

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
CALIFORNIA

Mark Weston v. U.S. Attorney General

No. 3:25-cv-01613-RBM-MMP (S.D. Cal. Dec. 9, 2025) · No. 3:25-cv-01613-RBM-MMP · Decided December 9, 2025

SUMMARY

The United States District Court for the Southern District of California granted the defendant’s motion to dismiss Mark Weston’s action seeking restoration of his firearm rights under 18 U.S.C. § 925(c). The court held that it lacked subject-matter jurisdiction because the Attorney General or ATF had not issued a denial of a § 925(c) application, and inaction does not permit judicial review. The complaint was dismissed without leave to amend and without prejudice to a future denial of a § 925(c) petition.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                    |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Southern District of California                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Ruth Bermudez Montenegro                                                                                                                                                                                                                                                                           |
| JURISDICTION          | United States District Court for the Southern District of California                                                                                                                                                                                                                               |
| DECIDED               | December 9, 2025                                                                                                                                                                                                                                                                                   |
| DOCKET                | 3:25-cv-01613-RBM-MMP                                                                                                                                                                                                                                                                              |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                          |
| PROCEDURAL POSTURE    | Plaintiff brought an action seeking restoration of his federal firearms-possession rights under 18 U.S.C. § 925(c). Defendant moved to dismiss for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1).                                                             |
| STANDARD OF REVIEW    | On a Rule 12(b)(1) motion, the plaintiff bears the burden of establishing subject matter jurisdiction. A jurisdictional attack may be facial or factual, and on a factual attack the court may consider evidence beyond the complaint without converting the motion into one for summary judgment. |
| PRECEDENTIAL VALUE    | unpublished                                                                                                                                                                                                                                                                                        |
| PARTIES               | Mark Weston v. U.S. Attorney General                                                                                                                                                                                                                                                               |

TOPICS

subject matter jurisdiction

motions to dismiss

civil procedure

## PRACTICE AREAS

civil procedure

administrative law

firearms law

constitutional law

## QUESTIONS PRESENTED

1. Whether the district court had subject matter jurisdiction under 18 U.S.C. § 925(c) to review Plaintiff's firearms-disability claim absent an actual denial by the Attorney General or ATF.
2. Whether Plaintiff should be granted leave to amend his Complaint.
3. Whether the court could grant Plaintiff's requests to remove prohibitory firearm records and otherwise restore his firearm-possession rights without a qualifying denial under § 925(c).

## HOLDINGS

1. A district court lacks jurisdiction to review a firearms-disability claim under 18 U.S.C. § 925(c) unless the Attorney General or ATF has made an actual, dispositive denial of a § 925(c) application; agency inaction or the absence of an administrative process is not a denial.
2. The court lacked jurisdiction to grant Plaintiff's additional requests to remove prohibitory entries and restore his firearm rights because those requests likewise depended on a qualifying denial reviewable under § 925(c).
3. Leave to amend was properly denied because no additional set of facts could invoke the court's jurisdiction under § 925(c) while the federal relief program remained unfunded and no actual denial existed.

## KEY QUOTATIONS

*“These procedures “for seeking relief make clear that an actual decision by ATF on an application is a prerequisite for judicial review, and that mere inaction by ATF does not invest a district court with independent jurisdiction to act on an application.””* (at 5)

*“As such, “judicial review under § 925(c) cannot occur without a dispositive decision by ATF.””* (at 5)

*““Inaction . . . does not amount to a ‘denial’ within the meaning of § 925(c).””* (at 5)

*“Accordingly, the Complaint is DISMISSED WITHOUT LEAVE TO AMEND. This dismissal is without prejudice to any subsequent denial of Plaintiff’s petition for relief under § 925(c).”* (at 7)

## FACTUAL BACKGROUND

Plaintiff's federal firearms background check was denied after the FBI's NICS Section matched him with a prohibiting record under 18 U.S.C. § 922(g)(4). Although a California superior court had granted Plaintiff relief from a firearms prohibition, his records-correction requests to the FBI were unsuccessful. Plaintiff alleged that federal authorities had failed to provide a process for relief under 18 U.S.C. § 925(c), but he had not submitted a § 925(c) application to the Attorney General or ATF and had received no denial on the merits.

PROCEDURAL HISTORY

Plaintiff filed the Complaint and a motion for relief from federal firearms disabilities on June 24, 2025. Defendant moved to dismiss. The court granted the motion, dismissed the Complaint without leave to amend, and denied Plaintiff's remaining motions as moot.

