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7 Attorneys for Plaintiffs  
8 CHAD LINTON, PAUL MCKINLEY STEWART,  
9 FIREARMS POLICY FOUNDATION,  
10 FIREARMS POLICY COALITION,  
11 SECOND AMENDMENT FOUNDATION,  
12 THE CALGUNS FOUNDATION and MADISON  
13 SOCIETY FOUNDATION

14 **UNITED STATES DISTRICT COURT**

15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

16 CHAD LINTON, an individual; PAUL  
17 MCKINLEY STEWART, an individual;  
18 FIREARMS POLICY FOUNDATION;  
19 FIREARMS POLICY COALITION; SECOND  
20 AMENDMENT FOUNDATION; THE  
21 CALGUNS FOUNDATION; and MADISON  
22 SOCIETY FOUNDATION,

23 Plaintiffs,

24 vs.

25 XAVIER BECERRA, in his official capacity as  
26 Attorney General of California; MARTIN  
27 HORAN, in his official capacity as Acting  
28 Chief of the Department of Justice Bureau of  
Firearms; and ROBERT D. WILSON, in his  
official capacity as Deputy Attorney General,

Defendants.

Case No.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

COME NOW plaintiffs CHAD LINTON, PAUL MCKINLEY STEWART, FIREARMS  
POLICY FOUNDATION, FIREARMS POLICY COALITION, SECOND AMENDMENT  
FOUNDATION, THE CALGUNS FOUNDATION, and MADISON SOCIETY FOUNDATION  
(collectively, "Plaintiffs"), by and through their undersigned counsel, who hereby complain and  
allege as follows:

**INTRODUCTION**

1  
2 1. The question presented by this case is whether the State of California, through its  
3 chief law enforcement officers, can prevent current California residents who are not federally or  
4 otherwise prohibited from purchasing and possessing firearms if their previously-disqualifying  
5 offenses, which occurred in other states, have been vacated, and especially when their  
6 fundamental, individual rights have been fully restored to them by courts of competent  
7 jurisdiction in those respective states. Asked differently: In their zeal to prohibit as many  
8 citizens from owning firearms as possible, may this State, its chief law enforcement officer, and  
9 those responsible for the enforcement of California’s firearms laws and policies, ignore the  
10 judgments and pronouncements of the courts of other states because they do not prefer the policy  
11 outcome? The only honest, constitutionally-grounded answer to these questions must be a  
12 resounding ‘no’.

13 2. Indeed, the State has no constitutionally-permissible interest in depriving  
14 individuals of their right to own, possess, and bear firearms for all lawful purposes, including  
15 self-defense in their homes, when any underlying convictions were remote, non-violent in nature,  
16 and adjudged to have been vacated or set aside in those other jurisdictions, as the alternative –  
17 and their laws, policies, practices, and customs challenged here – violate their rights under the  
18 Second Amendment. Moreover, the State cannot simply decide to ignore the legal judgments of  
19 courts in other states, as such a policy violates the United States Constitution’s Full Faith and  
20 Credit Clause, Privileges and Immunities Clause, and the Fourteenth Amendment’s Privileges or  
21 Immunities Clause.

22 3. Accordingly, Plaintiffs are bringing this challenge to the State of California’s  
23 laws, policies, practices, and customs, as promulgated, implemented and enforced by the  
24 Defendants, which refuse to honor the judgments of other states that vacated or otherwise  
25 exonerated those disqualifying convictions, and which otherwise refuse to honor the out-of-state  
26 restoration of an individual’s firearms rights, and to the extent that it forms the basis of the  
27 Department’s enforcement practices, California Pen. Code §§ 29800 and 30305 as applied.  
28

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**PARTIES**

1  
2 4. Plaintiff Chad Linton is a natural person who resides in the County of Placer,  
3 California. Mr. Linton is a member and supporter of the Firearms Policy Coalition, Firearms  
4 Policy Foundation, the Calguns Foundation and the Second Amendment Foundation.

5 5. Plaintiff Paul McKinley Stewart is a natural person who resides in the County of  
6 San Bernardino, California. Mr. Stewart is a member and supporter of the Firearms Policy  
7 Coalition, Firearms Policy Foundation, the Calguns Foundation and the Second Amendment  
8 Foundation.

9 6. Plaintiff Firearms Policy Foundation (“FPF”) is a non-profit membership  
10 organization incorporated under the laws of Delaware with its principal place of business in  
11 Sacramento, California, with members residing both within and outside of this state, that serves  
12 to defend and advance constitutional rights through charitable purposes, with a focus on the  
13 fundamental, individual right to keep and bear arms. FPF represents these members and  
14 supporters, who include California firearm retailers and consumers. FPF brings this action on  
15 behalf of itself, its members, supporters, who possess all the indicia of membership, and  
16 similarly situated members of the public.

17 7. Plaintiff Firearms Policy Coalition, Inc. (“FPC”) is a non-profit membership  
18 organization incorporated under the laws of Delaware with its principal place of business in  
19 Sacramento, California, with members residing both within and outside of this state, that serves  
20 its members and the public through direct and grassroots advocacy, legal efforts, and education.  
21 The purposes of FPC include defending the United States Constitution and the People’s rights,  
22 privileges and immunities deeply rooted in the Nation’s history and tradition, especially the  
23 fundamental right to keep and bear arms. FPC represents these members and supporters, who  
24 include California firearm retailers and consumers. FPC brings this action on behalf of itself, its  
25 members, supporters, who possess all the indicia of membership, and similarly situated members  
26 of the public.

27  
28 8. Plaintiff Second Amendment Foundation, Inc. (“SAF”) is a non-profit

1 membership organization incorporated under the laws of Washington with its principal place of  
2 business in Bellevue, Washington. SAF has over 650,000 members and supporters nationwide,  
3 including California. The purposes of SAF include education, research, publishing and legal  
4 action focusing on the Constitutional right to privately own and possess firearms, and the  
5 consequences of gun control. SAF brings this action on behalf of itself, its members, supporters,  
6 who possess all the indicia of membership, and similarly situated members of the public.

7 9. Plaintiff The Calguns Foundation (“CGF”) is a non-profit membership  
8 organization incorporated under the laws of California with its principal place of business in  
9 Sacramento, California, with members residing both within and outside of this state, dedicated to  
10 promoting education for all of stakeholders about California and federal firearm laws, rights and  
11 privileges, and defending and protecting the civil rights of California gun owners. CGF  
12 represents these members and supporters, who include California firearm retailers and  
13 consumers. CGF brings this action on behalf of itself, its members, supporters, who possess all  
14 the indicia of membership, and similarly situated members of the public.

15 10. Plaintiff Madison Society Foundation (“MSF”) is a non-profit organization whose  
16 purpose is preserving and protecting the legal and constitutional right to keep and bear arms for  
17 its members and all responsible law-abiding citizens. MSF believes that individual constitutional  
18 rights should not be infringed to deny citizens their life, liberty, and pursuit of happiness. MSF  
19 is headquartered in Stanislaus County, and the majority of its members are California residents.  
20 The focus of MSF’s litigation efforts is challenging violations of the right to keep and bear arms.

21 11. Defendant Xavier Becerra is the Attorney General of the State of California, and  
22 is sued herein in his official capacity. Under Article 5, § 13 of the California Constitution,  
23 Attorney General Becerra is the “chief law officer of the State,” with a duty “to see that the laws  
24 of the state are uniformly and adequately enforced.” Defendant Becerra is the head of the  
25 California Department of Justice (“DOJ”). The DOJ and its Bureau of Firearms regulate and  
26 enforce state law related to the sales, transfer, possession, and ownership of firearms. The  
27 Attorney General and DOJ maintain an office in San Francisco, California.  
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1 equal rights of citizens or of all persons within the jurisdiction of the United States. All Plaintiffs  
2 herein are seeking relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202. To the  
3 extent that the court determines that Plaintiffs are asserting state law claims, this court has  
4 supplemental jurisdiction under 28 U.S.C. § 1367(a).

5 16. Venue is proper under 28 U.S.C. § 1391, as the venue rules of this State  
6 specifically would permit this action to be filed in San Francisco, since the Attorney General and  
7 California Department of Justice maintain an office within this Division; Cal. Code of Civ. Pro. §  
8 401(1).

10 **BACKGROUND AND FACTS COMMON TO ALL COUNTS**

11 *Plaintiff Chad Linton*

12 17. Plaintiff Chad Linton is a life-long permanent resident of California, having been  
13 born and raised here.

