

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

1)	
2)	
3	Kang Lu,)	
4)	Plaintiff
5)	v.
6)	Case No. _____
7	Maura Healey,)	(to be determined by Clerk's Office)
	_____)	
)	Defendant.

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

INTRODUCTION

My name is Kang Lu. I am the party bringing the suit to seek declaratory judgement on three federal questions arising under the Constitution, and for injunctive relief to prohibit the defendant, her officers, employees, attorneys and agents from further violating the Constitution to deprive my right to keep and bear Arms under the Second Amendment. Additionally, I seek to recover property deprived from me without due process of law, and compensation for my losses.

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2020 SEP 23 PM 12:00
U.S. DISTRICT COURT
DISTRICT OF MASS.**

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PARTIES

The Plaintiff:

Name: Kang Lu, M.D.
Address: 5753 Highway 85 North
Crestview Florida 32536
County: Okaloosa County
E-Mail Address: LibertyWithoutLicense@gmail.com
Telephone Number: 850-517-1010

The Defendant:

Name: Maura Healey, in her Official Capacity:
Address: Massachusetts Attorney General,
1 Ashburton Place
Boston, MA 02108
County: Suffolk County
E-Mail Address: Maura.T.Healey@state.ma.us (?)
ago@state.ma.us (?)
Telephone Number: 617-727-2200
Fax: 617-727-6016 (?)

TABLE OF AUTHORITIES AND EXHIBITS

Foundational Authorities:

Declaration of Independence
United States Constitution
Massachusetts Constitution

Federal Statutes:

Title 28 U.S. Code § 1391 Venue generally
Title 28 U.S. Code § 1331 Federal question
Title 28 U.S.C. § 2201 and § 2202 Creation of remedy and Further relief
Title 28 U.S. Code § 132 Creation and composition of district courts
Title 10 U.S. Code § 246 Militia: composition and classes

Massachusetts Statutes:

MGL 269 § 10 Carrying dangerous weapons
MGL 140 § 121 Firearms ... definitions
MGL 140 § 131 Licenses to carry firearms
MGL 62C § 55A Exempt property from [tax] levy
MGL 60 § 24 Exemptions from levy by distress
MGL 161A § 47 Bus carriers carries passengers *for hire*
MGL 90 § 51M (2017) Public carrier transports *for hire*
MGL 90 § 49O (2017) Air carrier transports *for hire*
MGL 159 § 12 Common carrier carries *for hire*
MGL 161 § 52 Mail carriers are companies that carry for hire
MGL 266 § 38 Carriers transports property *for hire*
MGL 64F § 2 Motor carrier licenses issued
MGL 159B § 4 Permits issued to contract carriers
MGL 159B § 8 Common carrier certificates and contract carrier permits

1	MGL 159B § 10	Interstate carriers; registration; fees
2	MGL 159B § 15A	Agricultural carrier's permit
3	MGL 41 § 98	Powers and duty of police to <i>carry</i> weapons
4	MGL 152 § 75	Agents...to <i>carry out</i> statutes
5	MGL 176T § 9	Promulgation of rules and regulations...to <i>carry out</i> statute
6	MGL 23A § 13	Offices, agencies and personnel to <i>carry out</i> duties
7	MGL 159 § 1	Common carriers <i>receive, transport and forward</i>

Supreme Court Case Law:

8 City of Los Angeles v. Lyons, 461 U.S. 95 (1983);
Article III requirement of "case or controversy."

9 American Banana Co. v. United Fruit Co., 213 U.S. 347 (1909);
words of universal scope will be construed as only those subject to the legislation.

10 McCullough v. Virginia, 172 U.S. 102 (1898);
11 statutory language cannot extend beyond the power of the legislature to reach.

12 Stenberg v. Carhart, 530 U.S. 914 (2000);
explicit definitions must be followed, even if it varies from its ordinary meaning.

13 Meese v. Keene, 481 U.S. 465 (1987);
14 statutory definitions excludes unstated meanings, and duty to construe legislation as it is written.

