

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Hardin v. Bureau of Alcohol, Tobacco, Firearms and Explosives

No. No. 20-6380, United States Court of Appeals for the Sixth Circuit (April 25, 2023)

SUMMARY

The Sixth Circuit held that the definition of "machinegun" under the National Firearms Act is ambiguous as applied to bump stocks, declined to apply Chevron deference because the statutory scheme is predominantly criminal, and applied the rule of lenity to resolve the ambiguity in favor of the plaintiff, thus reversing the ATF's rule banning bump stocks as machinegun parts. The court emphasized that Congress, not the ATF, must amend the statute if bump stocks are to be prohibited.

CASE DETAILS

COURT	United States Court of Appeals for the Sixth Circuit
WRITING FOR THE COURT	Ronald Lee Gilman; David W. McKeague; John K. Bush
JURISDICTION	Federal
DECIDED	April 25, 2023
DOCKET	No. 20-6380
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the United States District Court for the Western District of Kentucky at Louisville. No. 3:19-cv-00056—David J. Hale, District Judge.
STANDARD OF REVIEW	de novo
PRECEDENTIAL VALUE	Published
PARTIES	Scott A. Hardin v. Bureau of Alcohol, Tobacco, Firearms and Explosives, Steven M. Dettelbach, United States of America, Merrick B. Garland

TOPICS

- statutory interpretation
- chevron deference
- rule of lenity
- administrative law
- criminal procedure

QUESTIONS PRESENTED

1. Whether the statutory definition of 'machinegun' under the National Firearms Act unambiguously includes bump stocks.

2. If the statute is ambiguous, whether Chevron deference applies to the ATF's interpretation.
3. Whether the rule of lenity requires resolving any ambiguity in favor of Hardin.

HOLDINGS

1. The statutory definition of 'machinegun' is ambiguous as applied to bump stocks because reasonable jurists have reached diametrically opposed conclusions and the ATF itself has flip-flopped on the issue.
2. Chevron deference is not warranted because the statutory scheme is predominantly criminal in scope and the ATF lacks special expertise in criminal law.
3. Because the statute is ambiguous and Chevron deference does not apply, the rule of lenity requires resolving the ambiguity in Hardin's favor, so the ATF's rule exceeds its statutory authority.

KEY QUOTATIONS

"The term "machinegun" means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person." (Page 2)

"Although both parties argue that the statutory language is plain and unambiguous, both also argue that the plain meaning supports their interpretation. This indicates ambiguity. Furthermore, the existence of divergent court opinions also suggests ambiguity." (Page 4)

"In sum, it is not enough to conclude that a criminal statute should cover a particular act. The statute must clearly and unambiguously cover the act." (Page 8)

"Bump stocks may well be indistinguishable from automatic weapons for all practical purposes. But . . . 'It would be dangerous . . . to punish a crime not enumerated in the statute, because it is of equal atrocity, or of kindred character, with those which are enumerated.'" (Page 9)

FACTUAL BACKGROUND

Scott Hardin owned several bump stocks, devices that when attached to a semiautomatic rifle cause it to fire rapidly by harnessing recoil. After the 2018 Las Vegas shooting, the ATF reversed its long-standing position and promulgated a rule classifying bump stocks as machinegun parts, making possession a criminal offense under the Gun Control Act. Hardin brought an action challenging the rule as exceeding the ATF's statutory authority. The district court granted judgment for the ATF on the administrative record.

PROCEDURAL HISTORY

Hardin challenged the ATF's Rule banning bump stocks as exceeding statutory authority. The district court granted the ATF's motion for judgment on the administrative record. Hardin appealed.

DISPOSITION

REMAND INSTRUCTIONS

REMAND for further proceedings consistent with this opinion.

CASES CITED

- *Aposhian v. Barr*, 958 F.3d 969 (10th Cir. 2020)
- *Aposhian v. Barr*, 374 F. Supp. 3d 1145 (D. Utah 2019)
- *Aposhian v. Wilkinson*, 989 F.3d 890, 900 (10th Cir. 2021) (Tymkovich, J., dissenting from denial of rehearing en banc)
- *Aposhian v. Wilkinson*, 989 F.3d 890, 905 (10th Cir. 2021) (Eid, J., dissenting from denial of rehearing en banc)
- *Guedes v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, 920 F.3d 1 (D.C. Cir. 2019) (per curiam)
- *Guedes v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, 356 F. Supp. 3d 109 (D.D.C. 2019)
- *Cargill v. Garland*, 57 F.4th 447 (5th Cir. 2023) (en banc)
- *Cargill v. Garland*, 57 F.4th 447, 473 (5th Cir. 2023) (en banc) (Ho, J., concurring)
- *Cargill v. Garland*, 20 F.4th 1004 (5th Cir. 2021)
- *Cargill v. Barr*, 502 F. Supp. 3d 1163 (W.D. Tex. 2020)
- *Gun Owners of Am., Inc. v. Garland*, 19 F.4th 890 (6th Cir. 2021) (en banc)
- *Gun Owners of Am., Inc. v. Garland*, 19 F.4th 890, 910 (6th Cir. 2021) (Murphy, J., dissenting)
- *Gun Owners of Am., Inc. v. Garland*, 19 F.4th 890, 902 (6th Cir. 2021) (White, J., in support of upholding the Rule)
- *Gun Owners of Am., Inc. v. Garland*, 992 F.3d 446 (6th Cir. 2021)
- *Gun Owners of Am., Inc. v. Barr*, 363 F. Supp. 3d 823 (W.D. Mich. 2019)
- *Donovan v. FirstCredit, Inc.*, 983 F.3d 246, 256 (6th Cir. 2020)
- *N. Fork Coal Corp. v. Fed. Mine Safety & Health Comm'n*, 691 F.3d 735, 740 (6th Cir. 2012)
- *Chevron, USA, Inc. v. NRDC*, 467 U.S. 837 (1984)
- *Babbitt v. Sweet Home Chapter of Communities for a Greater Oregon*, 515 U.S. 687 (1995)
- *United States v. Apel*, 571 U.S. 359, 369 (2014)
- *Abramski v. United States*, 573 U.S. 169, 191 (2014)
- *Leocal v. Ashcroft*, 543 U.S. 1, 11 n.8 (2004)
- *United States v. Thompson/Center Arms Co.*, 504 U.S. 505, 517-18 (1992)
- *United States v. Granderson*, 511 U.S. 39, 54 (1994)
- *FCC v. Am. Broad. Co.*, 347 U.S. 284, 296 (1954)
- *United States v. Wiltberger*, 18 U.S. 76 (1820)
- *Dolfi v. Pontesso*, 156 F.3d 696, 700 (6th Cir. 1998)
- *Arangure v. Whitaker*, 911 F.3d 333, 341 (6th Cir. 2018)

- Epic Sys. Corp. v. Lewis, 138 S. Ct. 1612, 1630 (2018)
- United States v. Bass, 404 U.S. 336, 348 (1971)
- Gutierrez-Brizuela v. Lynch, 834 F.3d 1142, 1156 (10th Cir. 2016) (Gorsuch, J., concurring)
- Jones v. United States, 529 U.S. 848, 858 (2000)
- United States v. Universal C.I.T. Credit Corp., 344 U.S. 218, 221–22 (1952)

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