14 18. On or about August 20, 1987, while young plaintiff Linton was enlisted and  
15 serving in the U.S. Navy, and stationed in the State of Washington, he made an error in  
16 judgment. While on a motorcycle, driving intoxicated, and hurrying back to his base at Whidbey  
17 Island Naval Air Station, traveling at a high rate of speed, he travelled past a Washington State  
18 Police car. For a brief period of time, Plaintiff Linton considered whether he might be able to  
19 outrun and make it back to NAS Whidbey Island before the Washington State Patrol officer  
20 would be able to catch up to him, and he accelerated. However, after a few moments, Plaintiff  
21 Linton reconsidered that idea, pulled over to the side of the highway, and voluntarily allowed the  
22 state trooper to catch up to him. He was then arrested and did not resist in any way.

23 19. Plaintiff Linton was charged in Washington State, Island County Superior Court,  
24 with attempting to evade a police vehicle, a “Class C felony”<sup>1</sup> under section 46.61.024 of the  
25

26  
27 <sup>1</sup>The State of Washington classifies three types of felonies, based upon the seriousness of the  
28 crime. RCW 9A.020.10. For offenses occurring after July 1, 1984, the maximum sentence for a  
Class C felony is confinement in a state correctional institution for a period of five years, or by a  
fine fixed at \$10,000, or both. RCW 9A.020.21(1)(c).

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1 Revised Code of Washington (“RCW”), and with driving under the influence, charged as a  
2 misdemeanor. He spent seven days in jail.

3 20. On or about December 29, 1987, Plaintiff Linton entered pleas of guilty to both  
4 Count I (Attempting to Evade a Pursuing Police Vehicle, RCW 46.61.024) and Count II (Driving  
5 While Intoxicated, RCW 46.61.502). Plaintiff Linton was sentenced to seven days in jail, with  
6 credit for all seven days served, as was required to complete community service, pay fines, and  
7 successfully complete all other terms of probation. At the time of his sentencing, the  
8 Washington State court judge, who was sympathetic to Plaintiff Linton, told him that he would  
9 not want to see his military career destroyed over the incident. He told Plaintiff Linton that if he  
10 successfully completed all terms of his probation, that the court would reduce the matter to a  
11 misdemeanor and have the matter discharged from his records. Plaintiff Linton had no reason to  
12 believe that this had not occurred. In fact, in 1988, Plaintiff Linton received a certificate of  
13 discharge, showing that he successfully completed his probation, and which included a statement  
14 that “the defendant’s civil rights lost by operation of law upon conviction be HEREBY  
15 RESTORED.”

16 21. After being discharged from the Navy, Plaintiff Linton moved back to California  
17 in 1988. Since moving back to California, Plaintiff Linton has undergone multiple background  
18 checks and fingerprint-based “Live Scan” database queries of law enforcement records, in  
19 connection with licensing, none of which revealed the presence of a felony conviction in another  
20 state. Plaintiff Linton also reasonably relied upon the statements made by the trial judge in  
21 Washington State, in believing that the attempted evading charge had been reduced to a non-  
22 prohibiting misdemeanor, and that the restoration of rights upon successful completion of  
23 probation entitled him to own firearms legally.

24 22. Since returning to California permanently, Plaintiff Linton has been and remains a  
25 law-abiding citizen, has married, and has raised a family. He has not been arrested, and would  
26 not otherwise be prohibited from owning firearms, under state or federal law. In fact, since  
27 moving back to California, he legally purchased and owned several firearms, having passed all  
28

1 necessary background checks that cross-referenced state and federal databases.

2       23. On or about December 26, 2015, Mr. Linton attempted to make a purchase of a  
3 handgun. Plaintiff was denied the purchase by the State of California – but not the federal  
4 government – and informed by the California DOJ that he was prohibited from taking possession  
5 of the handgun due to the existence of a prior felony, and specifically that the disqualifying  
6 offense was the Washington State matter dating back to 1987, which he believed had been  
7 reduced to a misdemeanor. Nevertheless, based upon the DOJ’s denial of the firearm purchase,  
8 Plaintiff Linton hired an attorney in the State of Washington who, on Plaintiff’s behalf, re-  
9 opened the criminal proceedings, withdrew the guilty plea, and entered a not-guilty plea, which  
10 was entered retroactively.

11       24. Pursuant to Plaintiff Linton’s efforts, on March 21, 2016, the Superior Court of  
12 the State of Washington, Island County, on Plaintiff’s motion, issued its final Order on Motion  
13 Re: Vacating Record of Felony Conviction, a copy of which is attached as **Exhibit A**, in which  
14 the court specifically found that the offense for which plaintiff Linton was convicted was not a  
15 violent offense under Washington State law. Accordingly, the Superior Court granted the  
16 motion to vacate conviction records related to the underlying offense, set aside the guilty plea,  
17 and released plaintiff from all penalties and disabilities resulting from the offense. (Exhibit A, p.  
18 2.)

19       25. On April 18, 2016, the Superior Court of the State of Washington, Island County,  
20 further issued, upon Plaintiff’s petition, an Order Restoring Right to Possess Firearms pursuant  
21 to Revised Code of Washington (RCW) 9.41.040(4). A copy of this order is attached as **Exhibit**  
22 **B**. As part of that petition, and order, the court found that Plaintiff Linton was qualified,  
23 pursuant to RCW 9.41.040(4), to have the right to possess firearms restored to him, and  
24 accordingly, ordered “that Petitioner Chad Linton’s civil rights and right to possess firearms are  
25 FULLY RESTORED pursuant to RCW 9.41.040(4).” (*Id.*) The court further ordered the  
26 Washington State Patrol to transmit a copy of its Order to the Federal Bureau of Investigation.  
27

28       26. In addition, in order to determine whether he was prohibited from owing or



1 purchasing firearms under the State of California’s and Defendant DOJ’s laws, policies,  
2 practices, and customs, on or about October 25, 2016, Plaintiff Linton voluntarily underwent a  
3 Personal Firearms Eligibility Check (“PFEC”) pursuant to Cal. Pen. Code § 30105(a) to confirm  
4 his eligibility to purchase and/or possess a firearm. Based upon this check, the California DOJ’s  
5 Bureau of Firearms informed him that Plaintiff was eligible both to possess and purchase  
6 firearms, based upon a search of California’s records. The PFEC form indicated, however, that  
7 the actual purchase of a firearm would involve the search of a federal database by the DOJ. A  
8 copy of Plaintiff Linton’s PFEC results, dated October 25, 2016, is attached hereto as **Exhibit C**.

9 27. Based upon the court orders from the State of Washington, and the PFEC results,  
10 on October 30, 2018, Plaintiff Linton attempted to purchase a rifle that was, and is, legal for a  
11 person to own and possess in California. Plaintiff Linton was once again denied his right to  
12 purchase the rifle. On or about November 7, 2016, the California DOJ informed Plaintiff Linton  
13 that he was ineligible to purchase or possess firearms pursuant to its review of state and/or  
14 federal records which purported to show that plaintiff was a “Felon: Any person who has been  
15 convicted of a felony under the laws of the United States, of the State of California, or of any  
16 other state, government, or country.” A true and correct copy of the DOJ’s letter denying  
17 Plaintiff Linton the right to purchase a firearm is attached hereto as **Exhibit D**. However, the  
18 only felony conviction Plaintiff Linton had ever suffered was the Washington State conviction,  
19 which by that time had already been set aside, vacated, and for which his firearms rights  
20 specifically had been restored to him by the Washington court. (Exhibits A and B.)

21 28. After this firearm denial, Plaintiff Linton requested and underwent a “Live Scan”  
22 fingerprint-based background check request with the DOJ directly. On or about November 10,  
23 2016, the results of that Live Scan were returned to him and showed the presence of no felony  
24 convictions.

25 29. In an effort to remedy the conflicts and access his rights, on or about February 2,  
26 2017, Plaintiff Linton, through his attorney, Adam Richards, wrote the DOJ to contest its  
27 determination regarding his status as a prohibited person. In furtherance of this claim of  
28

1 inaccuracy and/or incompleteness, Plaintiff’s counsel provided the DOJ with the Washington  
2 Court’s Order vacating Plaintiff’s felony conviction (Exhibit A), as well as the Order restoring  
3 his firearm rights (Exhibit B). A copy of Plaintiff Linton’s counsel’s letter to the DOJ dated  
4 February 2, 2017, is attached hereto as **Exhibit E**. The DOJ did not respond to this request and  
5 communication, at all.