15 Perry v. United States, 294 U.S. 330 (1935);
the legislature cannot override the Constitution.

16 Eisner v. Macomber, 252 U.S. 189 (1920);
17 the legislature cannot alter the Constitution by legislation.

18 Juilliard v. Greenman, 110 U.S. 421 (1884);
legislative power not granted by the Constitution does not exist.

19 Miranda v. Arizona, 384 U.S. 436 (1966);
20 there can be no rulemaking or legislation for rights secured by the Constitution.

21 District of Columbia v. Heller, 554 U.S. 570 (2008);
22 definition of arms; Second Amendment is an inherent and individual right.

1 McDonald v. Chicago, 561 U.S. 742 (2010);
the Second Amendment is a basic right and is fully applicable to the States.

2
3 Caetano v. Massachusetts, 577 U.S. ____ (2016);
"Massachusetts court poses a grave threat to the fundamental right of self-defense."

4 Grayned v. City of Rockford, 408 U.S. 104 (1972);
laws must allow reasonable opportunity to know what is prohibited.

5
6 Skilling v. United States, 561 U.S. 358 (2010);
to satisfy due process, sufficient definiteness is required for penal statutes.

7 Williams v. United States, 289 U.S. 553 (1933);
every word in the Constitution has due force and appropriate meaning.

8
9 Phelps v. United States, 274 U.S. 341 (1927);
legislation is to be in harmony with, and not to thwart, the purpose of the Constitution.

10 Marbury v. Madison, 5 U.S. 137 (1803);
"...an act of the Legislature repugnant to the Constitution is void."

11
12 United States v. Delaware & Hudson Co., 213 U.S. 366 (1909);
duty to avoid grave and doubtful constitutional questions.

13 Panama Refining Co. v. Ryan, 293 U.S. 388 (1935);
"the court prefers the meaning that preserves to the meaning that destroys."

14
15 The Floyd Acceptances, 74 U.S. 666 (1868);
statutes are *"acts authorizing the making of contracts with the government..."*

16 Murdock v. Pennsylvania, 319 U.S. 105 (1943);
A state may not impose a license for the enjoyment of a Constitutional right.

17
18 Coffin v. United States, 156 U.S. 432 (1895);
"...presumption of innocence...is the undoubted law..."

19 Sandstrom v. Montana, 442 U.S. 510 (1979);
It is constitutionally impermissible to shift the burden of proof by means of a presumption.

20
21 Donnelly v. DeChristoforo, 416 U.S. 637 (1974);
the prosecutor may not add to the record by subtle or gross improprieties.

22

1 Morissette v. United States, 342 U.S. 246 (1952);
Crime is doing harm by an evil-doing hand concurrent with an evil-meaning mind.

2 Other Case Law:

3 Miller v. United States, 230 F.2d 486 (5th Cir.);
4 the claim and exercise of a constitutional right cannot be converted into a crime.

5 Sherar v. Cullen, 481 F.2d 945 (9th Cir. 1973);
6 the exercise of constitutional rights can not be penalized.

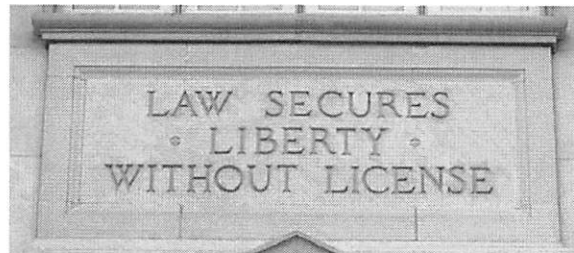
7 Other Authorities:

