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### **Emerson Decision Upholds Federal Regulation of Firearms**

#### ***Ability of States and Localities to Regulate Guns Remains Intact***

**San Francisco, CA** - Late yesterday the United States Court of Appeals for the 5<sup>th</sup> Circuit issued a ruling in a case confirming once again that the courts of this country uniformly uphold reasonable restrictions on the use and possession of firearms against constitutional challenges. In *U.S. v. Emerson*, the 5<sup>th</sup> Circuit rejected the challenge of Timothy Emerson to his indictment under a provision of the Violent Crime Control Act. The federal law at issue prohibits persons subject to restraining orders issued in divorce proceedings from possessing firearms. Emerson challenged the indictment under several constitutional provisions, including the Second Amendment. The trial court upheld the Second Amendment challenge and dismissed the indictment. The court of appeals reversed.

Departing from the decision of all its sister circuits, two of the judges of the appeals panel seized upon the case as an opportunity to interpret the Second Amendment as protecting a right to keep and bear arms which is separate from a right to bear arms in connection with militia service. Regardless of this characterization, the panel upheld the federal law at issue, rejecting any notion that Second Amendment protections are absolute.

Reacting to the decision, Firearms Law Center Legal Director Sayre Weaver said: "This decision is yet another message from the courts to the NRA to stop distorting the Second Amendment to the American public. The protection provided by the Second Amendment is not absolute, contrary to the myth the NRA has long promoted. Instead, the court yesterday confirmed that reasonable regulations of firearms to promote public safety are fully compatible with the Second Amendment, and this decision demonstrates courts will come to that conclusion even when characterizing the amendment as protecting an isolated individual right."

Weaver also noted that because the case involves a challenge to a federal law, the decision leaves intact earlier Supreme Court cases holding that the Second Amendment is no bar to state and local regulation of firearms.

For in-depth information about the Second Amendment and the ability of localities and states to regulate firearms, go to [www.firearmslawcenter.org](http://www.firearmslawcenter.org). The Firearms Law Center is a national project of Legal Community Against Violence.

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