6 30. Plaintiff’s counsel Richards made a second request to the DOJ to correct Plaintiff  
7 Linton’s record, on November 11, 2017. On or about January 30, 2018, in apparent response to  
8 attorney Richards’s letter, the DOJ sent a letter to Plaintiff Linton directly, stating that “the entry  
9 in question cannot be found on your California criminal history record, therefore, no further  
10 investigation is required.” A copy of the California DOJ’s letter to Plaintiff Linton dated January  
11 30, 2018, is attached as **Exhibit F**. In addition, on about March 6, 2018, the DOJ sent Plaintiff  
12 Linton an additional record stating that “as of the date of this letter, your fingerprints did not  
13 identify any criminal history maintained by the Bureau of Criminal Information and Analysis.”  
14 A copy of the DOJ’s letter dated March 6, 2018, is attached as **Exhibit G**.

15 31. Based upon the letters from the DOJ (Exhibits F and G) which appeared to be  
16 responsive to his attorney’s letters, on March 20, 2018, Plaintiff Linton reasonably believed that  
17 the confusion had been cleared up, that the DOJ’s records had been corrected, and he then  
18 attempted to purchase a .357 revolver, for self-defense in the home. But Plaintiff Linton was  
19 again denied this purchase by the DOJ. On or about March 27, 2018, the DOJ sent Plaintiff  
20 Linton a letter stating that the attempted firearm purchase was denied due to the presence of a  
21 prior felony conviction—again, the only possible such matter being the now-vacated Washington  
22 matter.

23  
24 32. On or about April 3, 2018, agents of the California Department of Justice, Bureau  
25 of Firearms, operating as a unit of their Armed Prohibited Persons System (APPS) enforcement  
26 program, came to Plaintiff Linton’s home, and seized several firearms that Plaintiff Linton had  
27 acquired and owned throughout the years, including an antique, family-heirloom shotgun that  
28 was once owned by his grandfather. All of these firearms were acquired through legal purchases

1 or transfers, through federally-licensed firearm dealers (FFLs), and pursuant to DOJ DROS  
2 (“Dealer’s Record of Sale”) background checks. Over the years, Plaintiff Linton had passed  
3 many other background checks, and Live Scan fingerprint-based checks in connection with  
4 professional licensing, none of which turned up the presence of any felony convictions, and in  
5 conjunction with the trial judge’s statements at his sentencing in 1987, Plaintiff had reasonably  
6 believed that the matter had been reduced to a misdemeanor and vacated at the time of discharge.  
7 At the time of the DOJ’s entry into Plaintiff’s home and seizures, Plaintiff Linton’s wife showed  
8 the DOJ agents the Washington State court orders that vacated the felony conviction, and  
9 restored Plaintiff his gun rights (Exhibits A and B). On information and belief, the DOJ agents  
10 sought approval from Defendant Deputy Attorney General Robert Wilson to return the firearms  
11 to Plaintiff, but Defendant Wilson denied this request.

12 33. On information and belief, after the DOJ agents left, there was a continuing  
13 debate within the DOJ as to whether Plaintiff Linton maintained prohibited status. On  
14 information and belief, one DOJ agent expressed the opinion that the “felony prohibition has  
15 been removed for the following subject,” and that they “believe he is not prohibited due to the  
16 felony being vacated.” Plaintiff Linton was shown a copy of this e-mail that appeared to indicate  
17 that the DOJ agents sided with Plaintiff Linton. Nevertheless, they were not permitted to restore  
18 to him the firearms that were taken. On information and belief, defendant Wilson, supervising or  
19 otherwise instructing the agents, considered the situation, and made the decision not to release  
20 the firearms to him.

21 34. In June 2018, Plaintiff Linton was supplied with the results of the FBI fingerprint  
22 search, which showed that the felony conviction from Washington State had been vacated, and  
23 that Plaintiff’s firearms rights had been restored to him. In addition, on or about August 16,  
24 2018, Plaintiff Linton underwent another PFEC to make sure, and the results once more likewise  
25 said that he was “eligible to purchase or possess firearms.”

26 35. In order to test the DOJ’s response, sometime in September 2018, Plaintiff Linton  
27 attempted to make a simple purchase of a .22 rifle from a local, California-licensed FFL. On or  
28

1 about September 7, 2018, the DOJ sent both Plaintiff Linton and the FFL notice that he was  
2 “prohibited” from owning firearms and refused to allow release of the .22 rifle to Plaintiff, thus  
3 once more denying Plaintiff Linton his fundamental rights.

4 36. On September 24, 2018, Plaintiff’s counsel, Adam Richards, spoke with  
5 Defendant Wilson about this ongoing inability of DOJ to reconcile and correct its records with  
6 the (already-provided) records showing that the Washington State felony had been vacated and  
7 firearms rights were restored to Plaintiff. Plaintiff’s counsel was surprised to hear Defendant  
8 Wilson express the policy that DOJ would continue to consider Plaintiff to be a “prohibited  
9 person” and barred from owning or acquiring firearms pursuant to Pen. Code § 29800, as a result  
10 of the vacated Washington State conviction (for which Plaintiff’s firearms rights had been  
11 restored). Defendant Wilson acknowledged that the DOJ had received, but that it was expressly  
12 refusing to honor the Washington State Court’s findings that Plaintiff’s felony conviction had  
13 been vacated and that Plaintiff’s firearms rights had been restored to him. During this phone  
14 call, Defendant Wilson stated that the only remedy that Plaintiff Linton had would be in the form  
15 of a pardon from the President of the United States. Defendant Wilson thus expressed the  
16 Defendants’ policy that, notwithstanding the restoration of his firearm rights in Washington  
17 State, according to the laws and DOJ’s policies, practices, and customs, such order of a court in a  
18 different state had no effect whatsoever and would not be honored here. A copy of Plaintiff  
19 Linton’s counsel’s December 4, 2018 confirming letter to Defendant Robert D. Wilson is  
20 attached as **Exhibit H**.

21  
22 37. Defendants did not respond to the request of Plaintiff’s counsel, or reverse their  
23 decision, or policy, within the time period requested or otherwise, and Plaintiff Linton is  
24 therefore forced to file this action to vindicate his rights.

25  
26 *Plaintiff Paul McKinley Stewart*

27 38. Plaintiff Paul McKinley Stewart has been a resident of the County of San  
28 Bernardino, California, for over 30 years. He was a resident of Riverside County for several

1 years before that.

2 39. On June 6, 1976, when Plaintiff Stewart was 18 years old, he succumbed to a  
3 crime of opportunity while he was living in the State of Arizona. Seeing an unlocked telephone  
4 company truck in a commercial yard, Plaintiff Stewart hopped a fence, reached into the truck,  
5 and stole some lineman's tools. He was seen by someone and reported to the police. When the  
6 police went to his residence, Plaintiff Stewart gave up the tools and offered no resistance to his  
7 arrest.

8 40. On or about August 3, 1976, Plaintiff Stewart was found guilty of a first degree  
9 burglary, a felony, in the County of Yuma, Arizona. He was immediately sentenced to three  
10 years of probation, and the Court imposed a suspended sentence during the probation period.  
11 That court's sentencing order specifically stated: "If in all respects you obey this order at the end  
12 of three years, or sooner upon the recommendation of your probation officer the judgment of  
13 guilty as well as this order may be vacated and the case dismissed. This action will restore to you  
14 all rights lost by this conviction except that notwithstanding such dismissal the conviction may  
15 be considered if you are again convicted of another offense."

16 41. On or about October 5, 1978, Plaintiff Stewart successfully completed his  
17 probation and believed the matter was dismissed. His belief was further enforced by a statement  
18 he had with his probation officer at the time, who told him that the felony conviction had been  
19 dismissed due to his successful completion of probation.

20 42. Since moving to San Bernardino County in or around 1988, Plaintiff Stewart has  
21 lived an honest life. He has married, raised a family, and is a father to two grown and successful  
22 children. He has remained steadily and gainfully employed.

23 43. On or about December 28, 2015, Plaintiff Stewart, believing he was not  
24 prohibited, attempted to purchase a pistol for self-defense in his home from a local gun dealer.  
25 With no reason to believe he was prohibited from doing so, Plaintiff Stewart also attempted to  
26 purchase additional firearms while waiting for DOJ's DROS clearance on the pistol purchase.

