiant on 2nd Amendment ruling

Larry Pratt of Gun Owners of America is convinced that liberal, gun-hating politicians in the District have no intention of allowing law-abiding citizens to defend themselves from violent criminals.

"They're making it so that, if you're willing to crawl over glass and walk through concertina wire, then you *might* be able to get a license," he says. "But, of course, that office will only be open between 2 and 4 on, maybe, a couple of days a week, or some such thing as that. So lots of luck."

In addition to requiring trigger locks, in direct violation of the Supreme Court's order, the District is conducting ballistic testing on guns submitted for licensing, in violation of a congressional ban on federal agencies creating any kind of gun owner registry. Pratt says it is time for Congress to force D.C. officials to comply with the Supreme Court's ruling.

— Larry Pratt, GOA Executive Director

WorldNetDaily.com
July 18, 2008

Expert refutes 2nd government claim about automatic fire

July 18, 2008

[David Olofson] surrendered to federal authorities just a few weeks ago to begin serving his term, prompting the Gun Owners of America to issue a warning about the owner's liability should any semi-automatic weapon ever misfire.

"A gun that malfunctions is not a machine gun," Larry Pratt, executive director of GOA, said. "What the [federal Bureau of Alcohol, Tobacco, Firearms and Explosives] has done in the Olofson case has set a precedent that could make any of the millions of Americans that own semi-automatic firearms suddenly the owner [of] an unregistered machine gun at the moment the gun malfunctions."

— Larry Pratt, GOA Executive Director

CNN
Lou Dobbs Tonight
July 2, 2008

Gun Owner Goes to Prison

[David] Olofson was allowed to turn himself in. He was accompanied by his father and by the executive director of the Gun Owners of America — the second largest gun lobby in America, which has taken over the legal representation of Olofson. He promised a vigorous fight on appeal.

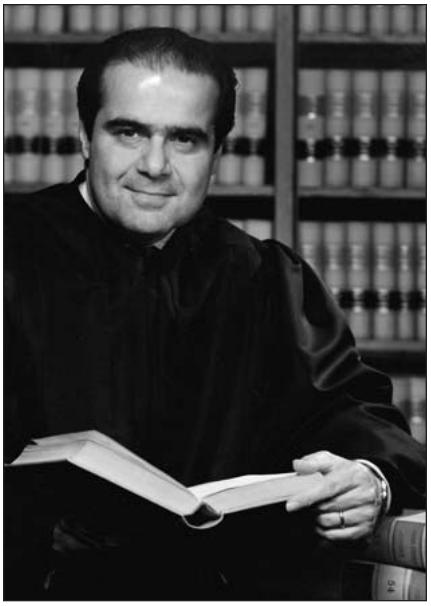
"This issue is an enormous issue because we're dealing with a rogue agency that's a law unto itself and is behaving as if they are a law unto themselves," Larry Pratt said. "And they don't give a rip about any consequences because heretofore, they have never been held accountable for their misdeeds."

The agency that Pratt is referring to is the Bureau of Alcohol, Tobacco, Firearms and Explosives….

— Larry Pratt, GOA Executive Director

Important Quotes from the Supreme

All quotations are from the majority opinion in DC v. Heller *(2008)*



Justice Antonin Scalia delivered the majority opinion in *DC v. Heller*.

An individual right

"Nowhere else in the Constitution does a 'right' attributed to 'the people' refer to anything other than an individual right…. We start therefore with a strong presumption that the Second Amendment right is exercised individually and belongs to all Americans." (pp. 6-7)

"Just as the First Amendment protects modern forms of communications … and the Fourth Amendment applies to modern forms of search … the Second Amendment extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding." (p. 8)

"The very text of the Second Amendment implicitly recognizes the pre-existence of the right and declares only that it 'shall not be infringed.'" (p. 19)

"Undoubtedly some think that the Second Amendment is outmoded in a society where our standing army is the pride of our Nation … [but] it is not the role of this Court to pronounce the Second Amendment extinct." (p. 64)

DC's gun ban is unconstitutional

"In sum, we hold that the District's ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense." (p. 64)

After receiving a favorable verdict from the U.S. Supreme Court, Dick A. Heller (left) registered his .22 handgun with the DC government in July.

