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**UNITED STATE COURT OF APPEALS
NINTH CIRCUIT**

GEORGE K. YOUNG JR,)	
)	
Plaintiff,)	No. 12-17808
vs.)	
)	CASE No. 1200336 HG BMK
STATE OF HAWAII ET. AL.)	
)	NOTICE OF SUPPLEMENTAL
Defendants.)	AUTHORITY

Notice of Supplemental Authority

Young writes this Court to inform it of two recent opinions relevant to his case. The first is *Rocky Mt. Gun Owners v. Hickenlooper*, 371 P.3d 768 (Colo. App. 2016), as modified (Apr. 21, 2016) which supports his challenge to Hawaii’s complete ban on handgun magazines that hold over ten rounds located on page 17 of his first supplemental brief. The Colorado Court of Appeals recently ruled on a motion to dismiss in a lawsuit challenging Colorado’s ban on magazines holding

over fifteen rounds via the Colorado Constitution's right to arms provision. The Colorado Court found "upon de novo review of the complaint's allegations convinces us that a claim has been stated regarding H.B. 13-1224, and it should not have been dismissed as a matter of law." *Id.* at 775. As made clear throughout the opinion, the Colorado Constitution's right to arms closely mirrors the federal right, thus for similar reasons this Court should find that the trial court erred in dismissing Young's case at the pleading stage.

The second opinion is *Avitabile v. Beach*, 1:16-CV-1447, 2017 WL 4325782 (N.D.N.Y. Sept. 28, 2017) which involves a challenge to New York's stun gun ban. This case supports Young's challenge to Hawaii's ban on stun guns located on page 37-38 of his opening brief. There, the Court ruled on a preliminary injunction to this law and a motion to dismiss. The Court denied the preliminary injunction by deciding that "the parties should go to discovery".

The Court also denied the District Attorney's motion to dismiss. "The [DA] argues *Avitabile* fails to state a plausible claim for relief against him under Rule 12(b)(6). But ... the [DA's] argument appears to conflate the ultimate standard of proof for plaintiff's underlying claim with the question properly asked on a motion to dismiss; that is, whether plaintiff has stated a 'plausible' claim for relief. Taking as true the allegations in the operative complaint, plaintiff's claim survives dismissal

at this early stage.” *Id.* at *4. Here, this Court should also find it is plausible that Young can demonstrate a complete ban on stun guns is unconstitutional.

Respectfully submitted this 20th day of October 2017.

s/ Alan Beck

Alan Beck (HI Bar No. 9145)

CERTIFICATE OF SERVICE

On this, the 20th day of October, 2017, I served the foregoing pleading by electronically filing it with the Court's CM/ECF system which generated a Notice of Filing and effects service upon counsel for all parties in the case. I certify that this supplement has 349 words as calculated by Microsoft Office 2017. I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 20th day of October, 2017

s/ Alan Beck