DISPOSITION

dismissed

CASES CITED

- Kokkonen v. Guardian Life Insurance Co. of America, 511 U.S. 375, 377 (1994)
- Tosco Corp. v. Communities for a Better Environment, 236 F.3d 495, 499 (9th Cir. 2001)
- Hertz Corp. v. Friend, 559 U.S. 77 (2010)
- Safe Air for Everyone v. Meyer, 373 F.3d 1035, 1039 (9th Cir. 2004)
- White v. Lee, 227 F.3d 1214, 1242 (9th Cir. 2000)
- United States v. Bean, 537 U.S. 71, 74-78 (2002)
- Burtch v. United States Department of the Treasury, 120 F.3d 1087, 1090 (9th Cir. 1997)
- Jones v. California, No. 2:23-CV-02769-FLA (JC), 2023 WL 5310221, at \*2 (C.D. Cal. Aug. 16, 2023)
- Jones v. California, No. 23-55746, 2024 WL 2844658 (9th Cir. June 5, 2024)
- Mai v. United States, 952 F.3d 1106, 1111 (9th Cir. 2020)
- Zherka v. Bondi, 140 F.4th 68, 71 n.4 (2d Cir. 2025)
- United States v. McGill, 74 F.3d 64, 67 (5th Cir. 1996)
- Nordstrom v. Ryan, 762 F.3d 903, 908 (9th Cir. 2014)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF CALIFORNIA 10 11 MARK WESTON, Case No.: 3:25-cv-01613-RBM-MMP 12 Plaintiff, ORDER GRANTING MOTION TO 13 v. DISMISS PLAINTIFF’S COMPLAINT 14 US ATTORNEY GENERAL, 15 Defendant. [Doc. 7] 16 17 18 On June 24, 2025, Plaintiff Mark Weston (“Plaintiff”), proceeding pro se, filed a 19 Complaint seeking to restore his right to possess a firearm pursuant to 18 U.S.C. § 925(c) 20 (“Complaint”).

(Doc. 1 at 3.)1 That same day, Plaintiff filed a Motion for Relief of Federal 21 Firearms Disabilities requesting the same relief (“Motion for Relief”). (Doc. 3.) 22 Pending before the Court is Defendant United States Office of the Attorney 23 General’s (“Defendant” or the “Attorney General”) Motion to Dismiss Plaintiff’s 24 Complaint (“Motion to Dismiss”).

(Doc. 7.) Plaintiff subsequently filed several motions 25 including: (1) a Motion to Continue (Doc. 8); a Motion for Judicial Review and Motion in 26 27 28 1 1 Response to Motion Filed By

Defendant to Dismiss the Case (“Motion for Review”) (Doc. 2 9); a Motion to Consider Additional Evidence for Judicial Review (Doc. 11), and a Motion 3 for Judicial Review of Additional Evidence (Doc.

13).<sup>2 4</sup> The Court finds this matter suitable for determination without oral argument <sup>5</sup> pursuant to Civil Local Rule 7.1(d)(1). For the reasons discussed below, Defendant’s <sup>6</sup> Motion to Dismiss (Doc. 7) is GRANTED and Plaintiff’s remaining motions (Docs. 3, 8– <sup>7 9</sup>, 11) are DENIED AS MOOT. <sup>8</sup> I. BACKGROUND <sup>9</sup> A. Factual Background<sup>3 10</sup> On or around May 20, 2019, Plaintiff “was admitted to Scripps Hospital Emergency <sup>11</sup> for observation due to severe pain” and was “subsequently transferred, while unconscious, <sup>12</sup> and without [his] consent, to an outside facility.” (Doc.

<sup>9</sup> at 1; see id. at <sup>5</sup> (responding to <sup>13</sup> Plaintiff’s inquiry to amend the arrest entry dated May 20, 2019 and stating no such record <sup>14</sup> was found on his California criminal history record).) “At the earliest possible opportunity <sup>15</sup> provided,” Plaintiff filed a writ of habeas corpus in the Superior Court of California, <sup>16</sup> County of San Diego (“San Diego Superior Court”).