On other gun restrictions

"Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms." (p. 54)

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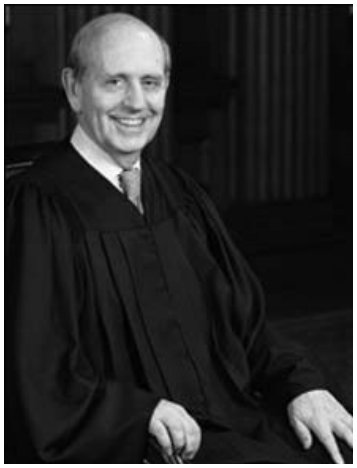
Court's Heller Decision

), unless otherwise noted.



Justice Stephen Breyer fears the *Heller* decision will be used to strike down gun control laws all across the nation.

Second Amendment could impact state gun restrictions

"[Unfortunately], today's decision ... threatens to throw into doubt the constitutionality of gun laws throughout the United States. I can find no sound legal basis for launching the courts on so formidable and potentially dangerous a mission." (Stephen Breyer's dissent, p. 44)

Anti-gun Jim Crow laws are unconstitutional

"Blacks were routinely disarmed by Southern States after the Civil War. Those who opposed these injustices frequently stated that they infringed blacks' constitutional right to keep and bear arms…. The understanding that the Second Amendment gave freed blacks the right to keep and bear arms was reflected in congressional discussion of the [1866 Freedman's Bureau Act]." (pp. 42-43)

Resisting tyranny

"There are many reasons why the militia was thought to be 'necessary to the security of a free state,' [among which is] when the able-bodied men of a nation are trained to arms and organized, they are better able to resist tyranny." (pp. 24-25)

"[T]he founding generation knew ... that the way tyrants had eliminated a militia consisting of all the able-bodied men was not by banning the militia but simply by taking away the people's arms, enabling a select militia or standing army to suppress political opponents." (p. 25)

Democrat Leadership in Both Chambers Attack Second Amendment

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"They did take one amendment of mine and they eviscerated it, an amendment that dealt with Second Amendment rights, an amendment that dealt with all Second Amendment rights," Rep. Bishop said on the House floor.

Yet, the issue at hand that is now part of the underlying bill only deals with hunting, not all Second Amendment rights.

"[I]f I'm hunting, I'm okay on this trail," Bishop said. "If I'm trying to protect myself, I'm not. If a mugger tries to attack me, I cannot protect myself unless first I'm trying to hunt the mugger. Or if a moose is shot by me, I better shoot it in the posterior because if a moose is charging me, no longer is that hunting, that is now self-defense, and that is not allowed with the amendment that came in here….

"[T]hey did not defend all of the Second Amendment," Bishop said pointedly, "only the so-called hunting rights, which is not, not the purpose of the Second Amendment."

The dirty dealing in the House is not unlike what Senator Tom Coburn (R-OK) has experienced in the Senate. Earlier this year, Sen. Coburn entered into a so-called unanimous consent agreement with Senate Majority Leader Harry Reid to get a vote on the NPS gun ban. Sen. Reid broke his word to Coburn and blocked the vote on the gun ban repeal.

When Sen. Coburn continued to insist on getting a vote on his amendment, Sen. Reid invented the novel approach of the 'Coburn Omnibus Bill.' This would tie a bunch of bills together that Sen. Coburn has been holding and bring them to the floor as a package, in a transparent attempt to erode the widespread support that Sen. Coburn has from his colleagues.

