

FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA

**IN THE UNITED STATES DISTRICT COURT  
FOR EASTERN DISTRICT OF LOUISIANA**

2005 SEP 22 PM 4:21

**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 )

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-VI, Sheriff's Deputies,** )  
St. Tammany Parish, )

Defendants )

*by* LORETTA G. WHYTE  
CLERK

CIVIL ACTION NO. ~~05-2000~~

*temp #*

*sec A*

*05-4234*

*A 2*

**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 enjoy 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.

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 Doc. No. \_\_\_\_\_

### **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 over forty thousand reside in Louisiana. In the areas devastated by Hurricane Katrina, NRA membership in the following parishes is no less than 8,000 total: Orleans, St. Bernard, Plaquemines, Jefferson, St. Charles, and St. Tammany. 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. Over 200 SAF members and supporters have contact addresses which fall within one of the 63 zip codes covering the city of New Orleans. 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.

4. Plaintiff Buell Teel, who is a resident of Ponchatoula, Louisiana, and a citizen of the United States, is a member of NRA.

5. Defendant C. 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.

6. 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.

7. 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.

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

#### **Jurisdiction**

9. 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.

10. 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**

11. 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.

12. 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.

13. 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.

14. 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." Some news accounts attribute these statements to New Orleans Deputy Police Chief Warren Riley, but they represent the policies of Defendants Nagin and Compass.

15. 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.

16. 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.

17. 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.

18. On or about September 9, 2005, Plaintiff Buell O. Teel was on a boat in Lake Pontchartrain in St. Tammany Parish working under contract to find an open path from the north shore of Lake Pontchartrain to the Industrial Canal in the city of New Orleans. He was stopped by officers in a St. Tammany Parish Sheriff's boat, including four uniformed officers with assault rifles (identified here as John Does I-IV), and was asked if he had any weapons. He answered that he had 2 hunting rifles in hard cases in the cabin of his boat. Teel brought the rifles with him for personal protection, fearing for his personal safety due to the numerous reports of shooting and looting in and around the New Orleans area. Two of the officers kept their guns pointed at him while two others seized his rifles on behalf of the St. Tammany Parish Sheriff. He was refused a receipt for his rifles.

19. Proceeding on his way, Teel was again stopped, this time by three officers in a St. Tammany Parish Sheriff's boat who asked if they had any weapons. While one officer held a gun on Teel, the other two patted him down and searched his boat. Said officers are identified here as John Does IV-VI.

20. Said Defendants John Does I-VI 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.

21. Teel has since attempted to obtain possession of his rifles but Sheriff Strain has refused to return his rifles to him.

22. As a proximate cause of the aforesaid acts of Defendants and their agents and employees, Plaintiffs have suffered and will continue to suffer 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)**

23. Paragraphs 1 through 22 are realleged and incorporated herein by reference.

24. 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.”

25. 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)**

26. Paragraphs 1 through 25 are realleged and incorporated herein by reference.

27. 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.

28. 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.

29. 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.

30. 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)**

31. Paragraphs 1 through 30 are realleged and incorporated herein by reference.

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

33. 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.

34. 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)**

35. Paragraphs 1 through 34 are realleged and incorporated herein by reference.

36. 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 . . . .”

37. 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.

38. 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.



**LONG LAW FIRM, L.L.P.**

**MICHAEL A. PATTERSON**

Bar Roll No. 10373

**DANIEL D. HOLLIDAY, III, T.A.**

Bar Roll No. 23135

**ADRIAN G. NADEAU**

Bar Roll No. 28169

4041 Essen Lane, Suite 500

Baton Rouge, Louisiana 70809

Telephone: (225) 922-5110

Facsimile: (225) 922-5105

**STEPHEN P. HALBROOK**

*Pro Hac Vice*

10560 Main St., Suite 404

Fairfax, VA 22030

Telephone: (703) 352-7276

Facsimile: (703) 359-0938

**Attorneys for Plaintiffs**