(Doc. <sup>9</sup> at 1.) The San Diego Superior <sup>17</sup> Court subsequently granted the writ and Plaintiff was released. (Id.) <sup>18</sup> Plaintiff filed a petition for relief from Prohibition of Ownership of Firearms and <sup>19</sup> Ammunition in San Diego Superior Court, which was granted on April 9, 2024. (Id. at 2– <sup>20 3</sup>.) Plaintiff waited 60 days after the San Diego Superior granted his relief but claims that <sup>21</sup> his background check was nonetheless denied.

(Id. at 2.) He also submitted three separate <sup>22</sup> forms titled “Claim of Alleged Inaccuracy or Incompleteness” to the California Department <sup>23</sup> of Justice on May 21, 2024, June 3, 2024, and November 13, 2024. (Id. at 9–11.)

However, <sup>24 25 2</sup> The Court construes the Motion for Review (Doc. 9) as Plaintiff’s response in opposition <sup>26</sup> to Defendant’s Motion to Dismiss. <sup>27 3</sup> Because Plaintiff is proceeding pro se, the Court has reviewed his various filings to <sup>28 1</sup> Plaintiff’s background check was still denied. (Id. at 2.) <sup>2</sup> On January 13, 2025, the United States Department of Justice, Federal Bureau of <sup>3</sup> Investigation’s (“FBI”) National Instant Criminal Background Check System (“NICS”) <sup>4</sup> Section informed Plaintiff that he had been matched with a prohibiting record under <sup>18 5</sup> U.S.C. § 922(g) (4).<sup>4</sup> (Id. at 7–8.)

Plaintiff alleges that he submitted a records correction <sup>6</sup> request to the FBI’s NICS Section, which was denied due to insufficient documentation. <sup>7</sup> (Id. at 2.) He then requested that the San Diego Superior Court send a copy of the order <sup>8</sup> granting his relief from firearms prohibition directly to the FBI’s NICS section and <sup>9</sup> “reopened the FBI NICS records challenge request, [but] it was denied.” (Id.)

10 Plaintiff also “personally appeared ... and requested relief information” at the San 11 Diego district office for the United States Attorney General, the San Diego field office for 12 the FBI’s Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), the office of 13 Senator Mike Levin, and the office of Senator Catherine Blakespear. (Id.) Plaintiff was 14 informed that no information was available and that “to date, there was no formal 15 administrative process established for federal firearms disabilities relief.” (Id.)

Once 16 again, Plaintiff “re-opened the records challenge request with FBI NICS” and was informed 17 that “the information provided failed to meet the requirements of a records challenge 18 request and [had] been referred to a different entity for possible future processing.” (Id.) 19 B. Procedural Background 20 On June 24, 2025, Plaintiff filed the Complaint in which he alleges that Defendant 21 “failed to provide [an] opportunity for request for relief from firearm disabilities.” (Doc.

22 1 at 1–3.) He filed the Motion for Relief that same day. (Doc. 3.) On August 11, 2025, 23 Plaintiff filed several Letters of Recommendation. (Doc. 6.) On August 22, 2025, 24 25 4 “It shall be unlawful for any person... who has been adjudicated as a mental defective 26 or who has been committed to a mental institution... to ship or transport in interstate or 27 foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or 28 1 Defendant filed the Motion to Dismiss.

(Doc. 7.) Plaintiff filed the Motion to Continue 2 (Doc. 8) and the Motion for Judicial Review (Doc. 9) shortly thereafter. On November 17, 3 2025, Plaintiff filed an additional letter of recommendation (Doc. 10) and filed the Motion 4 to Consider Additional Evidence (Doc. 11) the next day. 5 II. LEGAL STANDARD 6 “Federal courts are courts of limited jurisdiction” and “possess only that power 7 authorized by Constitution and statute.” *Kokkonen v. Guardian Life Ins.*

*Co. of Am.*, 511 8 U.S. 375, 377 (1994). Under Federal Rule of Civil Procedure (“Rule”) 12(b)(1), a party 9 may move to dismiss an action for lack of subject matter jurisdiction. “When subject matter 10 jurisdiction is challenged under [Rule] 12(b)(1), the plaintiff has the burden of proving 11 jurisdiction in order to survive the motion.” *Tosco Corp. v. Cmtys. for a Better Env’t*, 236 12 F.3d 495, 499 (9th Cir.

