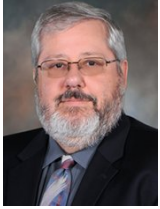


The Latest SCOTUS Gun Rights Infringement



By Paul Engel

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- When laws need an update, who's responsible for making the changes?
- Can ATF simply rewrite the law because they think it needs an update?
- Why would the same Supreme Court that said agencies could not rewrite law last term, tell the ATF they could today?

I don't know which of the three branches of government does the most to infringe on your rights. Take, for example, the recent Supreme Court decision in the case *Bondi v. Vanderstok*, where Mr. Vanderstok challenged the recent regulation from the Bureau of Alcohol, Tobacco, Firearms, and Explosives redefining weapons parts kits as firearms. It seems the Supreme Court has a hard time reading either the law or the Constitution.

Background

While this lawsuit questions the actions of ATF, the events actually starts back in 1968.

The Gun Control Act of 1968 (GCA) requires those engaged in importing, manufacturing, or dealing in firearms to obtain federal licenses, keep sales records, conduct background checks, and mark their products with serial numbers.

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

While the case was filed in 2023, it really begins with The Gun Control Act of 1968. However, what Justice Gorsuch stated in the opinion about the law, is not exactly correct.

(a) It shall be unlawful—

(1) for any person—

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

[18 USC §922](#)

You see, the Gun Control Act only prohibits a person participating in certain forms of interstate and foreign commerce. As defined in the GCA:

(2) The term “interstate or foreign commerce” includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

[18 USC §921\(a\)\(2\)](#)

This is allowed because Congress has the authority:

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

[U.S. Constitution, Article I, Section 8](#), Clause 3

The act also defines a firearm as:

(3) The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

[18 USC §921\(3\)](#)

Why did Congress pass this legislation?

Shortly after the assassinations of Senator Robert F. Kennedy and Dr. Martin Luther King, Jr. stunned the Nation, Congress adopted the Gun Control Act of 1968 (GCA). ... Existing gun control measures, Congress found, allowed criminals to acquire largely untraceable guns too easily.

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

Once again, Congress exceeds its Constitutional authority because it saw a “need” and thought it knew better than the Founding Fathers.

In response, Congress adopted a number of new mandates. As a result, many of those now engaged in importing, manufacturing, or dealing in firearms must obtain federal licenses, keep records of their sales, and conduct background checks before transferring firearms to private buyers. 18 U. S. C. §§922(t), 923(a), (g)(1)(A). The Act also requires importers and manufacturers to mark their firearms with serial numbers.

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

Again, the Supreme Court reads into the law language that does not exist. Because that language of the law only impacts “any firearm in interstate or foreign commerce”.

These mandates serve at least two ends. The background-check requirement seeks to keep “guns out of the hands of criminals.”

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

The problem is, just because Congress thinks keeping guns out of the hands of criminals is a good thing, which I tend to agree with, that doesn’t mean they can break the law to do so.

The Gun Control Act

In this midst of this, the ATF promulgated a new regulation.

In 2022, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) adopted a rule interpreting the Act to cover weapon parts kits that are “designed to or may readily be converted to expel a projectile,” 27 CFR §478.11, and “partially complete, disassembled, or nonfunctional” frames or receivers, §478.12(c).

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

This is the core of the issue in this case. Do executive agencies have the legal authority to effectively rewrite federal law? As the court points out:

The GCA’s mandates apply to “firearm[s].” ... And the law defines that key term broadly. ... Thanks to this generous definition, the GCA has long been understood to reach everything from run-of-the-mill rifles to novelty umbrella guns.

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

The GCA may have been understood to reach a lot of different weapons, but only when they are in interstate or foreign commerce. The fact that so many people keep forgetting this has led to more and more infringements.

Recent years, however, have witnessed profound changes in how guns are made and sold. When Congress adopted the GCA in 1968, “the milling equipment, materials needed, and designs were far too expensive for individuals to make firearms practically or reliably on their own.” ... With the introduction of new technologies like 3D printing and reinforced polymers, that is no longer true. Today, companies are able to make and sell weapon parts kits that individuals can assemble into functional firearms in their own homes.

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

Yes, things change over time. But who is responsible for making sure the laws keep up with the times, the agencies or Congress? Because it certainly not the courts. Once again, the Supreme Court wants to justify rewriting the rules.