27 44. On or about January 1, 2014, the DOJ sent Plaintiff Stewart a letter regarding the  
28

1 attempted firearm purchase, informing him that his status was still “undetermined” and that the  
2 firearm purchase would be delayed. Eventually, Plaintiff Stewart was told he was disqualified  
3 from purchasing or possessing any firearms due to the presence of a prior felony conviction.

4 45. Plaintiff Stewart requested a Live Scan fingerprint-based background check for a  
5 copy of his criminal records. On or about March 28, 2016, Plaintiff Stewart received the results  
6 of the FBI criminal records check, which indicated the presence of a conviction in Arizona, but  
7 did not indicate whether it was classified as a felony or not. The FBI letter said that the matter  
8 was “undetermined” as to whether he was eligible to purchase or possess firearms.

9 46. On or about May 13, 2016, Plaintiff Stewart filed with the Superior Court of  
10 Yuma County, Arizona, an application to restore his civil rights, including his firearm rights, and  
11 to set aside his judgment of guilt. On or about August 11, 2016, that Court issued an order  
12 restoring his firearm rights, and specifically set aside the judgment of guilt. A copy of the  
13 Court’s order of August 11, 2016, is attached as **Exhibit I**.

14 47. On or about February 2, 2018, the Arizona Department of Public Safety further  
15 sent Plaintiff Stewart additional documentation showing that the felony conviction had been set  
16 aside and that his records had been so corrected.

17 48. Following the Arizona Superior Court’s order, and believing the matter would be  
18 automatically updated in any background search, on or about February 10, 2018, Plaintiff  
19 Stewart attempted to purchase a firearm from a local firearms store in Redlands, California. This  
20 firearm purchase was also denied by DOJ.

21 49. On or about February 27, 2018, the DOJ sent Plaintiff Stewart a letter indicating  
22 that his attempt to purchase a firearm had again been denied on the basis of a prior felony  
23 conviction. A copy of the DOJ’s letter dated February 27, 2018, is attached as **Exhibit J**.

24 50. Subsequently, Plaintiff Stewart had several telephone conversations with the DOJ  
25 regarding the firearms denial. He was informed that the Arizona felony conviction disqualified  
26 him from exercising his right to purchase or possess firearms, notwithstanding the Arizona  
27 Court’s order vacating the felony conviction, and restoring his firearm rights, about which he  
28

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1 made the DOJ aware.

2 51. On information and belief, the same laws and policies, practices, and customs that  
3 were used to deny Plaintiff Linton his rights, in the face of valid court orders from other states  
4 that specifically (a) set aside, vacated or otherwise dismissed the felony convictions, and (b)  
5 restored the subjects' firearm rights, were determined to be of no application to the purchase of  
6 firearms in California, and operated to deny Plaintiff Stewart the same.

7 52. On information and belief, Defendants, and each of them, are responsible for  
8 issuing, implementing, and enforcing the laws, policies, practices, and customs that denied  
9 Plaintiff Stewart the right to purchase, possess, and keep a firearm in his home for self-defense.

10 53. As to all claims for relief set forth below, all Plaintiffs are seeking relief from all  
11 Defendants named herein.

12  
13 **CLAIMS FOR RELIEF**

14 **COUNT I: VIOLATION OF U.S. CONST., AMEND. II**

15 54. Plaintiffs incorporate by reference paragraphs 1 through 53 as if fully set forth  
16 herein.

17  
18 55. The Second Amendment to the United States Constitution states, in pertinent part,  
19 that "the right of the people to keep and bear arms, shall not be infringed." The Second  
20 Amendment further "elevates above all other interests the right of law-abiding, responsible  
21 citizens to use arms in defense of hearth and home." *District of Columbia v. Heller*, 554 U.S.  
22 570, 635 (2008).

23 56. As the Court subsequently held in *McDonald v. City of Chicago*, 561 U.S. 742,  
24 130 S.Ct. 3020 (2010): "it is clear that the Framers and ratifiers of the Fourteenth Amendment  
25 counted the right to keep and bear arms among those *fundamental* rights necessary to our system  
26 of ordered liberty." 130 S.Ct. at 3043 (emphasis added).

27 57. Individual Plaintiffs are now responsible, law-abiding citizens with no history of  
28 violent behavior or conduct that would suggest that they pose any elevated threat or danger to

1 others. The felony convictions that they were charged with, and found guilty of, were punishable  
2 by imprisonment, or by probation. Neither of the Individual Plaintiffs were sentenced to a term  
3 in prison, and all Individual Plaintiffs successfully completed the terms of their probation.

4 58. Individual Plaintiffs, now permanent residents of California, desire and intend to  
5 purchase, possess, and keep firearms for self-defense, and for the defense of their families,  
6 primarily self-defense within their homes. However, Individual Plaintiffs are prevented from  
7 purchasing, inheriting, obtaining and keeping firearms, for lawful purposes, on account of the  
8 laws of the State of California and Defendants' policies, practices, and customs described herein,  
9 that are being applied to them.

10 59. Defendants' policies that have been adopted, and are being enforced, which  
11 operate to deny these plaintiffs, and others similarly-situated to them, the ability or right to  
12 purchase, possess, and keep firearms within their home, and which are based upon the imposition  
13 of non-violent felony convictions occurring in other states, notwithstanding that (a) those prior  
14 felony convictions were vacated, set aside, or were otherwise adjudged to have been exonerated  
15 by courts of those state, and (b) those other states specifically adjudged plaintiffs to be permitted  
16 a restoration of their firearm rights.

17 60. The crimes for which the Individual Plaintiffs had been convicted are all more  
18 than ten (10) years old, were for non-violent, lesser-classified felonies, and did not involve the  
19 use of force. The sentences imposed upon the plaintiffs were minor, and their convictions were  
20 eventually adjudged to have been vacated, expunged, or set aside under the laws of those states  
21 by a court of competent jurisdiction. Notwithstanding the non-violent nature of those  
22 convictions, and the subsequent restoration of plaintiffs' rights, the laws and Defendants'  
23 policies, practices, and customs described herein, as applied to Individual Plaintiffs, amount to a  
24 total and permanent deprivation of their fundamental, individual right to keep and bear arms and  
25 ammunition, as guaranteed by the Second Amendment, and are therefore an infringement upon  
26 those rights. The circumstances surrounding the Individual Plaintiffs' convictions are therefore  
27 and should be distinguishable from those persons that have been historically excluded from the  
28



1 right to keep and bear arms.

2 61. The State of California’s laws and Defendants’ policies cannot be justified, and  
3 therefore fail to satisfy any level or mode of scrutiny at all, let alone the heightened scrutiny that  
4 is required to deprive individuals of such fundamental rights, as established by the Supreme  
5 Court in *Heller*, 554 U.S. at 628, n. 27. The challenged laws and policies unquestionably burden  
6 conduct and activity protected by the Second Amendment, as they result in a complete  
7 prohibition of firearm possession, for any and all purposes, including self-defense within the  
8 home. This burden is severe because it completely eviscerates the right, or a core exercise of the  
9 right, with no actual means to restore those rights, absent – according to Defendants – a  
10 presidential pardon.

11 62. Defendants’ policy of permanently depriving Individual Plaintiffs the right to  
12 keep and bear arms, under such circumstances, violates the Second Amendment. To the extent  
13 that Cal. Pen. Code §§ 29800 (prohibiting possession of a firearm by a felon) and 30305  
14 (prohibiting possession of ammunition by a felon) is applied to Individual Plaintiffs, and other  
15 members of the Organizational Plaintiffs and similarly-situated members of the public, it is  
16 unconstitutional.

17 WHEREFORE, Plaintiffs seek declaratory and injunctive relief as set forth below.  
18

19  
20 **COUNT II: VIOLATION OF U.S. CONST., Art. IV § 1**  
**Full Faith and Credit Clause**

21 63. Plaintiffs incorporate by reference paragraphs 1 through 62 as if fully set forth  
22 herein.

23 64. Article IV, section 1 of the United States Constitution provides that “Full Faith  
24 and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of  
25 every other State.” “That Clause requires each State to recognize and give effect to valid  
26 judgments rendered by the courts of its sister States.” *V.L. v. E.L.*, 136 S. Ct. 1017, 1020 (2016).  
27 The purpose of this Clause is “to alter the status of the several states as independent foreign  
28

SEILER EPSTEIN ZIEGLER & APPEGATE LLP  
Attorneys at Law

1 sovereignties, each free to ignore obligations created under the laws or by the judicial  
2 proceedings of the others, and to make them integral parts of a single nation.” *Id.* (citing  
3 *Milwaukee County v. M.E. White Co.*, 296 U.S. 268, 277, 56 S.Ct. 229 (1935)).