2001), abrogated on other grounds by *Hertz Corp. v. Friend*, 559 13 U.S. 77 (2010). “A Rule 12(b) (1) jurisdictional attack may be facial or factual.” *Safe Air 14 for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004) (citing *White v. Lee*, 227 F.3d 15 1214, 1242 (9th Cir. 2000)). “In a facial attack, the challenger asserts that the allegations 16 contained in a complaint are insufficient on their face to invoke federal jurisdiction.” *Id.* 17 “By contrast, in a factual attack, the challenger disputes the truth of the allegations that, by 18 themselves, would otherwise invoke federal

jurisdiction.” Id. “In resolving a factual attack 19 on jurisdiction, the district court may review evidence beyond the complaint without 20 converting the motion to dismiss into a motion for summary judgment.” Id. (cleaned up).

21 III. DISCUSSION 22 Plaintiff seeks to restore his right to possess a firearm pursuant to 18 U.S.C. § 925(c) 23 based on Defendant’s alleged failure to provide a mechanism for seeking such relief. (Doc. 24 1 at 1–3.)

As relief, Plaintiff requests: (1) “a hearing with [the] Attorney General” to 25 request and establish his basis for relief under § 925(c) so that “the Attorney General may 26 grant” such relief (id. at 3); (2) that the Court review evidence in support of his application 27 (id; see Docs. 6, 9–11); and (3) that “all prohibitive entries be removed and treated as 28 though they never existed” such that “no FLL [(‘Federal Firearms License’)] background 1 check would be denied in any state or country.” (Doc.

1 at 3.) 2 Defendant argues that the Court lacks subject matter jurisdiction over this action 3 because Defendant has not denied Plaintiff’s request for relief under § 925(c) and judicial 4 review is thereby precluded. (Doc. 7 at 3–6.)

The Court agrees.<sup>5</sup> 5 Federal law prohibits certain individuals from possessing firearms. See 18 U.S.C. 6 § 922(g)(1)–(9). The only mechanism for a district court to restore the federal right to 7 possess a firearm is through 18 U.S.C. § 925(c) which provides, in relevant part, that: 8 A person who is prohibited from possessing... firearms or ammunition may make application to the Attorney General for relief from the disabilities 9 imposed by Federal laws... and the Attorney General may grant such relief if 10 it is established to his satisfaction that the circumstances regarding the disability, and the applicant’s record and reputation, are such that the applicant 11 will not be likely to act in a manner dangerous to public safety and that the 12 granting of the relief would not be contrary to the public interest.

Any person whose application for relief from disabilities is denied by the Attorney 13 General may file a petition with the United States district court for the district 14 in which he resides for a judicial review of such denial. 15 18 U.S.C. § 925(c). 16 These procedures “for seeking relief make clear that an actual decision by ATF on 17 an application is a prerequisite for judicial review, and that mere inaction by ATF does not 18 invest a district court with independent jurisdiction to act on an application.” United States 19 v. Bean, 537 U.S. 71, 75–76 (2002).<sup>6</sup> As such, “judicial review under § 925(c) cannot 20 occur without a dispositive decision by ATF.” Id. 21 22 23 5 Having reached this conclusion, the Court does not reach Defendant’s sovereign immunity arguments.

(See Doc. 7 at 4.) 24 25 6 As Defendant notes, the Secretary of the Treasury previously had the authority to process federal firearm disability applications until 18 U.S.C. § 925(c) was amended

and it was 26 replaced with the Attorney General. (See Doc. 7 at 5 n.2.)

The Attorney General delegated 27 its authority to process such applications to the ATF but recently proposed removing the delegation. (See *id.* (citing *Withdrawing the Attorney General's Delegation of Authority*, 28 1 In this case, the Court lacks jurisdiction to review Plaintiff's application to remove 2 firearms disabilities.

The Complaint and Plaintiff's various filings in this case make clear 3 that Plaintiff has not submitted a § 925(c) application to Defendant. (See Doc. 1 at 2 4 (alleging that Plaintiff was unable to obtain information from various governmental 5 entities).) It follows that Defendant has not denied Plaintiff's application. While Plaintiff 6 claims that Defendant failed to provide a process for relief, "[i]naction... does not amount 7 to a 'denial' within the meaning of § 925(c)." *Bean*, 537 U.S. at 75; see *Burtch v. United 8 States Dep't of the Treasury*, 120 F.3d 1087, 1090 (9th Cir.

