

From: Alan Gura
To: Paul Valone
Re: H489, "Dangerous Weapon Restrictions in Emergencies"
Date: May 17, 2012

Respectfully, Committee Counsel misconstrues the import of the fact that Bateman struck down the law "as applied to the plaintiffs." The only characteristic uniquely identifiable to the plaintiffs was that they were law-abiding. Additionally, the plaintiffs included, in a representational capacity, SAF and GRNC, who have thousands upon thousands of members in the state.

Thus, "as applied to plaintiffs," does not mean three individuals who were doing something special. It means thousands of law abiding people. This behavior continues at great financial peril to the taxpayers. I recognize that in politics, people do not like to acknowledge defeat, but here the court has ruled, and anyone who tries to enforce this against-- not Michael Bateman, specifically, or even a card-carrying GRNC member--- but against any law abiding North Carolinian, will not have qualified immunity.

The home limitation language, frankly, sounds eerily like the anti-gun advocates attempts to limit Heller and McDonald to the home. The whole point of the Bateman case was to reject that limitation, and that is exactly what the court did, in no uncertain terms. The Court made NO DISTINCTION between the prohibition as it extended inside or outside the home, and specifically rejected that distinction as urged by the Defendants and their amici.

In fact, it is impossible to read the Bateman opinion and rationally come to any sort of belief that the Court (a) based its decision on any special characteristic or act of the plaintiffs, or (b) wished to diminish or ignore the Second Amendment's application outside the home.

Nothing in Bateman prevents the enforcement of curfews, emergency evacuations, and the like. People who remain where they shouldn't, or do things they shouldn't, can effectively be dealt with. And Bateman allows for the disarmament of specifically dangerous people. Resisting the court's decision is not going to serve any useful purpose.