Unless Sen. Coburn and others in Congress are successful in repealing the gun ban, the 600-mile Washington-Rochambeau trail will become another Second Amendment infringement zone, along with the rest of NPS-controlled land. ■

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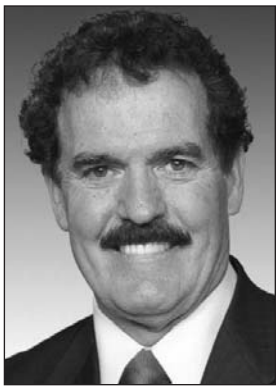
GOA Pushing Bill to Keep Innocent Gun Owners Out of Jail

by Larry Pratt

The federal government in this country is persecuting law-abiding gun owners, and David Olofson is its most recent victim.

When you read the details of the Olofson case on page 8, it becomes clear that Rep. Phil Gingrey's "Fairness in Firearms Testing" bill is desperately needed. It will keep innocent people (like Olofson) out of jail as well as keeping the Bureau of Alcohol, Tobacco, Firearms and Explosives from putting manufacturers out of business "just because they feel like it."



Rep. Phil Gingrey (R-GA) has introduced a bill that will rein in the BATFE and help protect decent gun owners like David Olofson.

H.R. 1791 would require that an unedited video be made available during the testing of an item to determine if it is a machine gun. Namely, this would apply to cases where a gun is allegedly a machine gun, as well as to firearms and accessories submitted by manufacturers for such a determination.

If the Bureau rules that an item is not a machine gun, then it can be sold to the public. However, if it is ruled to be a machine gun, then it can only be sold to the government — assuming it was made after May 19, 1986.

Had an unedited video been made of each of the two testings of David Olofson's rifle, there would have been no case against him. And had they tried to pull off a conviction, the tape would have caused the government's case to blow up in its face.

Manufacturers and designers such as Historic Arms of Franklin, Georgia have experienced retaliation via absurd "testing" procedures at the Bureau, none of which are written down as agency standards.

In one case, an upper (universally considered not to be a firearm) was fastened to a desk and the bolt was tied back with a shoe string. The ATF (also known as The Gang) actually determined that the device — and the shoe string — was a machine gun.

The Bureau has also issued approval

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CAPITOL HILL UPDATE

Democrat Leadership in Both Chambers Attack Second Amendment

by John Velleco

(Washington, D.C.) — Democrat leaders in both the House and Senate have thwarted efforts to repeal the National Park Service gun ban.

On July 10, the U.S. House of Representatives voted to designate the Washington-Rochambeau as a National Historic Trail, placing it under the jurisdiction of the Department of Interior and the National Park Service. The designation will have a significant impact on gun owners up and down the East Coast.

The Washington-Rochambeau trail stretches 600 miles from Rhode Island to Yorktown, Virginia. Gen. George Washington and French military leader Comte de Rochambeau used this route in 1781 in a march that ended with the defeat of British General Charles Cornwallis and effectively ended the American War for Independence. Placing the trail under NPS jurisdiction subjects the entire route to a gun ban.

Carrying firearms on land controlled by the NPS is currently prohibited, even if the state in which the land is located allows firearms. The Interior Department recently proposed new rules to partially reverse the gun ban, but they have not yet taken effect. If and when they do go into effect, most gun owners would still not be allowed to possess firearms on these lands because, among other problems with the rule, open carry would remain prohibited.

Rep. Rob Bishop (R-UT) filed an amendment with the House Rules Committee to protect the Second Amendment on the trail. His amendment would have required that state and local laws govern firearms possession and carrying on the trail. Staff on the Rules Committee, without Congressman Bishop's knowledge or consent, changed that language and made it apply only to hunting.

In the House of Representatives, Republican Rob Bishop of Utah (left) excoriated Democratic staffers for gutting his amendment that would have protected gun rights on a 600-mile historic trail. On the Senate side, Democrat Harry Reid of Nevada (right) broke his word to Republican Tom Coburn of Oklahoma and prevented him from offering an amendment to repeal the gun ban in the national parks.

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GOA Pushing Bill

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letters in several cases, then subsequently reversed their written opinions. Their lack of standards has dealt serious financial losses to manufacturers.

Gun Owners of America has seen numerous examples of such arbitrary "testing" procedures being used by ATF to slam the door on innocent gun owners.