4 65. The Full Faith and Credit Clause, and its enabling statute (28 U.S.C. § 1738)  
5 create a rule of preclusive effect of final, binding adjudications from one state court in another  
6 court. “A final judgment in one State, if rendered by a court with adjudicatory authority over the  
7 subject matter and persons governed by the judgment, qualifies for recognition throughout the  
8 land.” *Baker by Thomas v. General Motors Corp.*, 522 U.S. 222, 233, 118 S.Ct. 657, 664 (1998)

9 66. Moreover, there is no “roving public policy exception” to the full faith and credit  
10 due judgments, and the Full Faith and Credit Clause orders submission, even to the hostile  
11 policies reflected in the judgment of another state. *Baker*, 522 U.S. at 233.

12 67. Defendants’ policies, which amount to a refusal to honor the expungements, set-  
13 aside, and/or vacation of felony convictions in other states, and their refusal to honor the  
14 restoration of firearm rights expressly adjudicated by the courts of the other states, and their  
15 refusal to restore firearm rights to such individuals, including the Individual Plaintiffs herein,  
16 violate the Constitution’s Full Faith and Credit Clause, and its enabling statute, 28 U.S.C. §  
17 1738.

18 WHEREFORE, Plaintiffs seek declaratory and injunctive relief as set forth below.  
19

20  
21 **COUNT III: VIOLATION OF U.S. CONST., Art . IV § 2; Amend. XIV, § 1**  
22 **Privileges and Immunities Clause**  
**(Against All Defendants)**

23 68. Plaintiffs incorporate by reference paragraphs 1 through 67 as if fully set forth  
24 herein.

25 69. The State of California honors and permits a process by which persons convicted  
26 of certain, less serious felony offenses within this state may have their firearms rights reinstated.  
27 Specifically, this process generally allows certain persons convicted of qualifying offenses,  
28 namely, certain “wobbler” offenses [i.e., offenses that can be charged either as a felony or a

1 misdemeanor] that did not involve the use of a dangerous weapon, or for which the person was  
2 not sentenced to a term in state prison, to apply for reduction of a felony “wobbler” to a  
3 misdemeanor, pursuant to Cal. Penal Code § 17(b). Furthermore, under such circumstances, a  
4 person convicted of a felony in California may also seek and obtain expungement of a criminal  
5 record under Pen. Code § 1203.4. An application for a reduction of a felony conviction to a  
6 misdemeanor may be made and granted at any time, even after the sentence was served or  
7 probation completed.

8         70. By virtue of a post-conviction reduction of a felony to a misdemeanor utilizing  
9 Pen. Code § 17(b), many if not most felony offenses so reduced may also result in a restoration  
10 of civil rights, including the right to possess and obtain firearms by those previously convicted in  
11 California courts and prohibited from purchasing or possessing firearms.

12         71. Defendants’ policies, practices, and customs are to honor the reduction of certain  
13 qualifying offenses committed in California, where a reduction to a misdemeanor has been  
14 adjudged by a Superior Court within this state, pursuant to Pen. Code § 17(b). Under such  
15 circumstances, the California Department of Justice, and its Bureau of Firearms, which  
16 administers firearm purchase and transfer applications within this State, will not prevent a person  
17 previously convicted of a felony wobbler from obtaining and keeping firearms for lawful  
18 purposes, including self-defense, if such offense is reduced to a misdemeanor, post-conviction,  
19 pursuant to Pen. Code § 17(b), and if the offense otherwise qualifies. Otherwise, a person  
20 convicted of a felony *in any jurisdiction* cannot own, purchase, receive, or have in his or her  
21 possession, custody or control any firearm. Pen. Code § 29800.

22         72. However, the State of California will only honor the reduction of these qualifying  
23 felony convictions utilizing the statutes and the process described above. As shown throughout  
24 this complaint, California refuses to honor the comparable process utilized by other states,  
25 including the States of Washington and Arizona, shown above, even where the courts of those  
26 jurisdictions expressly have set aside the felony convictions and have restored firearms rights to  
27 such persons who have successfully completed their terms of probation. Accordingly,  
28

1 Defendants’ refusal to honor the set-aside or vacation of those felony convictions, and/or  
2 restoration of firearm rights, by courts of those other states, amounts to unlawful discrimination,  
3 favoring California’s citizens, since persons convicted of felonies in other states, in essence, have  
4 no actual means to seek judicial restoration of their firearms rights here, or otherwise comparable  
5 to the process of reduction under those mechanisms (including Pen. Code § 17(b)) described  
6 above.

7 73. Article IV, section 2, clause 1 of the United States Constitution requires that  
8 “[t]he Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the  
9 several States.” The purpose of this Clause is to prevent a state from treating a citizen of another  
10 state as an alien, or discriminating against him or her in favor of its own citizens. “The primary  
11 purpose of this clause, like the clauses between which it is located—those relating to full faith  
12 and credit and to interstate extradition of fugitives from justice—was to help fuse into one  
13 Nation a collection of independent, sovereign States. It was designed to insure to a citizen of  
14 State A who ventures into State B the same privileges which the citizens of State B enjoy.”  
15 *Toomer v. Witsell*, 334 U.S. 385, 395, 68 S.Ct. 1156, 1162 (1948).

16 74. Furthermore, the Privileges and Immunities Clause provides important protections  
17 for non-residents who enter the state to obtain employment, or for any other purposes, including  
18 the right to travel and become a permanent resident of the state. *Saenz v. Roe*, 526 U.S. 489,  
19 502, 119 S.Ct. 1518, 1526 (1999). The right to travel is further protected by the opening words  
20 of the Fourteenth Amendment to the United States Constitution, which states: “All persons born  
21 or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the  
22 United States and of the State wherein they reside. No State shall make or enforce any law which  
23 shall abridge the privileges or immunities of citizens of the United States[.]” *Id.*

24 75. The laws of the State of California, and the policies, practices, and customs of the  
25 California Department of Justice, as issued, implemented, and enforced by Defendants, and each  
26 of them, which refuse to recognize that felony convictions have been vacated or set aside by  
27 courts in other states, and ignore the express findings of those states’ courts that have restored a  
28

1 person's firearm rights, discriminates against citizens from the other states of the Union, and in  
2 favor of California residents, by denying those persons, including the Individual Plaintiffs herein  
3 and those similarly-situated to them, any means of judicial recourse to obtain felony  
4 expungements and to seek a restoration of their firearm rights, even though such a path is  
5 available to persons convicted of similar, less serious, and qualifying felonies within this state.  
6 Accordingly, these policies of Defendants, and each of them, violates the constitutional rights of  
7 those persons convicted outside of California, now residing here, including the Individual  
8 Plaintiffs as these policies are applied to them.

9 WHEREFORE, Plaintiffs seek declaratory and injunctive relief as set forth below.

10  
11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs request that judgment be entered in their favor and against  
13 Defendants, and pray for relief as follows:

14 1. For declaratory judgment and relief, pursuant to 28 U.S.C. § 2201, that  
15 Defendants' policy of refusing to honor the set-aside and vacation of felony convictions, and  
16 restoration of firearm rights by the courts of the other states, is unconstitutional as applied to  
17 Individual Plaintiffs and others similarly-situated to them, and violates the Second Amendment,  
18 and likewise, that Pen. Code §§ 29800 and 30305, as applied to Individual Plaintiffs and others  
19 similarly-situated to them, is unconstitutional;

20 2. For declaratory judgment and relief, pursuant to 28 U.S.C. § 2201, that  
21 Defendants' policy of refusing to honor the set-aside and vacation of felony convictions, and  
22 restoration of firearm rights by the courts of the other states, is unconstitutional as applied to  
23 Individual Plaintiffs and others similarly-situated to them, is unconstitutional and violates the  
24 Full Faith and Credit Clause;

25 3. For declaratory judgment and relief, pursuant to 28 U.S.C. § 2201, that  
26 Defendants' policy of refusing to honor the set-aside and vacation of felony convictions, and  
27 restoration of firearm rights by the courts of the other states, is unconstitutional as applied to  
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**SEILER EPSTEIN ZIEGLER & APPEGATE LLP**  
Attorneys at Law

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Individual Plaintiffs and others similarly-situated to them, is unconstitutional and violates the Privileges and Immunities Clause (Art. IV, § 2), and the Privileges or Immunities Clause of the Fourteenth Amendment;

4. For injunctive relief, consistent with declaratory relief sought herein, enjoining Defendants, and their officers, agents and employees, from enforcing their laws, policies, practices, and customs of refusing to honor the set-aside and vacation of felony convictions, and restoration of firearm rights by the courts of the other states, insofar as it applies or may apply to any and all plaintiffs or their members;

5. For costs of suit, including attorneys’ fees and costs under 42 U.S.C. § 1988 and any other applicable law; and

6. For all such relief to which Plaintiffs may be justly entitled, which the Court may deem to be just and proper.

Dated: December 20, 2018

**SEILER EPSTEIN ZIEGLER & APPEGATE LLP**

/s/ George M. Lee  
George M. Lee


Attorneys for Plaintiffs

**EXHIBIT A**

STATE OF WASHINGTON )  
COUNTY OF ISLAND ) ss

FILED  
DEBRA VAN PELT  
ISLAND COUNTY CLERK  
2016 MAR 21 PM 3:34

I, Debra Van Pelt, Clerk of Island County and ex-officio clerk of the Superior Court, do hereby certify that this instrument consisting of 3 page(s), is a full, true and correct copy of the original now on file in my office; WITNESS my hand and official seal this 30<sup>th</sup> day of November, 2016.

