

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

JAMES CAMP,

\*

\*

Plaintiff,

\*

v.

\*

\*

CIVIL ACTION NO.

\*

1:06-CV-1586-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.

\*

---

**DEFENDANT HITCHENS' DEFENSES AND ANSWER**

Comes now the Defendant William Hitchens, by counsel, the Attorney  
General of the State of Georgia, and files these Defenses and Answer to Plaintiff's  
Complaint as follows:

**FIRST DEFENSE**

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Defendant Hitchens denies that Plaintiff has been subjected to the deprivation of any rights, privileges, or immunities secured by the Constitution or laws of the United States or the State of Georgia.

THIRD DEFENSE

Defendant Hitchens asserts that he cannot be held liable for any actions involving the Plaintiff in which said Defendant did not directly participate or of which he had no knowledge.

FOURTH DEFENSE

The Complaint fails to establish that Defendant Hitchens breached any duty which may have been owed to the Plaintiff.

FIFTH DEFENSE

To the extent that Plaintiff contends that there are any violations of State law, Defendant Hitchens asserts Eleventh Amendment immunity, and that Plaintiff has failed to comply with the Tort Claims Act.

SIXTH DEFENSE

Defendant Hitchens submits that the instant action was rendered moot when Plaintiff received a firearms license.

SEVENTH DEFENSE

Defendant Hitchens submits that the instant action was rendered moot when the firearms application was revised such that it no longer makes certain information mandatory.

EIGHTH DEFENSE

Defendant Hitchens submits that Plaintiff has no standing to assert claims on behalf of other individuals who have, or may seek a firearms license.

NINTH DEFENSE

Defendant Hitchens reserves the right to raise any other defenses allowed by law at such time as the allegations are more specifically pled or as the contentions are more fully developed.

TENTH DEFENSE

Without waiving any of the foregoing defenses, Defendant Hitchens submits the following responses to the allegations of the Complaint:

1.

Paragraph 1 of the Complaint appears to be a jurisdictional statement which does not require a response. To the extent that a response is required, Defendant Hitchens denies violating any of Plaintiff's rights.

2.

In response to paragraph 2 of the complaint, Defendant Hitchens denies violating any of Plaintiff's rights. Further, Defendant submits that Plaintiff received his license without disclosing the information referenced in the paragraph.

3.

In response to paragraph 3 of the complaint, Defendant Hitchens denies violating any of Plaintiff's rights. Further, aside from furnishing the application, Defendant submits that neither he nor his Department are involved with the process of issuing a firearms license.

4.

In response to paragraph 4 of the complaint, Defendant Hitchens denies that the current application requires the disclosure of employment information. Further, Defendant denies that merely requesting employment information violates State law.

5.

Paragraph 5 of the Complaint appears to be a jurisdictional statement which does not require a response. To the extent that a response is required, Defendant Hitchens denies violating any of Plaintiff's rights.

6.

Paragraph 6 of the Complaint appears to be a jurisdictional statement which does not require a response. To the extent that a response is required, Defendant Hitchens denies violating any of Plaintiff's rights. Further, Defendant denies that this action is ripe for adjudication as Plaintiff has a firearms license. In addition, Defendants assert that the Court does not have jurisdiction over the State law claims.

7.

In response to paragraph 7 of the complaint, to the extent that the action is not moot, and Plaintiff has standing, Defendant Hitchens does not contest venue.

8.

In response to paragraph 8 of the complaint, Defendant Hitchens does not dispute Plaintiff's residence or citizenship.

9.

In response to paragraph 9 of the complaint, Defendant Hitchens admits that he is the Commissioner of the Department of Public Safety. Defendant denies violating any of Plaintiff's rights. Defendant admits that pursuant to statute, the Department is responsible for drafting an application for firearm licenses to

provide to probate judges. Defendant denies that the application presently requires social security or employment information.

10.

In response to paragraph 10 of the complaint, on information and belief, Defendant Hitchens admits that Defendant Cason is the Probate Judge in Carroll County.

11.

In response to paragraphs 11, 12, 13, 15, and 16, Defendant Hitchens does not have any personal knowledge regarding the alleged contentions, and does not have sufficient information to admit or deny the contentions; therefore the contentions are denied.

12.

In response to paragraph 14 of the complaint, Defendant Hitchens denies the contention and submits that the current application does indicate that providing the questioned information is voluntary.

13.

In response to paragraphs 17 and 18 of the complaint, Defendant Hitchens does not have sufficient knowledge or information to admit or deny actions associated with Carroll County; accordingly, to the extent that said allegations

imply a violation of rights by Defendant, the same are denied. Defendant Hitchens admits that in response to a letter received from counsel for Plaintiff, a verbal and written reply were provided to counsel by the Department.

14.

In response to paragraph 19 of the complaint, Defendant Hitchens admits that at all times relevant, he was acting as the Commissioner of the Department.

15.

In response to paragraphs 20, and 21 of the complaint, Defendant Hitchens does not have sufficient knowledge or information to admit or deny actions associated with Carroll County; accordingly, to the extent that said allegations imply a violation of rights, the same are denied. Defendant Hitchens avers that neither he nor the Department is involved with the processing of the application for a license, or with the decision making process to determine whether a license will be issued.

16.

