

IN THE UNITED STATES DISTRICT COURT
FOR EASTERN DISTRICT OF LOUISIANA

NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.)
11250 Waples Mill Rd.)
Fairfax, VA 22030,)
SECOND AMENDMENT FOUNDATION, INC.)
12500 NE 10th Place)
Bellevue, WA 98005,)
BUELL O. TEEL)
24161 Trairo Road)
Ponchatoula, LA 70454)

CIVIL ACTION NO. _____

Plaintiffs

v.

C. RAY NAGIN, Mayor of New Orleans

**P. EDWIN COMPASS III,
Superintendent of Police, New Orleans**

**JACK STRAIN, JR., Sheriff,
St. Tammany Parish**

**JOHN DOES I-V, Sheriff's Deputies,
St. Tammany Parish,**

Defendants

COMPLAINT
(For Declaratory and Injunctive Relief)

1. This is an action to vindicate the constitutional rights of the law-abiding citizens of Louisiana to keep and bear arms to protect themselves from criminal violence, and to enjoin confiscation of lawful firearms without due process, discriminatory policies based on wealth, and arbitrary searches and seizures. These acts were committed against victims of Hurricane

Katrina.

Parties

2. Plaintiff National Rifle Association of America, Inc. (hereafter “NRA”) is a non-profit association incorporated under the laws of New York, with its principal place of business in Fairfax, Virginia. NRA has a membership of almost 4 million persons, of whom scores of thousands reside in Louisiana, many in the areas devastated by Hurricane Katrina. The purposes of NRA include protection of the right of citizens to have firearms for the lawful defense of their families, persons, and property, and to promote public safety and law and order. NRA brings this action on behalf of itself and its members.

3. Plaintiff Second Amendment Foundation, Inc. (hereafter “SAF”), is a non-profit membership organization incorporated under the laws of Washington with its principal place of business in Bellevue, Washington. SAF has over 600,000 members and supporters nationwide, including thousands in Louisiana (many in the areas devastated by Hurricane Katrina). The purposes of SAF include education, research, publishing and legal action focusing on the Constitutional right privately to own and possess firearms and the consequences of gun control. SAF brings this action on behalf of itself and its members.

5. Plaintiff Buell Teel is a resident of Ponchatoula, Louisiana, and is a citizen of the United States.

6. Defendant Ray Nagin is the Mayor of New Orleans whose principal place of business is in New Orleans. He is being sued in his official capacity.

7. Defendant P. Edwin Compass III is the Superintendent of Police for New Orleans whose principal place of business is in New Orleans. He is being sued in his official capacity.

Defendant Jack Strain, Jr., is Sheriff, St. Tammany Parish, whose principal place of business is in Covington, Louisiana. He is being sued in his official capacity.

Defendants John Does I-V were at all times pertinent herein Sheriff's Deputies from St. Tammany Parish. Their identities and principal places of business are currently unknown.

Jurisdiction

Jurisdiction is founded on 28 U.S.C. § 1331 in that this action arises under the Constitution and laws of the United States, and under 28 U.S.C. § 1343(3) in that this action seeks to redress the deprivation, under color of the laws, statutes, ordinances, regulations, customs and usages of Louisiana and political subdivisions thereof, of rights, privileges or immunities secured by the United States Constitution. Supplemental jurisdiction is founded upon the laws of the State of Louisiana.

This action seeks relief pursuant to 28 U.S.C. §§ 2201, 2202, and 42 U.S.C. § 1983. Venue lies in this district pursuant to 28 U.S.C. § 1391.

Facts

On August 26, 2005, Louisiana Governor Kathleen Babineaux Blanco declared a state of emergency based on the imminent threat of Hurricane Katrina to the safety and security of the citizens of Louisiana.

In the devastation and breakdown of law and order that followed, law-abiding citizens were left on their own without police protection to protect their families, persons, and property from looters, rapists, and criminals of various types. Police who sought to do their duty were overwhelmed.

Defendants responded to this crisis in part by ordering that the law-abiding citizens be

disarmed, leaving them at the mercy of roving gangs, home invaders, and other criminals. Defendants had no lawful authority to order the wholesale confiscation of firearms from citizens who lawfully possessed such firearms in their homes or who were lawfully carrying such firearms.

During and after Hurricane Katrina, beginning in August 2005 and continuing through the present, Defendants Mayor C. Ray Nagin and P. Edwin Compass III, the Superintendent of Police, have pursued a policy of seizing lawfully-possessed firearms from law-abiding residents. Superintendent Compass announced, on or about September 8, 2005, that anyone with a weapon, even one legally registered, will have it confiscated, adding: “No one will be able to be armed. Guns will be taken. Only law enforcement will be allowed to have guns.”

During the same period, Mayor Nagin ordered the New Orleans Police and other law enforcement entities under his authority to evict persons from their homes and to confiscate their lawfully-possessed firearms. Police went from house to house and confiscated numerous firearms from citizens at gunpoint.

Thousands of members of Plaintiff NRA members and hundreds of members of Plaintiff SAF reside in New Orleans. The overwhelming majority of NRA and SAF members lawfully possess firearms. NRA and SAF members from New Orleans have been and remain subject to having their firearms unlawfully confiscated from their homes and persons pursuant to the policies of Mayor Nagin and Superintendent Compass, subjecting said NRA and SAF members to irreparable harm.