DEBRA VAN PELT  
By:   
Deputy  
Coupeville, Washington

SUPERIOR COURT OF WASHINGTON  
ISLAND COUNTY

STATE OF WASHINGTON,  
Plaintiff,

vs.

CHAD JAY LINTON,  
  
Defendant.

No. 87-1-00064-9

Order on Motion Re: Vacating Record of  
Felony Conviction  
Granted (ORVCJG)

Clerk's Action Required, para. 3.6

I. Basis

This matter comes before the court on defendant's motion for order vacating record of felony conviction pursuant to RCW 9.94A.640. The court having heard argument of the parties and considered the case records and files, and the pleadings submitted on the matter.

II. Findings

- 2.1 Adequate notice was given to the appropriate parties and agencies.
- 2.2 On or about December 29, 1987, the defendant was convicted of the following offense(s):  
Cause No: 87-1-00064-9 Count: I Offense: Attempting to Elude Pursuing Police Vehicle in violation of RCW 46.61.024.
- 2.3 Defendant was discharged under RCW 9.94A.637 as having completed the requirement of his or her sentence for the offense listed in paragraph 2.2 (RCW 9.94A.640).
- 2.4 Defendant satisfied the following requirements of RCW 9.94A.640(2) or has met the equivalent of these requirements as they would be applied to a person convicted of a crime committed after July 1, 1984:

There are no criminal charges pending against the defendant in any court of this state or another state, or in any federal court (RCW 9.94A.640(2)(a)).



The offense for which the defendant was convicted is not one of the following offenses (RCW 9.94A.640(2)(b), (c), (g)):

A violent offense as defined in RCW 9.94A.030
A crime against persons as defined in RCW 43.43.830
A class C felony described in RCW 46.61.502(6) or 46.61.504(6)

- 2.5 The defendant has not been convicted of any new crime in this state, another state, or federal court since the date of discharge under RCW 9.94A.637 or expiration of probation, based upon the criminal history check of the following records (RCW 9.94A.640(2)(d)):
- Washington State Crime Information Center (WACIC), RCW 43.43.500 et seq;  
National Crime Information Center (NCIC), including the Interstate Identification Index (Triple I), 28 USC Section 534;  
Judicial Information System (JIS), including Defendant Case History (DCH) from the District and Municipal Court Information System (DISCIS), RCW 2.68 et seq. and JISCR; AND/OR  
Other: Washington State Patrol Washington Access To Criminal History (WATCH).
- 2.6 The offense for which the defendant was convicted was a class C felony, other than a class C felony described in RCW 46.61.502(6) or 46.61.504(6), and it has been at least five years since the date of discharge under RCW 9.94A.637 or expiration of probation (RCW 9.94A.640(2)(f)).

### III. Order

The court orders:

- 3.1 The motion for order vacating conviction records of the following offense is granted.


Cause No: 87-1-00064-9 Count: I Offense: Attempting to Elude Pursuing Police Vehicle in violation of RCW 46.61.024.

The court further orders that:

- 3.2 The defendant's guilty plea for the offense listed in paragraph 3.1 is withdrawn and a not guilty plea is entered.  
*And/Or*  
The guilty verdict for the offense listed in paragraph 3.1 is set aside.
- 3.3 The information or indictment for the offense listed in paragraph 3.2 is dismissed.
- 3.4 The defendant shall be released from all penalties and disabilities resulting from the offense listed in paragraph 3.1 and the conviction of that offense shall not be included in the defendant's criminal history for purposes of determining a sentence in any subsequent conviction. However, the conviction may be used in a later criminal prosecution.
- 3.5 For all purposes, including responding to questions on employment applications, the defendant may state that he or she has never been convicted of the offense listed in paragraph 3.1.


3.6 The clerk of the court shall immediately transmit a certified copy of this order to the Washington State Patrol and to the Island County Sheriff which agencies shall immediately update their records to reflect the vacation of the record of conviction of the offense(s) listed in paragraph 3.1. The Washington State Patrol shall transmit a copy of this order to the Federal Bureau of Investigation. The Washington State Patrol or local law enforcement agency may not disseminate or disclose a conviction that has been vacated under RCW 9.94A.640 to any person, except to other criminal justice enforcement agencies.

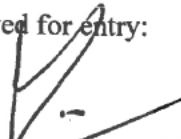
Dated: 3/21/2016

  
Judge/Print Name:  
Alan R Hancock

Presented by:

Approved for entry:

  
Brent Thompson, WSBA# 44778  
Attorney for Respondent

  
Michael Setstrom, WSBA# 46425  
Prosecuting Authority


**EXHIBIT B**

STATE OF WASHINGTON )  
COUNTY OF ISLAND ) ss


FILED  
DEBRA VAN PELT  
ISLAND COUNTY CLERK

2016 APR 18 AM 11:47

I, Debra Van Pelt, Clerk of Island County and ex-officio clerk of the Superior Court, do hereby certify that this instrument consisting of 1 page(s), is a full, true and correct copy of the original now on file in my office. WITNESS my hand and official seal this ~~30th~~ day of November, 20 16.

DEBRA VAN PELT  
By:   
Deputy  
Coupeville, Washington

SUPERIOR COURT OF WASHINGTON  
ISLAND COUNTY

CHAD JAY LINTON,  
  
Petitioner,  
vs.  
STATE OF WASHINGTON,  
Respondent.

No. 16-2-00196-8

RCW 9.41.040(4) ORDER RESTORING  
RIGHT TO POSSESS FIREARMS

Clerk's Action Required

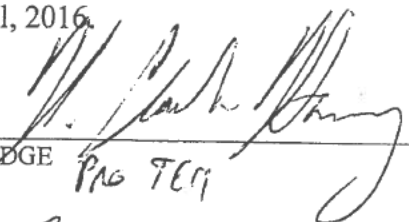
7  


THIS MATTER having come on for hearing before the above entitled court on a RCW 9.41.040(4) Petition for Order Restoring Right to Possess Firearms and the court having reviewed the Petition and having heard any objections thereto, and being otherwise fully advised:


THE COURT HEREBY FINDS on August 11, 1988 the Island County Superior Court discharged Petitioner and restored his civil rights lost as a result of Island County Superior Court Cause No. 87-1-00064-9; on March 21, 2016 the Island County Superior Court also vacated, set aside, dismissed, and released Petitioner from all penalties and disabilities resulting from Island County Superior Court Cause No. 87-1-00064-9; and the Petitioner is qualified, pursuant to RCW 9.41.040(4), to have the right to possess firearms fully restored; now therefore:

THE COURT HEREBY ORDERS that Petitioner Chad Linton's civil rights and right to possess firearms are FULLY RESTORED pursuant to RCW 9.41.040(4). The clerk of the court shall, forthwith, provide a certified copy of this Order to the Washington State Patrol-Identification Section. The Washington State Patrol shall transmit a copy of this order to the Federal Bureau of Investigation.

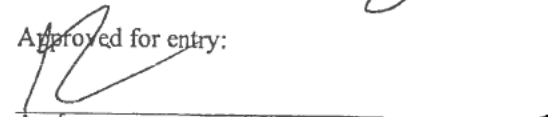
DONE IN OPEN COURT this 18<sup>th</sup> day of April, 2016.