For example, the Akins Accelerator had ATF's approval and was sold as a non-firearm for six years. But the Bureau later issued another letter announcing it had been determined to be a machine gun. The product was recalled, but, of course, The Gang paid for none of those costs.

Another manufacturer, Kristi Tool and Ordnance, had its inventory of non-gun parts confiscated by The Gang. This confiscation has prevented the purchase of these parts by gun owners who — with just a little machining and assembly — could use the parts to build their own (legal) .45 caliber 1911 handgun or AR-15 rifle. This assembly can be done without registering such guns with the ATF, if they are made for the individual's own personal use.

Well, there never have been any regulations, nor are there now, defining when a pile of parts becomes a gun. Nevertheless, The Gang refuses to return the inventory, claiming that they may still indict Rick Celata, the owner of the company — even though it's been over two years now.

Thankfully, Rep. Gingrey's H.R. 1791 will put an end to much of the outrageous behavior that The Gang is inflicting upon decent, law-abiding Americans. GOA will soon be providing postcards for its members to insist that their representatives cosponsor this bill. Please stay tuned. ■

BATFE

Continued from page 8

without a trigger. If you cock this not-so-handy device, it fires uncontrollably until empty. Not even a stupid bank robber would choose such a weapon. But then, we are talking about The Gang.

When a court-recognized firearms expert, Len Savage of Historic Arms, was brought in by the defense, he was not allowed to touch or test fire the firearm. That is, not until the Bureau's agent at the trial broke the gun trying to reassemble it and asked for Savage's help in putting it back together.

Olympic Arms had been subject to a recall order by the BATFE in 1986. Why? Because many of the guns would fire a short burst and then jam. Then it was a malfunctioning gun, but now it is a machine gun. More outcome-based procedures.

Why was this information not presented to the court? Because the truth-challenged agents of The Gang told the court that not even the judge could see such privileged taxpayer information. Right. Unhappily, Olympic Arms did not have a copy of the order because their plant burned down in 2000.

The judge displayed extreme prejudice during the sentencing hearing. Olofson had successfully defended himself against anti-self defense local cops who twice charged him while he was openly carrying a handgun — something that is legal in Wisconsin! But the judge stated that anybody who carries a gun is dangerous, and he was adding to the severity of the decision because of the charges against which Olofson had prevailed!

Among the unethical and illegal actions of the government during the trial, three things stand out.

First, the jury was not told that the prosecution's key witness — informant Robert Kiernicki (Olofson's neighbor who borrowed the gun) — had been paid several times by the government. In other words, the jury had no way to understand that Kiernicki had every reason to say whatever The Gang wanted him to say.

Second, the jury did not know that the rifle had been tested twice. The first test came back with a report that the gun was just a semi-automatic. The next test came back with the report that the gun was a machine gun. The jury never knew that the government backdated the second test to a date before the criminal complaint. After all, the complaint alleged that Olofson's gun was a machine gun, yet the only test up until that point had found the gun to be a mere semi-automatic.

Third, the jury was never told of *U.S. v Staples*, a 1994 decision in which a malfunctioning gun — an AR-15 just like Olofson's — had been deemed by the U.S. Supreme Court to be a malfunctioning gun, and *not a machine gun* as the Bureau was alleging in Olofson's case.

Also, never forget that the judge also denied Olofson's firearms expert access to the evidence used against him. BATFE was allowed to video tape the "test firing" of the firearm, not Olofson. The tape shown in court was only a few short seconds showing a gun at such a distance that it was not possible to tell that it was Olofson's gun.

Had Rep. Phil Gingrey's H.R. 1791 been law, it is safe to say that Olofson would not have been convicted. Gingrey's "Fairness in Firearm Testing Act" would require an unedited video of firearms testing in criminal cases to be made available to the defense. This was a requirement imposed on The Gang by the U.S. Attorney in the *U.S. vs. Glover* case. When the video was reviewed by the prosecution, they dropped the case with prejudice (legal speak which means the case can never be brought up again).

