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Gun Owners of America Among Nineteen Amici Curiae Supporting Lawsuit Against Bump Stock Ban

Michael Cargill v. Merrick B. Garland, et al.

Washington, DC (August 8, 2022) – Nineteen prominent civil liberties organizations, policy coalitions, and individual gun owners have filed seven amicus briefs in *Michael Cargill v. Merrick B. Garland, et al.* in support of the New Civil Liberties Alliance’s position. The case, which will be argued before the *en banc* U.S. Court of Appeals for the Fifth Circuit on September 13th, urges the full bench to invalidate the Bureau of Alcohol, Tobacco, Firearms and Explosives’ (ATF) Bump Stock Final Rule, in which the agency declared that non-mechanical bump stocks are “machineguns” within the meaning of the relevant statute. As a result of the Final Rule, plaintiff Michael Cargill, along with hundreds of thousands of other bump-stock owners, became a felon overnight and was ordered to surrender his devices or face 10 years in prison.

The *amici* include: [The Cato Institute](#); [Liberty Justice Center](#); [Pacific Legal Foundation](#); [John Cutonilli](#); [Firearms Policy Coalition](#); [FPC Action Foundation](#); [Firearms Regulatory Accountability Coalition, Inc.](#); [NST Global, LLC](#); [B&T USA, LLC](#); [Gun Owners of America, Inc.](#); [Gun Owners Foundation](#); [Gun Owners of California, Inc.](#); [Heller Foundation](#); [Tennessee Firearms Association](#); [Virginia Citizens Defense League](#); [Grass Roots North Carolina](#); [Rights Watch International](#); [America’s Future](#); and [Conservative Legal Defense and Education Fund](#).

The seven briefs address a broad array of issues, including the proper application *Chevron* deference, the rule of lenity taking precedence over *Chevron* deference, and the mechanics of how bump stocks and semi-automatic weapons operate. Excerpts follow:

“The U.S. Justice Department—through the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)—broke from years of precedent and discovered a new power to prohibit that widely held type of firearm accessory. That power does not exist, and this Court should not defer to the government’s conclusions.”

— [The Cato Institute](#)

“Indeed, because ATF admits that virtually all semiautomatic rifles can be ‘bump fired’ with or without a bump stock, and often with the use of common household items—or even one’s finger—ATF’s definition would render all such firearms illegal as machineguns themselves or, when possessed along with common household items or even just pants with belt loops, a ‘combination of parts from which a machinegun can be assembled.’ That is plainly beyond the original public understanding of the statutory language and hence unreasonable.”

— [Firearms Policy Coalition and FPC Action Foundation](#)

“ATF is neither engaging in simple fact finding, nor ‘filling in the details’ in promulgating its Bump Stock Rule. Instead, ATF rewrote the Congressional definition of ‘machinegun,’ which was intended to act as a constraint on its power. An ‘intelligible principle’ cannot serve its purpose of constraining the agency if the agency has absolute discretion to change that principle. Thus, the Court should construe the statute narrowly to avert this nondelegation concern and hold that the statute does not authorize the Bump Stock Rule.”

— [Liberty Justice Center](#)

“This unlawful regulatory action transformed more than half a million law-abiding American citizens into presumptive felons overnight. And ATF now demands that these citizens surrender their bump stocks—lawfully obtained property that, in the aggregate, represents over \$100 million in purchase value—or face potential criminal liability, including prison time. This is precisely the type of regulatory behavior that, in our constitutional system, must be rigorously reviewed by the independent judiciary to ensure that only Congress, not the Executive, has ‘ma[d]e an act a crime.’”

— [Firearms Regulatory Accountability Coalition, Inc., NST Global, LLC, and B&T USA, LLC](#)

“Expanding the definition of ‘machinegun’ to include any semiautomatic firearm configured to be rapidly fired semi-automatically via a bump stock is no different from ‘[e]xpanding the definition of an autodialer to encompass any equipment that merely stores and dials telephone numbers,’ and ‘would take a chainsaw to these nuanced problems when Congress meant to use a scalpel.’ ... If ATF’s interpretation of § 5845(b) is allowed to stand, it potentially could redefine virtually any of the tens of millions of semiautomatic rifles in the nation as machineguns.”

— [Gun Owners of America, Inc., Gun Owners Foundation, Gun Owners of California, Inc., Heller Foundation, Tennessee Firearms Association, Virginia Citizens Defense League, Grass Roots North Carolina, Rights Watch International, America’s Future, and Conservative Legal Defense and Education Fund](#)

“This Court should decline to follow the Tenth and D.C. Circuit panel majorities and instead follow the far more persuasive reasoning of the district court below that ‘deference has no role to play when liberty is at stake.’ ... The Court should hold that the rule of lenity takes precedence over *Chevron* deference.”

— [Pacific Legal Foundation](#)

“The manual actions of the shooter make bump-fired firearm *not* a machine gun, yet a firearm equipped with a bump stock, which requires *the same type of manual participation of the shooter*, is a machine gun. The ATF cannot have it both ways.”

— [John Cutonilli](#)

For more information visit the case page [here](#) or watch the case video [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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