  
JUDGE  
PAG TERI

Presented by:

  
Brent Thompson, WSBA #44778  
Attorney for Petitioner

Approved for entry:

  
Michael Sattrom, WSBA #46225  
Attorney for State of Washington

**EXHIBIT C**



State of California  
Department of Justice  
Bureau of Firearms



P.O. Box 820200, Sacramento, CA 94203-0200

**PERSONAL FIREARMS ELIGIBILITY CHECK (PFEC) NOTIFICATION**

October 25, 2016

(date check was completed)

CHAD JAY LINTON

[REDACTED]  
[REDACTED]

**THIS NOTICE IS FOR INFORMATION PURPOSES ONLY  
IT DOES NOT AUTHORIZE THE SALE OR TRANSFER OF ANY FIREARM**

- You are eligible to both possess and purchase firearms as of the date the check was completed. This determination is based on a check of California records.
- You are ineligible to either possess or purchase firearms as of the date the check was completed.
- You are eligible to possess firearms as of the date the check was completed, but ineligible to purchase firearms as of the date the check was completed.
- A firearms eligibility determination could not be confirmed as of the date the check was completed. Please contact (916) 227-7527 for more information.

*No person or agency may require or request another person to obtain a firearms eligibility check or notification of firearms eligibility pursuant to section 30105 of the Penal Code. A violation of these provisions is a misdemeanor.*

*If the applicant for a firearms eligibility check purchases, transfers, or receives a firearm through a licensed dealer as required by law, a waiting period and background check are both required.*

**PLEASE BE AWARE OF THE FOLLOWING**

**If you are ELIGIBLE to purchase:**

*Federal law does not authorize a check of the National Instant Criminal History Background Check System (NICS) as part of a Personal Firearms Eligibility Check (PFEC). Therefore, although the results of the PFEC indicate you are eligible to possess and purchase firearms, you could still be prohibited based on information in a federal database that the California Department of Justice was not authorized to check.*

*Upon application to purchase a firearm another background check will be conducted and the waiting period will apply.*

*A valid California Driver License or Identification Card is required at the time of purchase of any firearm.*

*A valid Alien Registration Card or I-94 is required at the time of purchase of any firearm if applicant is a non-U.S. citizen. The non-U.S. citizen applicant must also meet certain federal requirements to purchase a firearm, unrelated to the firearms eligibility background check.*

**If you are INELIGIBLE to purchase:**

*And if you are also ineligible to possess, you must relinquish any firearms in your possession to your local law enforcement agency or complete and follow the directions stated on the enclosed 'General Notice of Firearm Prohibition and Power of Attorney for Firearms Relinquishment, Sale or Transfer for Storage.'*

*If you have questions regarding this notification, please contact DOJ at (916) 227-7527.*

**EXHIBIT D**

**KAMALA D. HARRIS**  
**Attorney General**

*State of California*  
**DEPARTMENT OF JUSTICE**



BUREAU OF FIREARMS  
P.O. BOX 820200  
SACRAMENTO, CA 94203-0200  
Telephone: (916) 227-7527  
Fax: (916) 227-3744

November 07, 2016

**CHAD JAY LINTON**  
[REDACTED]

**RE: Firearm Denial**

**Dear CHAD JAY LINTON:**

You recently applied to purchase a firearm. When a person applies to purchase a firearm in California, the California Department of Justice (the Department) is required by state and federal laws to examine its records to determine whether the purchaser is eligible under state and federal law to purchase and possess firearms. Your recent firearm purchase application is being denied because the Department's review of state and/or federal records matching your identifying information revealed the following information:

**Felon:** Any person who has been convicted of a felony under the laws of the United States, of the State of California, or of any other state, government, or country.

This determination was based upon information you provided in your application to purchase a firearm, such as your name, date of birth, driver's license number and physical description, but has not been confirmed with fingerprint comparison. It is possible that the criminal record may not be yours and may belong to another individual whose name and identifying information is similar to yours.

If you wish to challenge the accuracy of the Department's determination or the completeness of your criminal history record, please complete a request for Live Scan Service form (BCIA/BOF8016) located on the Bureau of Firearms web page at <http://oag.ca.gov/firearms>.

**FIREARMS CLEARANCE SECTION**  
Bureau of Firearms

For **KAMALA D. HARRIS**  
Attorney General



**EXHIBIT E**

LAW OFFICES OF

ROTHSCHILD WISHEK & SANDS LLP  
765 UNIVERSITY AVENUE  
SACRAMENTO, CALIFORNIA 95825

TELEPHONE (916) 444-9845  
FACSIMILE (916) 640-0027

M. BRADLEY WISHEK  
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CLYDE M. BLACKMON  
ADAM J. RICHARDS  
ERIN L. BRENNAN  
AMIT SINGH

*Of Counsel*  
MICHAEL ROTHSCHILD  
QUIN DENVIR (1940-2016)  
KENDALL DAWSON WASLEY

*Retired*  
MICHAEL S. SANDS

February 2, 2017

**VIA U.S. MAIL**

State of California Department of Justice  
Bureau of Criminal Information and Analysis  
Record Review Unit  
P.O. Box 903417  
Sacramento, CA 94203-4170

Re: Chad Linton  
Claim of Alleged Inaccuracy or Incompleteness



To Whom It May Concern:

This office represents Chad Linton. We are in receipt of the letter from your office to Mr. Linton dated November 10, 2016. We are also in receipt of a letter from the Firearms Clearance Section dated November 7, 2016 informing Mr. Linton that his application to purchase a firearm has been denied due to a felony conviction. Please consider this letter as a claim of inaccuracy or incompleteness. The basis for this claim is that the DOJ appears to attribute a felony offense to Mr. Linton from the State of Washington. This offense was vacated by the Superior Court of Washington, County of Island and his right to own firearms was expressly restored by the court. I have enclosed two documents for the Department's review, both of which are stamped, certified copies of the relevant court record. The documents provide the following:

1. Document 1: Order on Motion Re: Vacating Record of Felony Conviction Granted.
  - a. This document provides, among other things, the following:
    - i. The defendant's guilty plea for the offense listed in paragraph 3.1 is withdrawn and a not guilty plea is entered.
    - ii. The guilty verdict for the offense listed in paragraph 3.1 is set aside.
    - iii. The defendant shall be released from all penalties and disabilities resulting from the offense listed in paragraph 3.1 and the conviction of that offense shall not be included in the defendant's criminal history for the purposes of determining a sentence in any subsequent conviction. However, the conviction may be used in a later criminal prosecution.
    - iv. For all purposes, including responding to questions on employment applications, the defendant may state that he or she has never been convicted of the offense listed in paragraph 3.1.
2. Document 2: Order Restoring Right to Possess Firearms.
  - a. This document provides, in summary, that the rights lost by defendant in the case number at issue are thereby restored and defendant is qualified, pursuant to

Record Review Unit  
Re: Claim of Alleged Inaccuracy or Incompleteness  
February 2, 2017  
Page 2

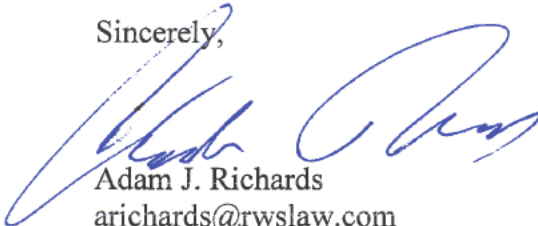
Washington law, to have the right to possess firearms fully restored. The court then orders that his rights are restored.

The enclosed court records unequivocally demonstrate that Mr. Linton's right to own and possess firearms was fully restored and that the offense which originally caused him to lose his rights, was fully vacated.

Based on the foregoing, please correct your record concerning Mr. Linton such that it reflects that he has not been convicted of a felony and that he is able to own and possess firearms.

Please contact me or Mr. Linton should you have any questions or concerns or should you disagree with this request and the information contained herein.

Sincerely,



Adam J. Richards  
[arichards@rwslaw.com](mailto:arichards@rwslaw.com)

AJR/clu

Enclosure: Claim of Alleged Inaccuracy or Incompleteness

cc: Chad Linton

**EXHIBIT F**

XAVIER BECERRA  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



Bureau of Criminal Information and Analysis  
Record Review Section  
P. O. Box 903417  
Sacramento, CA 94203-4170

January 30, 2018

Chad Jay Linton  
[REDACTED]

RE: Criminal History Record  
[REDACTED]

Dear Mr. Linton:

This correspondence is in response to your claim of alleged inaccuracy or incompleteness in your California state summary criminal history record as maintained by the California Department of Justice (DOJ), received on May 24, 2017 and November 28, 2017.