8 Mass. Jury Instruction 3.240: Presumption.

9 Black's Law Dictionary, 3rd Edition online: <https://thelawdictionary.org>.

10 Black's Law Dictionary, 4th Edition.

11 Message publicly inscribed on the Franklin County Court House in Massachusetts (2017):



14 **LAW SECURES**
15 *** LIBERTY ***
WITHOUT LICENSE

16 Numbered Exhibits:

- 17 # 1: Good-faith and material questions seeking clarification from defendant Healey. (2016)
18 # 2: Good-faith and material questions seeking clarification from assistant DA Bennett. (2018)
19 # 3: Request for Answers to Discovery in Worcester District Court, 1962CR542. (2019)
20 # 4: Officer Narrative and Statement of Facts, Worcester District Court, 1962CR542. (2019)
- 21
- 22

VENUE, FORUM AND JURISDICTION

1
2
3 28 U.S. Code § 1391(b)(1)(2) provides that a civil action may be brought in a judicial district in
4 which all the defendants are residents of the State in which the district is located; and in the
5 judicial district in which a substantial part of the events giving rise to the claim occurred. The
6 forum shall be the district court for the district of Massachusetts, which is a court of record¹
7 ordained and established by Article III, Section 1 of the Constitution.

8
9 28 U.S. Code § 1331 Federal question provides that the district courts shall have original
10 jurisdiction of all civil actions arising under the Constitution or laws of the United States; and
11 declaratory judgement and further relief is authorized by 28 U.S.C. § 2201 and § 2202.

12
13 The case or controversy requirement of Article III is satisfied because I can show that I have
14 "*sustained or in immediately in danger of sustaining some direct injury as the result of the*
15 *challenged official conduct, and the injury or threat of injury [is] 'real and immediate,' not*
16 *'conjectural' or 'hypothetical.'*²"

17
18
19 ¹ Title 28 U.S. Code § 132: United States District Court "*shall be a court of record.*" A court of
20 record has (1) attributes and exercising functions independently of the person of the magistrate
21 designated generally to hold it, (2) proceeds according to the course of common law, (3) its
22 proceedings are enrolled for perpetual memorial, (4) which have power to fine or imprison for
contempt, (5) error lies to their judgments, and (6) generally possess a seal. See Black's Law
Dictionary, 4th Edition, page 426.

² City of Los Angeles v. Lyons, 461 U.S. 95 (1983).

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FACTUAL SUMMARY

On Saturday afternoon of 6/6/2020, my 12 year old son and I were exercising the free enjoyment of our right to keep and bear Arms for a lawful purpose on our rural farmland in Westfield Massachusetts. We collectively fired a total of ten rounds from a .22 sidearm at a steel target at the base of a small hill. I fired the first two rounds in order to show my son, and he fired the remaining eight rounds. Every bullet safely impacted the steel target.

Then a trespasser appeared from the cover of my woods to complain, and rudely demanded that we cease firing. I immediately directed the trespasser to leave my private property, or the police will be called. The trespasser went back into the wooded area, but did not leave my property. At this time, my son and I disarmed, secured and locked our Arms in a steel box, and locked the box in my car, before proceeding to search for the trespasser. I soon saw the trespasser and several other persons still lingering on my land. From a safe distance I again asked them to leave, and when the trespasser would not go, I attempted to call the police. My phone reception was poor, so I disengaged to find better service.

As my son and I were walking back to the car, three Westfield police officers arrived. They ordered me to yield, saying to the effect "we got a call that a property owner was shooting at trespassers." After a brief investigation, including a nonconsensual search of my locked car and the locked box, I was told that I was free to go. However, the officers seized the steel box containing two of my arms for personal use, stating that I was required to have a "*license to carry*," in order to have them, and that they will call me at the number I provided.

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THREE FEDERAL QUESTIONS

Based on the specific facts of my case, I believe the state's firearms statutes were improperly applied, and deprived me of my right to keep and bear Arms under the Constitution.

This As-Applied Challenge involves the State's firearms statutes, such as those found in Massachusetts General Laws Chapter 269 § 10 and others: "*Whoever, ... knowingly has in his possession ... a firearm, ... as defined in ... MGL 140 § 121 ... without ... a license to carry firearms issued under MGL 140 § 131 ... shall be punished by imprisonment...etc*" and other similar statutes, containing justiciable terms such as *license, possess, carry, firearm* and others.