1997) (affirming dismissal for 9 lack of subject matter jurisdiction under § 925(c) where "'denial' means an adverse 10 determination on the merits and does not include a refusal to act."). "Absent such denial, 11 this court lacks jurisdiction to review Plaintiff's Application to restore his right to possess 12 a firearm." *Jones v. Ca.*, No. 2:23-CV-02769-FLA (JC), 2023 WL 5310221, at \*2 (C.D.

13 Cal. Aug. 16, 2023), *aff'd sub nom. Jones v. California*, No. 23-55746, 2024 WL 2844658 14 (9th Cir. June 5, 2024) (collecting cases).<sup>7</sup> 15 Plaintiff correctly notes that "there is no formal process or paperwork available with 16 the Attorney General." (Doc. 3 at 2.) Indeed, "[s]ince 1992, Congress has prohibited the 17 use of funds 'to investigate or act upon applications for relief from Federal firearms 18 disabilities under 18 U.S.C. § 925(c).'" *Mai v. United States*, 952 F.3d 1106, 1111 (9th 19 Cir.

2020) (quoting *Bean*, 537 U.S. at 74–75); see *Zherka v. Bondi*, 140 F.4th 68, 71 n.4 20 (2d Cir. 2025) ("Section 925(c)... is currently without practical effect because... 21 Congress has repeatedly defunded the administrative apparatus necessary to implement the 22 statute since 1992."). This effectively prevents the ATF from processing such applications 23 and forecloses access to judicial review.

*Bean*, 537 U.S. at 76; see *United States v. McGill*, 24 74 F.3d 64, 67 (5th Cir.1996) ("By withdrawing funds to the ATF to process these 25 26 27 7 For the same reasons, the Court lacks jurisdiction to grant Plaintiff's other requests for relief including that the Court "nullif[y] and remove[ ]" the "prohibitive entry" and "submit 28 1 applications under these circumstances and with this explanation by the appropriations 2 committee, it is clear... that Congress intended to suspend the relief provided by 3 § 925(c).").

Accordingly, "[§] 925(c) privileges for individuals cannot be reinstated by the 4 district court based upon ATF's failure to process the individuals' applications." *Burtch*, 5 120 F.3d at 1090

(affirming conclusion that “the prohibition against investigating and 6 acting upon applications from individuals under § 925(c) has a rational basis and does not 7 deny the plaintiff equal protection under the law or violate any constitutional rights”); see 8 also *Mai*, 952 F.3d at 1111 (affirming dismissal and finding § 922(g)(4) did not violate the 9 plaintiff’s Second Amendment rights as it is a “reasonable fit for the congressional goal of 10 reducing gun violence” even where “no avenue for seeking relief from § 922(g)(4)’s 11 prohibition” exists due to lack of congressional funding).

12 The Court therefore lacks subject matter jurisdiction over this action and the Motion 13 to Dismiss (Doc. 7) is GRANTED. While a pro se litigant is ordinarily granted an 14 opportunity to amend deficient pleadings, see *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th 15 Cir. 2014), no additional set of facts can invoke this Court’s jurisdiction because “any 16 application by Plaintiff for relief pursuant to § 925(c) would be futile” “unless Congress 17 chooses in the future to fund the federal program.” *Mai*, 952 F.3d at 1111; see *Bean*, 537 18 U.S. at 78 (“[A]bsence of an actual denial of respondent’s petition by ATF precludes 19 judicial review under § 925(c)”).

Accordingly, the Complaint is DISMISSED 20 WITHOUT LEAVE TO AMEND. This dismissal is without prejudice to any subsequent 21 denial of Plaintiff’s petition for relief under § 925(c).8 22 // 23 // 24 // 25 26 27 8 Defendant suggests that § 925(c) may not remain defunct for long as the Attorney General published a proposed rule on July 16, 2025 “to begin the process of creating an 28 I IV.

CONCLUSION 2 Based on the foregoing reasons, the Court GRANTS Defendant’s Motion to Dismiss 3 ||(Doc. 7) and the Complaint (Doc. 1) is DISMISSED WITHOUT LEAVE TO AMEND. 4 || Plaintiff’s remaining motions (Docs. 3, 8, 9, 11, 13) are therefore DENIED AS MOOT. 5 IT IS SO ORDERED. 6 || DATE: December 9, 2025 7 pA Bormedey, D\_ 8 HON. RUTH BERMUDEZ MONTENEGRO UNITED STATES DISTRICT JUDGE 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28