

No. 14-55873 [DC 2:11-cv-09916-SJO-SS]

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Charles Nichols,

Plaintiff-Appellant

v.

**Edmund Brown, Jr., in his official capacity as the Governor of California
and
Xavier Becerra in his official capacity as the Attorney General of California**

Defendants-Appellees.

**ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

**PLAINTIFF-APPELLANT'S UNOPPOSED MOTION TO CLARIFY
SUBMISSION STATUS OF THIS APPEAL**

**Charles Nichols
PO Box 1302
Redondo Beach, CA 90278
Tel. No. (424) 634-7381
e-mail: CharlesNichols@Pykrete.info
In Pro Per**

Plaintiff-Appellant Charles Nichols makes this unopposed, non-dispositive motion to clarify that his appeal is once again submitted for a decision consistent with the Order issued in this appeal on February 27, 2018 (docket # 109).

The Order stated “Submission of this case is vacated pending issuance of a decision in *Young v. State of Hawai’i*, No. 12-17808.”

A published decision in *Young v. State of Hawaii* was issued on July 24, 2018.

The Plaintiffs-Appellants in the related case of *Michelle Flanagan, et al. vs. California Attorney General Xavier Becerra, et al.*, No.: 18-55717, suggested in its opening brief (statement of related cases) that a separate Order of this Court is required for the Nichols appeal to be under submission for a decision in saying, “As of the time of filing this brief, the panel has yet to order this appeal [Nichols] submitted.”

With certain exceptions, prior panel decisions are binding on subsequent three-judge panel decisions. I informed this Court at the beginning of my oral argument that *Young* had already been argued and submitted for a decision, and a published decision in that case would likely be dispositive of my Second Amendment and licensing claim. Hence the subsequent Order vacating submission pending a decision in *Young* was issued by this panel.

Absent an Order by this panel clarifying that this appeal is once again under submission for a decision, it would severely prejudice the appeal in *Nichols* as well as cast doubt on a decision in *Flanagan* should a decision in that appeal be issued before the decision in *Nichols*. *Flanagan* argues that California can ban Open Carry without violating the Second Amendment by issuing permits to carry loaded handguns concealed to the general public, which is in opposition to *Nichols*.

Nichols filed his notice of appeal on May 27, 2014, which was before *Flanagan* filed its case in the district court and over four years prior to *Flanagan* filing its initial notice of appeal. Indeed, *Nichols* was filed in the district court on November 30, 2011, which was before Mr. Young filed his case on June 12, 2012.

Nichols has been fully briefed and argued. As of this writing, the *Flanagan* appeal is still being briefed.

Mr. Nichols asks that this Court grant his unopposed motion to issue an Order clarifying that his appeal is once again under submission for a decision, preferably an Order stating that his appeal was taken under submission for a decision when the Young decision was published on July 24, 2018, which is entirely consistent with its Order of February 27, 2018 (docket # 109).

Dated: December 5, 2018

Respectfully submitted,

s/ Charles Nichols
Charles Nichols
Plaintiff-Appellant
In Pro Per

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

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9th Cir. Case Number(s) 14-55873

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