The DOJ is required to record arrest and disposition information that is received from a law enforcement agency or court of this state. The entry in question cannot be found on your California criminal history record, therefore, no further investigation is required.

The event dated November 1, 2001 is not an arrest entry but was generated by California Alcohol Beverage Control when they conducted a fingerprint-based background check on you regarding your License Certification or Permit submission. This entry can only be deleted at the direction of the submitting agency. You must contact Alcohol Beverage Control and ask that they submit a request to the DOJ to remove the applicant entry.

If you have questions concerning firearms eligibility, etc., please contact the California Department of Justice, Bureau of Firearms, at (916) 227-1375.

If you have any further questions concerning this matter, please direct your correspondence to the Record Review Section at the address provided above.

Sincerely,

A handwritten signature in black ink, appearing to read "Annette AH PO".

ANNETTE AH PO, DOJ Administrator  
Record Review and Challenge Program  
Bureau of Criminal Information and Analysis

For XAVIER BECERRA  
Attorney General

**EXHIBIT G**



XAVIER BECERRA  
Attorney General

State of California  
DEPARTMENT OF JUSTICE

BUREAU OF CRIMINAL INFORMATION AND ANALYSIS

P.O. Box 903417  
SACRAMENTO, CA 94203-4170

March 06, 2018

CHAD JAY LINTON

[REDACTED]  
[REDACTED]

RE: California Criminal History Information

Dear Applicant:

This is in response to your record review request initiated due to either a notification regarding a delay in your firearms eligibility check or a notification that your firearms eligibility check was denied. As of the date of this letter, your fingerprints did not identify any criminal history record maintained by the Bureau of Criminal Information and Analysis. As requested, a copy of this record review has been sent to your designee.

This response does not constitute a complete firearms eligibility clearance. If you have any questions regarding your firearms clearance, please contact the Firearms Bureau directly at (916) 227-7527.

Record Review and Challenge Program  
Applicant Record and Certification Branch  
Bureau of Criminal Information and Analysis

For XAVIER BECERRA  
Attorney General

**EXHIBIT H**



LAW OFFICE OF  
**ADAM J. RICHARDS**

2530 J Street, Ste. 320  
Sacramento, California 95816

TELEPHONE (916) 399-3486

FACSIMILE (916) 823-3307

December 4, 2018

**SENT BY U.S. MAIL AND EMAIL TO Robert.Wilson@doj.ca.gov**

Deputy Attorney General Robert D. Wilson  
Office of the Attorney General  
California Bureau of Firearms  
1300 I St, Ste 125  
Sacramento, CA 95814

Re: DEPARTMENT DENIAL OF RIGHT TO PURCHASE A FIREARM --  
CHAD LINTON

Dear Mr. Wilson:

Thank you for speaking with me on Tuesday, September 24, 2018 about my client, Chad Linton. Based on our conversation, it is my understanding that the Department's position is that Mr. Linton is prohibited from owning or possessing firearms in the State of California pursuant to Penal Code section 29800 as a result of his vacated and dismissed 1988 felony conviction in the State of Washington. During our call, you stated that the only measure that would restore his rights, according to your Department, is a presidential pardon. As I informed you during our conversation, I strongly disagree with the Department's position as I believe it to be arbitrary and capricious for several reasons. As evidenced by the Washington State court records, certified copies of which were provided to your department, Mr. Linton's conviction was vacated and dismissed. The unequivocal language in the Washington State Superior Court order states, among other things, that 1) the information/indictment against him was dismissed, 2) that he shall be released from all penalties and disabilities resulting from the offense, 3) that the conviction was vacated, and 4) that for all purposes, defendant may state that he was never convicted of the offense. While this order in and of itself restores his right to own and possess firearms in all jurisdictions, including federally pursuant to 18 USC 921(a)(20)(B), Mr. Linton also received an express order from the Washington Superior Court restoring his right to own and possess firearms, a certified copy of which was also provided to your office. Your position that Washington orders have no authority over California is irrelevant and misses the crux of the issue; Washington courts are not seeking to modify a California order or case. Instead, the question of whether Mr. Linton was convicted of a felony resides with the jurisdiction in which the conviction allegedly occurred. Mr. Linton has no record in the State of California and now, effectively, has no record in the State of Washington.

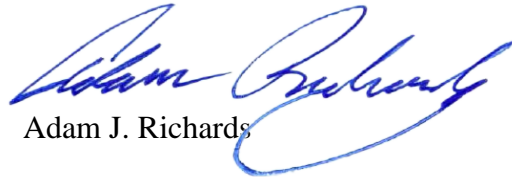
Deputy Attorney General Robert Wilson  
Re: Linton, Chad  
12/4/2018  
Page 2

The Department's position that Mr. Linton is still prohibited is spurious and deprives him of the free exercise of a fundamental right and equal protection under the law. The Department's current position is especially troubling given that the Department informed Mr. Linton in response to his Personal Firearms Eligibility Check (hereafter, "PFEC") that he was eligible to own and possess firearms in August of this year, 2018. Yet, he was denied the ability to purchase a firearm shortly thereafter. While, you made clear during our call that the PFEC only checks California law and records, Mr. Linton has no California record and he is not federally prohibited or prohibited in the state of Washington. Yet, California still maintains that he is prohibited as a result of his 1988 conviction for attempting to elude a pursuing police vehicle which has since been vacated and dismissed; His rights, including with respect to firearms were fully restored.

It seems that Mr. Linton has exhausted his remedies with the Department and, as you informed me during our call, the Department will not change its position with regard to its view of Mr. Linton's record and that he is currently prohibited from owning or possessing a firearm. Please confirm in writing within ten (10) days of this letter the Department's position that it will not change their policy as it pertains to the facts of this case nor issue to Mr. Linton written clearance to purchase a firearm.

Thank you for your attention to this matter.

Sincerely,



Adam J. Richards

**EXHIBIT I**

FILED  
2016 AUG 11 PM 12:24  
LYNN FAZZ  
CLERK OF SUPERIOR COURT  
YUMA ARIZONA 85364

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YUMA

STATE OF ARIZONA,

Plaintiff,

vs.

PAUL MCKINLEY STEWART,

Defendant.

Case No. S1400CR7608338

ORDER

HONORABLE STEPHEN J. ROUFF  
COMMISSIONER TWO

PAUL MCKINLEY STEWART, defendant above named, was adjudged guilty on August 12, 1976, to-wit: Count One, First Degree Burglary and Count Two, Theft.

On May 13, 2016, the defendant, submitted an Application to Restore Civil Rights, Restore Gun Rights, and Set Aside Judgment of Guilt.

The Court having determined the defendant successfully completed the sentence imposed herein,

**IT IS HEREBY ORDERED** that the civil rights lost at the time of sentencing are now restored and setting aside judgment of guilt and dismissal of the Information/Indictment, and those rights shall include the right to possess weapons as defined in A.R.S. §§13-604 and 13-3101.

DATED this 11<sup>th</sup> day of August, 2016

STEPHEN J. ROUFF  
HONORABLE STEPHEN J. ROUFF  
JUDGE OF SUPERIOR COURT

**EXHIBIT J**



BUREAU OF FIREARMS  
P.O. BOX 820200  
SACRAMENTO, CA 94203-0200  
Telephone: (916) 227-7527  
Fax: (916) 227-3744

February 27, 2018

PAUL MCKINLEY STEWART



RE: Firearm Denial

Dear PAUL MCKINLEY STEWART:

You recently applied to purchase a firearm. When a person applies to purchase a firearm in California, the California Department of Justice (the Department) is required by state and federal laws to examine its records to determine whether the purchaser is eligible under state and federal law to purchase and possess firearms. Your recent firearm purchase application is being denied because the Department's review of state and/or federal records matching your identifying information revealed the following information:

Felon: Any person who has been convicted of a felony under the laws of the United States, of the State of California, or of any other state, government, or country.

This determination was based upon information you provided in your application to purchase a firearm, such as your name, date of birth, driver's license number and physical description, but has not been confirmed with fingerprint comparison. It is possible that the criminal record may not be yours and may belong to another individual whose name and identifying information is similar to yours.

If you wish to challenge the accuracy of the Department's determination or the completeness of your criminal history record, please complete a request for Live Scan Service form (BCIA/BOF8016RR) located on the Bureau of Firearms web page at <http://oag.ca.gov/firearms>.

FIREARMS CLEARANCE SECTION  
Bureau of Firearms

For XAVIER BECERRA  
Attorney General