Three Federal questions are respectfully presented:

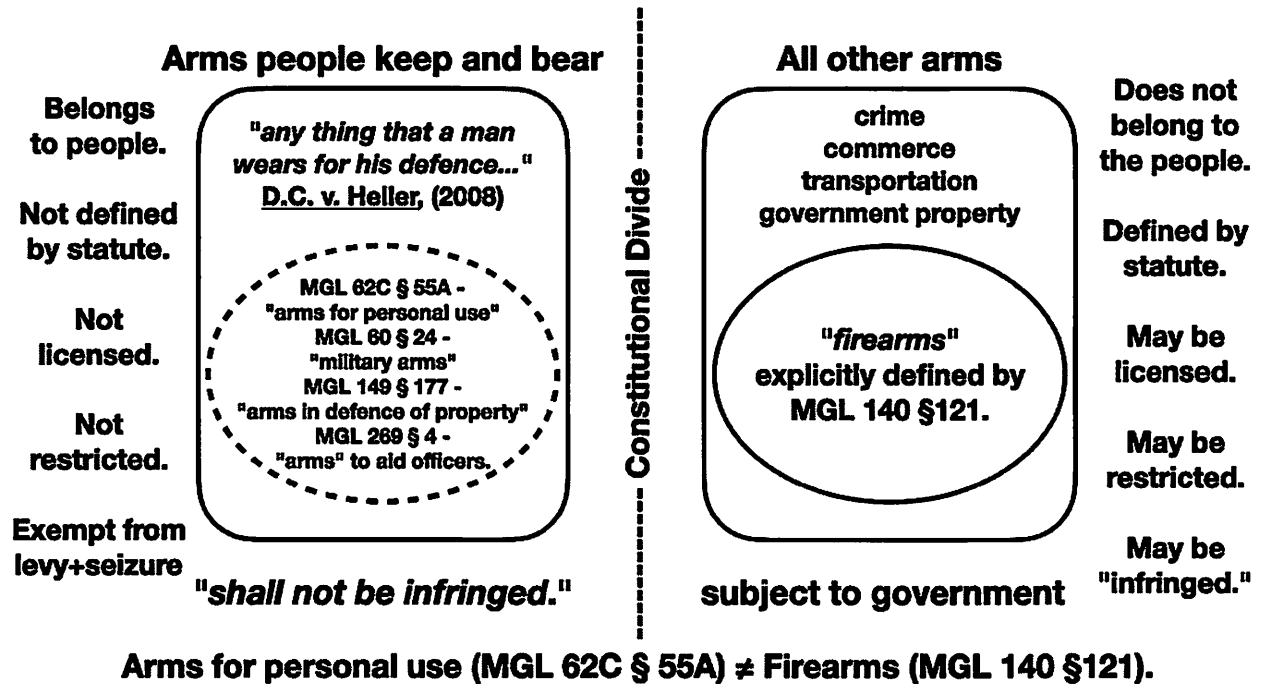
(1) Can the explicit definitions in MGL 140 § 121, including "*firearms, large capacity feeding device, ammunition*" and others also include the *Arms* people keep and bear?

(2) Can the terms "*possess and carry*" and others as *entitled* by MGL 140 § 131 also mean the constitutional *right* of the people to *keep and bear Arms*?

(3) Does the claim and exercise of the right of the people to keep and bear Arms dependent upon the *license to carry firearms*?

layman, or as it might be understood by someone who has not even read it." See Meese v. Keene, 481 U.S. 465 (1987); and for clarity, the court is invited to notice the following Venn Diagram, showing the constitutional distinction that so clearly separates these subject matters:

All firearms are arms; the Constitution divides arms into two distinct groups:



1 In my search of the State's statute books, I found that the term "*Arms*" is neither defined, nor the
2 subject matter of any controlling legislation. This should be no surprise, as it is settled law that
3 the legislature "*cannot invoke the sovereignty of the people to override their will as declared in*
4 *the Constitution,*" Perry v. United States, 294 U.S. 330 (1935), and the legislature "*cannot by any*
5 *definition it may adopt [redefine its terms], since it cannot by legislation alter the Constitution,*
6 *from which alone it derives its power to legislate...*" Eisner v. Macomber, 252 U.S. 189 (1920).