In response to paragraphs 22, and 23 of the complaint, Defendant Hitchens denies the contentions stated, and avers that the current application form does not demand the information at issue in this case.

17.

In response to paragraphs 24, 25, 26, 27, 30, 31 and 53 of the complaint, which appear to be nothing more than restatements of the law, to the extent that the statements are accurate and contain no opinion or embellishment, Defendant Hitchens admits the contentions; otherwise the contentions are denied.

18.

In response to paragraph 28 of the complaint, Defendant Hitchens denies the contentions.

19.

In response to paragraph 29 of the complaint, Defendant Hitchens does not have any personal knowledge regarding the alleged contention, and does not have sufficient information to admit or deny the contention, therefore the contention is denied.

20.

In response to paragraph 32 of the complaint, Defendant Hitchens denies the contention.

21.

In response to paragraph 33 of the complaint, Defendant Hitchens denies violating any of Plaintiff's rights.

22.

In response to paragraph 34 of the complaint, Defendant Hitchens denies any violation of Plaintiff's rights.

23.

In response to paragraph 35 of the complaint, Defendant Hitchens admits the contentions but submits that they are irrelevant to this proceeding.

24.

In response to paragraph 36 of the complaint, Defendant Hitchens denies the contentions, and denies any violations of Plaintiff's rights.

25.

In response to paragraph 37 of the complaint, Defendant Hitchens incorporates all previous defenses and responses.

26.

In response to paragraph 38 of the complaint, Defendant Hitchens denies the contentions, and denies any violations of Plaintiff's rights.

27.

In response to paragraph 39 of the complaint, Defendant Hitchens denies the contentions therein. Defendant Hitchens denies violating any of Plaintiff's rights.

Further, Defendant Hitchens submits that Plaintiff received his license without providing the information at issue.

28.

In response to paragraph 40 of the complaint, Defendant Hitchens denies the contentions to the extent that they may be in conflict with applicable state law. Defendant Hitchens avers that neither he nor the Department is involved with the processing of the application for a license, or with the decision making process to determine whether a license will be issued.

29.

In response to paragraphs 41 and 42 of the complaint, Defendant Hitchens denies the contentions therein. Defendant Hitchens denies violating any of Plaintiff's rights. Further, Defendant Hitchens submits that Plaintiff received his license without providing the information at issue.

30.

In response to paragraph 43 of the complaint, Defendant Hitchens denies that any of the relief requested is appropriate, or that a trial by jury is appropriate. Defendant submits that the issues in the case are moot.

31.

In response to paragraph 44 of the complaint, Defendant Hitchens incorporates all previous defenses and responses

32.

In response to paragraph 45 of the complaint, Defendant Hitchens denies the contentions.

33.

In response to paragraphs 46 of the complaint, Defendant Hitchens denies that any of the relief requested is appropriate, or that a trial by jury is appropriate. Defendant submits that the issues in the case are moot.

34.

In response to paragraph 47 of the complaint, Defendant Hitchens incorporates all previous defenses and responses.

35.

In response to paragraph 48 of the complaint, on information and belief, Defendant Hitchens admits that Plaintiff's license expired as stated. Further, Defendant Hitchens avers that Plaintiff has received a new license which renders this action moot.

36.

In response to paragraphs 49 and 50 of the complaint, Defendant Hitchens denies the contentions and submits that Plaintiff has a license which renders this action moot.

37.

In response to paragraph 51 of the complaint, Defendant Hitchens denies the contentions and submits that Plaintiff has a license which renders this action moot.

38.

In response to paragraph 52 of the complaint, Defendant Hitchens admits that state law allows for a temporary permit. Further, Defendant submits that Plaintiff has a license which renders this action moot.

39.

In response to paragraph 54 of the complaint, Defendant Hitchens submits that an injunction has been issued against the Probate Court, which renders this action moot.

40.

All paragraphs herein not specifically admitted, denied, or otherwise controverted are hereby denied. Further, Defendant denies that Plaintiff is entitled to any relief whatsoever.

WHEREFORE, having stated defenses and answered the Plaintiff's complaint, Defendant urges this Court to dismiss this case as moot.

Respectfully Submitted, this 7th day of May, 2007.

THURBERT E. BAKER  
Georgia Bar No. 033887  
Attorney General

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

DEVON ORLAND  
Georgia Bar No. 554301  
Senior Assistant Attorney General

s/ Eddie Snelling, Jr.  
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  
E-Mail: [esnelling@law.ga.gov](mailto:esnelling@law.ga.gov)

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

## CERTIFICATE OF SERVICE

I hereby certify that on May 7, 2007, I electronically filed DEFENDANT HITCHENS' DEFENSES AND ANSWER 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.  
Ed Stone, 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, Georgia 30117

/s/ Eddie Snelling, Jr. \_\_\_\_\_

EDDIE SNELLING, JR.

Georgia Bar No. 665725

Please Address All  
Communications To:

Senior Assistant Attorney General  
Attorney for Defendant Bill Hitchens

EDDIE SNELLING, Jr.  
Senior Assistant Attorney General  
40 Capitol Square, S.W.  
Atlanta, Georgia 30334-1300  
Telephone: (404) 463-8850  
Facsimile: (404) 651-5304  
E-Mail: [esnelling@law.ga.gov](mailto:esnelling@law.ga.gov)