While decreeing that ordinary citizens may not possess firearms, Defendants Nagin and Compass followed a policy of allowing certain businesses and wealthy persons to hire hundreds

of armed security guards to protect their property

On or about September 9, 2005, Plaintiff Buell O. Teel was with his brother on a boat in Lake Pontchartrain in St. Tammany Parish proceeding to chart a course to the industrial canal in New Orleans, so that barges could be positioned after the storm damage. They were stopped by officers in a St. Tammany Parish Sheriff's boat who asked, at gunpoint, if they had any weapons. Teel responded that they had two rifles in a hard case. Teel lawfully possessed these rifles for self protection. The officers boarded Teel's boat and confiscated his rifles, refusing to give him a receipt. Said officers are identified here as John Does I-III.

Proceeding a mile further on the lake, Teel was again stopped at gunpoint by other officers in a St. Tammany Parish Sheriff's boat who asked if they had any weapons. Said officers are identified here as John Does IV-V.

Said Defendants John Does I-V were acting officially under the authority of Defendant Jack Strain, Jr., Sheriff of St. Tammany Parish. Sheriff Strain either explicitly ordered said officers to confiscate firearms from citizens of St. Tammany Parish, or allowed said officers acting under his authority to do so and ratified their actions.

As a proximate cause of the aforesaid acts of Defendants and their agents and employees, Plaintiffs have been subjected to irreparable harm in that they are subject to having their lawfully-possessed firearms confiscated from them, or have actually had their lawfully-possessed firearms confiscated from them, subjecting them to endangerment from criminal violence and violating their constitutional rights as set forth herein.

COUNT ONE
(Right to Keep and Bear Arms)

Paragraphs 1 through xx are realleged and incorporated herein by reference.

Article I, § 11, of the Louisiana Constitution provides: “The right of each citizen to keep and bear arms shall not be abridged, but this provision shall not prevent the passage of laws to prohibit the carrying of weapons concealed on the person.” The Second Amendment to the United States Constitution, which applies to the States through the Fourteenth Amendment, similarly provides: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”

The above-described acts of Defendants ordering the confiscation of firearms of citizens and actually confiscating firearms from citizens abridged and infringed on the right of each Plaintiff and countless other citizens to keep and bear arms, in violation of La. Const., Art. I, § 11, and U.S. Const., Amends. II and XIV.

**COUNT TWO
(Due Process)**

Paragraphs 1 through xx are realleged and incorporated herein by reference.

The Fourteenth Amendment to the United States Constitution provides that no State shall deprive any person of life, liberty, or property without due process of law.

The firearms confiscated by Defendants constituted private property which was lawfully possessed by Plaintiffs pursuant to State and Federal law. Moreover, the manner in which Plaintiffs kept, bore, and possessed such property was a liberty interest recognized by State and Federal law.

Said liberty and property interests are recognized by La. Const., Art. I, § 11, which guarantees the right to keep and bear arms; LSA-R.S. § 40:1379.3, which provides for a statewide permit which “shall grant authority to a citizen to carry a concealed handgun on his person” (subsection B) and which may be revoked only

according to specified procedures; and by other provisions of Louisiana law.

Accordingly, by ordering the confiscation of firearms and by actually confiscating the firearms belonging to Plaintiffs and countless other citizens, Defendants deprived them of liberty and property without due process of law, in violation of U.S. Const., Amend. XIV.

**COUNT THREE
(Equal Protection)**

Paragraphs 1 through xx are realleged and incorporated herein by reference.

The Fourteenth Amendment to the United States Constitution provides that no State shall deny to any person the equal protection of the laws.

At the same time that Defendants Nagin and Compass instituted and executed their policy of confiscating firearms from Plaintiffs and countless other law-abiding citizens and thereby prevented them from protecting their more-modest homes from looters and other intruders, Defendants allowed selected wealthy persons to keep their firearms and/or to retain armed private security personnel to protect their more expensive homes and properties. This means that one's ability to exercise one's rights and to protect life and property depended on whether one had or has the economic means to retain armed private security personnel.

Defendants thereby discriminated in favor of the selected few, and against Plaintiffs and the great majority of citizens, solely on the basis of wealth and influence. Defendants thereby denied Plaintiffs and countless other citizens the equal protection of the law.

**COUNT FOUR
(Search and Seizure)**

Paragraphs 1 through xx are realleged and incorporated herein by reference.

The Fourth Amendment to the United States Constitution, which applies to the States through the Fourteenth Amendment, provides in part that “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated”

As described above, Defendants issued or executed orders that persons (including Plaintiffs) be accosted at gunpoint by law enforcement officers and that their persons, homes, boats, and other properties be searched and temporarily seized, and that their firearms be seized and kept for an indefinite period of time. Plaintiffs committed no unlawful acts, did not threaten any law enforcement officers, or engage in any other activity that would justify such searches and seizures.

The above-described acts of Defendants violated the right of each Plaintiff and countless other citizens to be secure in their persons and houses against unreasonable searches and seizures, in violation of U.S. Const., Amends. IV and XIV.

WHEREFORE, plaintiffs pray that the Court:

1. Enter a declaratory judgment that the aforesaid acts by Defendants in ordering the confiscation of firearms and actually confiscating firearms violated the Plaintiffs’ rights to keep and bear arms, not to be deprived of liberty or property without due process of law, not to be denied the equal protection of the laws, and to be free of unreasonable searches and seizures, all in violation of the Second, Fourth, and Fourteenth Amendments of the U.S. Constitution, and of the Louisiana Constitution, Article I, § 11.

2. Issue a temporary restraining order and preliminary and permanent injunctions compelling Defendants to return all unlawfully seized firearms to Plaintiffs (including the

members of the association Plaintiffs) and to their other lawful owners, and ordering them not to make further unlawful seizures of firearms.

3. Grant such other and further relief as may be proper.
4. Award plaintiffs attorney's fees and costs.

Respectfully Submitted,

National Rifle Association of America, Inc., *et al.*,
Plaintiffs

By Counsel

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