

does Plaintiff contest the fact that he now has a Georgia firearms license. (doc-16, Attachment). Further, with regard to Plaintiff's main point of contention, that social security information was required in the application process, Plaintiff does not contend that such information is now required. Instead, Plaintiff, who has achieved all of the relief requested, i.e., a firearms license, still claims a justiciable issue because the form promulgated by the Department of Public Safety "still violates the Privacy Act". (doc-17-5).

II.

Initially, Plaintiff focuses on his version of the events leading up to the filing of the case. To rebut the erroneous implication in the complaint that the Department of Public Safety ignored his request to review the form, it is argued that the letter from the Department (that Plaintiff did not attach to the complaint) was sent by regular mail. (doc-17-3). Plaintiff contends that the letter was not received until the day the lawsuit was filed. Plaintiff's contentions are misleading in that the letter from the Department may have been dated June 30 and sent by regular mail, but the letter was written confirmation of an earlier conversation; a conversation that took place well before the complaint was filed.¹

¹ According to the letter, the Department official spoke with Plaintiff's counsel on June 26. At that point it was conveyed to counsel that the Department would review the form in accordance with his request. The letter, sent four days latter, simply confirmed the earlier conversation.

The letter from the Department is only significant in that it is the Department's contention that the litigation in this matter was unnecessary from the start. Now, in light of the modifications made by the Department to the form in question, unnecessary litigation is simply being prolonged.

III.

The Department modified the form so that it no longer "requires" social security information. Further, so as not to run afoul of state law provisions, the form no longer "requires" employment information. (doc-14). With regard to social security information, the form specifically states that if such information is voluntarily provided, it will only be used to prevent misidentification, such as might result from common names such as "John Smith".

In light of the above, and in light of the fact that Plaintiff now has a firearms license, Defendant Hitchens moved to dismiss the case. In order to prolong this litigation, Plaintiff now complains that the new Georgia application which undisputedly does not require either social security or employment information is not exactly like a similar federal form.² In support of his position, Plaintiff relies

² Plaintiff even goes so far as to complain that the modified form has not been renumbered. (doc-17-4).

upon Schwier v. Cox, 412 F. Supp 2d 1266 (N.D. Ga. 2005), a case involving an application which **required** the disclosure of social security information.

Plaintiff's analysis of Schwier v. Cox misses the point of the motion to dismiss.

Simply stated, Plaintiff challenged the requirement that he provide his social security number; Plaintiff achieved his objective without disclosing his social security number – Plaintiff now has a firearms license. In addition, because the forms have been changed, even when he renews, Plaintiff will not be required to provide his social security number. Accordingly, as there is no possibility that the Plaintiff will be required to provide social security information for the license he already possesses, and as there is no possibility that he will be required to provide such information in the future, the instant action is moot. (doc-14, Exhibit A).

IV. CONCLUSION

As Plaintiff does not contest the fact that he received a firearms license without having to disclose his social security number; and as Plaintiff can not show that there is any possibility that he will be required to provide social security information with any future application, as argued in the original motion to dismiss, his request for injunctive relief is moot.

Respectfully Submitted, this 4th day of August, 2006.

THURBERT E. BAKER
Georgia Bar No. 033887
Attorney General

KATHLEEN M. PACIOUS
Georgia Bar No. 558555
Deputy Attorney General

JOHN C. JONES
Georgia Bar No. 401250
Senior Assistant Attorney General

s/ EDDIE SNELLING, JR.
Georgia Bar No. 665725
Senior Assistant Attorney General
Attorney for Defendant Bill Hitchens

Please Address All
Communications To:

EDDIE SNELLING, JR.
40 Capitol Square, S.W.
Atlanta, GA 30334-1300
Telephone: (404) 463-8850
Facsimile: (404) 651-5304
eddie.snelling@law.state.ga.us

CERTIFICATION AS TO FONT

Pursuant to N.D. Ga. Local Rule 7.1 D, I hereby certify that this document is submitted in Times New Roman 14 point type as required by N.D. Ga. Local Rule 5.1(b).

s/ Eddie Snelling, Jr.
Georgia Bar No. 665725

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2006, I electronically filed DEFENDANT HITCHENS' REPLY with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

J. Ben Shapiro, Esq.
One Midtown Plaza
1360 Peachtree Street, N.E.
Suite 1200
Atlanta, Georgia 30309

John R. Monroe, Esq.
9640 Coleman Road
Roswell, Georgia 30075

David A. Basil, Esq.
Carroll County Legal Department
P.O. Box 338
Carrollton, GA 30117

s/EDDIE SNELLING, JR. _____
Georgia Bar No. 665725
Attorney for Defendant Bill Hitchens

State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300
Telephone: (404) 463-8850
Email: eddie.snelling@law.state.ga.us