Some manufacturers and dealers take the position that weapon parts kits do not qualify as “firearms” subject to the GCA. As a result, they say, they are free to sell their products without obtaining a federal license, conducting background checks, maintaining sales records, or marking components with serial numbers.

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

To be fair, that is what the law says.

(3) The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

[18 USC §921](#)

The law says nothing about firearm components. The law also says that the prohibitions are against firearms in interstate or foreign commerce. This is where the ATF decided to step in and muck things up.

The New ATF Rule

Since Congress was unable to pass legislation to include gun parts kits, it seems the ATF would step in.

In 2022, the Bureau of Alcohol, Tobacco, Firearms and Explosives adopted a new rule designed to combat the proliferation of ghost guns. so, the agency invoked authority Congress granted it to prescribe “rules and regulations as are necessary to carry out” the GCA. 18 U. S. C. §926(a).

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

Except that is NOT what 18 U. S. C. §926(a) actually says:

(a) The Attorney General may prescribe only such rules and regulations as are necessary to carry out the provisions of this chapter,

[18 USC §926\(a\)](#)

Not only does §926 not give the ATF the authority to write rules and regulation, it gives the Attorney General that power. Furthermore, the power is to put into effect the provisions of that chapter of the law, not to rewrite that law.

The GCA embraces, and thus permits ATF to regulate, some weapon parts kits and unfinished frames or receivers, including those we have discussed. Because the court of appeals held otherwise, its judgment is reversed, and the case is remanded for further proceedings consistent with this opinion.

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

Except the GCA says not such thing and the fact that the court thinks it does shows points to how badly the judiciary has been compromised. At least in this case, not all of the justices are blind.

The Dissents

Justice Thomas disagreed with the court. He summarized his dissent in his opening paragraph, and again in his closing paragraph.

The Government asked this Court just last Term to “ ‘rewrite’ ” statutory text so that it could regulate semiautomatic weapons as machineguns. *Garland v. Cargill*, 602 U. S. 406, 428 (2024). We declined to do so. The Government now asks us to rewrite statutory text so that it can regulate weapon-parts kits. This time, the Court obliges. I would not. The statutory terms “frame” and “receiver” do not cover the unfinished frames and receivers contained in weapon-parts kits, and weapon-parts kits themselves do not meet the statutory definition of “firearm.” That should end the case. The majority instead blesses the Government’s overreach based on a series of errors regarding both the standard of review and the interpretation of the statute. I respectfully dissent.

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

Justice Thomas points out that, just last term, the court declined to allow the ATF to rewrite the law, then this term they do. The mere fact that the ATF regulations redefines that word “firearm” should end the case. Instead, the court blesses the ATFs overreach, and I’m not entirely sure why. As Justice Thomas stated in his closing paragraph.

Congress could have authorized ATF to regulate any part of a firearm or any object readily convertible into one. But, it did not. I would adhere to the words Congress enacted.

Employing its novel “artifact noun” methodology, the majority charts a different course that invites unforeseeable consequences and offers no limiting principle. I respectfully dissent.

[Bondi, Attorney General, et al. v. Vanderstok et al.](#)

As Justice Thomas pointed out, Congress could have authorized the ATF to regulate any part of a firearm, but they didn't. By ignoring the law, the Supreme Court has opened up a myriad of unintended consequences, most of which we won't know until it is too late.

Justice Alito also wrote a dissent, but for mostly technical reasons.

Conclusion

Once again, it appears the justices of the Supreme Court has substituted their opinions for the law. As the court said in the case Marbury v. Madison:

It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule.

[Marbury v. Madison](#)

Except, in this case, the court didn't expound on the law, but apparently couldn't even be bothered to read the law. For example, the law clearly states its prohibited actions regard “any firearm in interstate or foreign commerce,” the law grants the Attorney General, not the ATF, the power to write regulations to fulfill the law, and nowhere that I'm aware of, does the law grant others the right to redefine terms defined in the law.

Then there's the point made by Justice Thomas. The court that seems so concerned with precedent ignored the precedent it had

established in Garland v. Cargill in the previous term, a precedent to follow the law as written by Congress, and now decides it's perfectly fine for unelected bureaucrats to rewrite federal law. Not only has the court gotten it wrong when it decided this case, it completely inverted the legal structure of the federal government. According to this court, the Congress can overrule the Constitution of the United States, executive regulations supersede U.S. law, and the whims of the court supersede all. Is it any wonder that people don't trust our so-called justice system? This is why I say we do not have a justice system, but "just a system," and this court just helped prove me right.

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