Not only is Gun Owners of America representing Olofson during his appeal, we have set up an Olofson relief fund so that his wife and mother of their three young children will be able to keep making her mortgage and car payments.

Those interested in making a small monthly donation from a charge to their credit card can go to www.gunowners.org/olofson.htm or call GOA and arrange over the phone to have this done. All funds so collected will go toward the monthly payments, or if possible, to prepayment of the principal loan amounts. The automatic donations will cease when Olofson is out of prison or when the donor instructs GOA to discontinue them.

It is outrageous that an innocent man is in jail, but we are hoping to minimize the ugly impact of that on his family. ■

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BATFE: Any Semi-Auto Can Be a Machine Gun

by Larry Pratt

On July 2 I went to jail.

Happily for me, I left right away. Sadly for David Olofson and his family, he had to stay, and will have to stay for 30 months in the Federal Correctional Institute in Sandstone, Minnesota.

Why is the federal government incarcerating an Army reservist from Berlin, Wisconsin who has 16 years of service, a mortgage, a wife and three kids? They convicted him for knowingly transferring an unregistered machine gun.

Since the case was brought by the rogue agency — the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) — we must assume that not only was Olofson innocent until proven guilty, but that he is still innocent after conviction. That is why Gun Owners of America is handling Olofson's appeal.

As our attorneys have looked into the records of the case, it is obvious that a miscarriage of justice has been perpetrated. The chief piece of evidence is an AR-15 made by Olympic Arms many years ago. Olofson had loaned the gun to a young man who was his neighbor. At a range the gun fired two bursts of three rounds each and then jammed. Normal people would understand that a gun that jams is malfunctioning and seek to get it fixed.

For the Bureau (aka The Gang), a malfunctioning gun is an excellent opportunity to rack up an easy conviction on an illegal machine gun charge.

The gun was tested twice … both times with very different results. The first test came back with a report that the gun is a semi-automatic rifle. The next test came back with a report that it had fired a 20-round burst, and was thus a machine gun.

Firearms Enforcement Officer Max Kingrey got the gun to do something it had never done before. Suspicions of tampering by FEO Kingery, such as the addition of an auto sear or DIAS (considered a machine gun itself) could not be verified, as the defense was denied the opportunity to inspect the gun's inner workings. FEO Kingery's testing was done in secret, and never verified by anyone.

In all probability, the Bureau tampered with evidence (the AR-15) and took a malfunctioning gun that jammed after a few rounds and converted it into a machine gun that dumped its magazine. Twenty-two years ago, a "drop in auto sear" or DIAS was manufactured as an after-market part for the AR-15.

The Milwaukee BATFE agent, Jody Keeku, claims to have found the gun to be a machine gun when she checked it. That means she dry-fired it. A minimal knowledge of firearms (which seems to be above Ms. Keeku's pay grade) would be sufficient to conclude that a machine gun has to fire using its recoil from the first shot to set up and fire the next shot (until the burst control level is reached, or the finger is removed from the trigger).

Ms. Keeku claims to be a firearms expert, but when the defense asked to see her training credentials and certifications, she declined to testify. She is at least smart enough to see that she would have been made to look foolish on the stand.

Now that GOA is handling the appeal for David Olofson, gun owners who wish to help can go to www.gunowners.org/olofson.htm.

Using two tests to "prove" that the gun is a machine gun goes to one of the big problems illustrating the lack of accountability with The Gang. On other occasions the Bureau has "proved" an accessory to be a machine gun by bolting it to a board and tying the bolt with a shoe string. Since the shoe string was what made the gun fire "automatically," it was declared to be a machine gun. So if you see a BATFE agent, you had better be wearing loafers!

The same outcome-based testing found that an "upper" — which ATF doesn't consider to be a firearm — was a machine gun after covering it with duct tape. When that did not work, The Gang added chains, bolts and a piece of metal so the recoil could operate the gun automatically

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THE Gun Owners

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