

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JAMES CAMP,	)	
	)	
Plaintiff,	)	CIVIL ACTION FILE NO.
	)	
v.	)	1:06-CV-01586-CAP
	)	
BETTY B. CASON in her official	)	
capacity as Probate Judge for	)	
Carroll County, Georgia and	)	
BILL HITCHENS in his official	)	
capacity as the Commissioner	)	
of the Georgia Department of	)	
Public Safety,	)	
	)	
Defendants.	)	

SUPPLEMENTAL MEMORANDUM OF LAW IN  
OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS

Plaintiff, James Camp, files this Supplemental Memorandum of Law in opposition to the two Motions to Dismiss filed by Defendants Betty B. Cason and Bill Hitchens, both contending that this case is moot. Since the filing of Plaintiff's initial Memoranda of Law opposing these Motions, Plaintiff has obtained evidence contradicting each Defendant's claims of mootness.

DEFENDANT HITCHENS' MOTION

Defendant Hitchens, in his Brief in Support of Pre Answer Motion to Dismiss, claimed that "after completing its review of the application and applicable laws, the Department revised its

application. As a social security number and employment information are no longer required, the relief requested by plaintiff is now moot." Brief, p. 5. As a result, Hitchens requests that this case "be summarily dismissed." Id. Pretermittting the fact that the modified application still violates the Privacy Act, an argument addressed in Plaintiff's response brief, Plaintiff shows that the form in current use is no different from the previous form and requires that an applicant disclose his social security account number and employment information to receive the right, benefit, and privilege of a firearms license. Since the facts underlying Defendant Hitchens' Motion to Dismiss are faulty, his motion must be denied.

Defendant Hitchens filed his Motion [15], together with a Notice of Filing [14] containing a modified application, a letter to Defendant Cason setting forth the Department of Public Safety's (DPS's) determination that both the social security number and employment disclosures should be voluntary, and a July 14, 2006 email from the DPS to the Attorney General's office stating that the 159 probate courts throughout the state "should already have the revision information."

Almost two weeks after the date of that email, on July 27, 2006, Norman W. Edgar, a resident of Cherokee County, Georgia, applied for a firearms license at the Cherokee County Probate Court. Edgar Declaration, ¶ 2. Mr. Edgar was required to disclose his social security number and employment information as a condition of being allowed to apply for the license, and the form which he filled out at the Probate Court did not make his disclosures voluntary in any way. Id. at ¶¶ 3-4. In fact, beyond mere disclosure, the Clerk required Mr. Edgar to produce his actual social security card. Id. at ¶ 5.

Mr. Edgar retained the instruction sheet given to him by the Probate Court, which is attached to the Edgar Declaration as Exhibit A. Id. at ¶ 6. Notably, the instruction sheet states at paragraph 3:

You must submit proof of your social security (sic). You may submit your social security card or a legal document that shows your name and social security number. (We cannot accept your driver's license number for proof of social security number).

Id. at Exhibit A.

This month, Todd N. Nims, a resident of Newton County, Georgia applied for a firearms license at the Newton County Probate Court. Nims Declaration, ¶ 2. Mr. Nims was required to disclose his social security account number and employment

information as a condition of being allowed to apply for the license, and the form which he filled out at the probate court did not make his disclosures voluntary in any way. Id. at ¶¶ 3-4. The Clerk at the Probate Court also verbally requested both Mr. Nims' social security account number and employment information. Id. at 5. Mr. Nims was also required to place his social security account number on the fingerprint card used for the application both by the card itself and the orders of the clerk directing him to fill in the card. Id. at 6.

Clearly, even if the reform supposedly instituted by Hitchens complied with the law, a point that Plaintiff does not concede, the assertion by Hitchens that the case before the court currently is moot is undermined by reality. The current form and the current practice demand disclosure of both the social security account number and employment information, in violation of state and federal law, as a condition of applying for a firearms license pursuant to O.C.G.A. § 16-11-129.

**DEFENDANT CASON'S MOTION TO DISMISS**

The basis for Defendant Cason's Motion to Dismiss is less clear, but the brief asserts on page 5 that "As the Social Security Number is no longer required, the relief sought by Plaintiff is moot." Cason's motion fails to address the

requirement of employment information disclosures at all. The reason is that Cason still intends to demand employment information. While Cason is arguing a motion to dismiss for mootness, Cason is simultaneously arguing that there is a very live dispute over disclosures of employment information. In fact, in the Joint Preliminary Report and Discovery Plan [23], Cason flatly states in 1(c), "The legal issues to be tried are as follows: . . . Judge Cason contends that employment information is pertinent information and also helpful, in some cases, to determine whether the applicant is of good moral character." Cason indicates, and this Court has already ordered in its Order Approving the Preliminary Report and Discovery Plan, that this issue should be tried. As "good moral character" is a phrase appearing in the licensing statute and Cason has announced her intention to try this case, at least on this one issue, her motion to dismiss must be denied.

#### CONCLUSION

Neither Defendant has argued that it complies with the Privacy Act. In addition, probate courts are still requiring applicants to disclose their social security account numbers and employment information, contrary to the information provided in Hitchen's Notice of Filing [14] and his Brief in Support of his

Pre Answer Motion to Dismiss [15]. Furthermore, as Defendant Cason declares her intention to dispute relief sought by Plaintiff, this case is not moot. Defendants' Motions to Dismiss must be denied.

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Local Rule 7.1D Certification

The undersigned counsel certifies that the foregoing brief was prepared using Courier New 12 point, a font and point selection approved in LR 5.1B.

/s/ Edward A. Stone  
Edward A. Stone

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2006, I electronically filed the foregoing SUPPLEMENTAL MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS 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:

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