7
8 I'm further informed by the Supreme Court that "*In this country, ... Congress [or the legislature]*
9 *can exercise no power which they have not, by their Constitution, entrusted to it; all else is*
10 *withheld. ... If the power is not in terms granted... it does not exist. And in... executing the powers*
11 *granted, they must be ... consistent with the letter and spirit of the Constitution.*" Juilliard v.
12 Greenman, 110 U.S. 421 (1884); and, "*Where rights secured by the Constitution are involved,*
13 *there can be no rulemaking or legislation which would abrogate them.*" Miranda v. Arizona, 384
14 U.S. 436 (1966). For these and other reasons, I believe that the Arms that I and other people keep
15 and bear, such as those secured by the Constitution are neither legislatively defined, nor subject
16 to any explicit legislative control.

17
18 For the meaning of "*Arms*," I had to rely on the guidance of the Supreme Court:

19 "*The 18th-century meaning is no different from the meaning today. ... "arms" [are]*
20 *"weapons of offence, or armour of defence."*... Timothy Cunningham's important 1771
21 legal dictionary defined "*arms*" as "*any thing that a man wears for his defence, or takes*
22 *into his hands, or useth in wrath to cast at or strike another.*" District of Columbia v.
Heller, 554 U.S. 570 (2008). "*the Second Amendment extends, prima facie, to all*

1 *instruments that constitute bearable arms, even those that were not in existence at the*
 2 *time of the founding." Caetano v. Massachusetts, 577 U.S. ____ (2016).*

3 My arms for personal use are Arms kept by one of the people⁴. As one of my *inherent, basic, and*
 4 *fundamental rights*⁵, they "*shall not be infringed*," they are "*beyond...the constitutional power of*
 5 *the legislature to reach*," McCullough v. Virginia, *supra*, and they are axiomatically excluded
 6 from the explicit definition of "*firearms*" in MGL 140 § 121, Meese v. Keene, *supra*.

7
 8 In contrast to the numerous legislative controls on "*firearms*," the legislature specifically
 9 recognizes and affirmatively protects my right to keep and bear Arms in Massachusetts. In MGL
 10 62C § 55A the legislature exempts arms for personal use from tax levy, and in MGL 60 § 24
 11 military arms are excepted from levy by distress. Whereas, MGL 140 § 121 "*firearms*" enjoy no
 12 such exemption or exception. For these reasons, I believe that the Arms I keep and bear for
 13 personal use are different and distinct from the *explicit definitions* found in MGL 140 § 121.

14
 15 ⁴ "*...the Second Amendment right is exercised individually and belongs to all Americans.*"
 16 District of Columbia v. Heller, 554 U.S. 570 (2008). I may serve on a jury, hold elected office
 17 and exercise elective franchise. I am an honorably discharged officer, and veteran of the United
 States Army in the class of the unorganized militia (10 USC § 246), a licensed and practicing
 medical doctor, and have no derogatory record or disqualifying impairment. I am one of the
 people whose right to keep and bear Arms is indefeasibly secured by the Constitution.

18 ⁵ "*the inherent right of self-defense has been central to the Second Amendment right.*" District of
 19 Columbia v. Heller, 554 U. S. 570 (2008). "*Self-defense is a basic right, recognized by many*
 20 *legal systems from ancient times to the present day, and in Heller, we held that individual self-*
 21 *defense is 'the central component' of the Second Amendment right.*" McDonald v. Chicago, 561
 22 U.S. 742 (2010). "*The reasoning of the Massachusetts court poses a grave threat to the*
fundamental right of self-defense. ... If the fundamental right of self-defense does not protect
[us], then the safety of all Americans is left to the mercy of state authorities who may be more
concerned about disarming the people than about keeping them safe." Caetano v. Massachusetts,
 577 U.S. ____ (2016).

1 Thus, the answer to the First Federal Question must be: No. The explicit definitions in MGL 140
2 § 121, including "*firearms, large capacity feeding device, ammunition*" and others
3 constitutionally exclude the *Arms* people keep and bear.
4

5
6 SECOND FEDERAL QUESTION

7
8 Can the terms "*possess and carry*" and others as *entitled* by MGL 140 § 131 also mean the
9 constitutional *right* of the people *to keep and bear Arms*?

10
11 On the surface, it may appear that the terms "*possess and carry*" and "*to keep and bear*" are
12 similar enough that they could be interchangeable; but the obvious inconsistency, if one were to
13 accept this fallacy is: How could the right of the people to keep and bear Arms not be infringed,
14 if in Massachusetts they are required to obtain a license to *possess and carry firearms*? The
15 distinction in *firearms* and *Arms* notwithstanding, the terms "*possess and carry*" and "*to keep and*
16 *bear*" must also be sufficiently differentiated as to "*give the person of ordinary intelligence a*
17 *reasonable opportunity to know what is prohibited, so that he may act accordingly.*"⁶ That is, "*To*
18 *satisfy due process, 'a penal statute [must] define the criminal offense [I] with sufficient*

19
20 _____
21 ⁶ The Supreme Court insists "*that laws give the person of ordinary intelligence a reasonable*
22 *opportunity to know what is prohibited, so that he may act accordingly. ...if arbitrary and*
discriminatory enforcement is to be prevented, laws must provide explicit standards for those
who apply them." Grayned v. City of Rockford, 408 U.S. 104 (1972).

1 *definiteness that ordinary people can understand what conduct is prohibited and [2] in a manner*
2 *that does not encourage arbitrary and discriminatory enforcement.'*⁷"

3
4 In order to know what is prohibited with sufficient definiteness, so that I may act accordingly, I
5 asked several executive officers of the state, including defendant Healey for his/her official
6 clarification and determination, as to the difference between "*possess and carry*" and "*to keep*
7 *and bear*," on at least three separate documented occasions⁸, in addition to my own research.

8
9 My research of the statute books did not show an explicit definition for the term "*carry*,"
10 therefore, I looked to the individual statutes to see how this term is used:

11
12 Carriers of all types found in the Massachusetts General Laws are subject to registration,
13 certification, permits, licensing or other regulatory control; for example: Motor **carriers** are
14 subject to licensing by MGL 64F § 2. Contract **carriers** are subject to permits issued by MGL
15 159B § 4. **Carriers** may hold a common carrier certificate or a contract carrier permit according
16 to MGL 159B § 8. Interstate **carriers** who transport within the commonwealth are required to
17 register by authority of MGL 159B § 10. An agricultural **carrier** is required to obtain an
18 agricultural carrier's permit in accordance with MGL 159B § 15A. So of course, it seems only
19 natural that a firearms carrier is also required to be licensed as well (MGL 140 § 131).

20
21 _____
⁷ Skilling v. United States, 561 U.S. 358 (2010), Kolender v. Lawson, 461 U. S. 352 (1983).

22 ⁸ See Exhibits 1, 2, 3.

1 MGL 266 § 38 describes carriers as those "engaged in the business of transporting merchandise,
2 parcels or other property *for hire*..." MGL 161A § 47 regards contracts with "private bus *carriers*
3 ... for the carrying of passengers *for hire*." MGL 90 § 51M (2017 edition) "grants ... license[s] ...
4 for the transportation of persons *for hire* by a public or private carrier..." MGL 90 § 49O (2017
5 edition) describes "public air carrier engaged principally in ... air transportation *for hire*..." MGL
6 159 § 12 (b) describes the "supervision and regulation" of "common carriers" rendering the
7 service of "carriage of passengers *for hire* upon motor vehicles." MGL 161 § 52 defines that
8 "carriers of mail [is] a company that "carry the US mail," presumably as a service or *for hire*.

9
10 Furthermore, the law dictionary⁹ states: TRANSPORTATION means "*The removal of goods or*
11 *persons from one place to another, by a carrier;*" and CARRIER is "*One who undertakes to*
12 *transport persons or property from place to place...*" Therefore, it's only reasonable that "carry"
13 means what carriers are licensed to do, and the MGL 140 § 131 "*license to carry entitles the*
14 *holder thereof*" to carry for others, as distinguished from bearing arms for personal use.

15
16 Other meanings of the term *carry* can be found at MGL 41 § 98, which authorizes the "*powers*
17 *and duties*" of police officers to "*carry...weapons*¹⁰." The term *carry* is also used in the context of
18 "*carry out*" or "*carrying out*" the statutes by the executive branch of government; such as in
19 MGL 152 § 75: "*Agents designated to...carry out statutes: ...executive officers...[shall]*
20 *designate...agents...responsible for carrying out section [69-75]...*;" or MGL 176T § 9: "*The*

21 ⁹ Black's Law Dictionary, 3rd Edition; online at <https://thelawdictionary.org/>.

22 ¹⁰ MGL 140 § 121: "Weapon", any rifle, shotgun or firearm.

1 *commissioner may promulgate rules and regulations...to carry out the provisions of this*
2 *chapter;" or MGL 23A § 13 provides that the Office of Business Development "may employ such*
3 *personnel as may be necessary to carry out its duties...All departments, divisions, boards,*
4 *bureaus, commissions ... shall provide assistance...in order to carry out said duties."*

5
6 From the published legislation and the standard legal definition of terms, I have every reason to
7 believe that the term "carry" when used in the legal, and statutory sense means what carriers are
8 entitled to do "in the business of transporting merchandise, parcels or other property for
9 hire..." (MGL 266 § 38), or an executive power to promulgate or to "carry out" the will of the
10 legislature, including the "powers and duties" of police officers to "carry...weapons." I can find
11 no legislation or official definition to suggest that "carry" may mean my constitutional right to
12 "bear" Arms, or to wear them for my defence, or anything other than an entitlement of commerce
13 or an executive power of government.

14
15 The license at MGL 140 § 131 "shall entitle the holder thereof to purchase, rent, lease, borrow,
16 possess and carry: (i) firearms..." Although to purchase, rent, lease, borrow and carry may all
17 entail possession, none of these verbs specifically entitle or require the licensee "to keep." On the
18 contrary, those who rent, lease or borrow by definition must not keep the item in question; and,
19 according to MGL 159 § 1, carriers function to "receive, transport and forward...property" and
20 commonly, they deliver; but they do not ordinarily "keep" the property they are entitled to carry.
21 Thus, I reason that the term "possess" as an entitled by the license to carry must be different from
22 my constitutional right "to keep."

1 The defendant has not produced any legislative evidence that the terms "*possess and carry*" can
2 also mean my constitutional right "*to keep and bear*." In fact, all available evidence indicates the
3 contrary. According to the Supreme Court: "*In expounding the Constitution, every word must*
4 *have its due force and appropriate meaning, and no word is to be regarded as unnecessarily used*
5 *or needlessly added.*¹¹" and "*Acts of Congress [or the legislature] are to be construed and*
6 *applied in harmony with, and not to thwart, the purpose of the Constitution.*¹²"

7
8 If the terms "*possess and carry*" were construed to also mean my constitutional right "*to keep*
9 *and bear*," thereby equating licensed *entitlements* with the *rights* secured by the Constitution,
10 then it would replace, subvert, usurp and defeat the *due force and appropriate meaning* of "*keep*
11 *and bear*" and thus *thwart the purpose of the Constitution*. Furthermore, this error would also
12 grossly violate the rules of constitutional repugnancy, avoidance and preservation, to wit:

13 "*...an act of the Legislature repugnant to the Constitution is void.*" Marbury v. Madison, 5 U.S.
14 137 (1803); "*...where a statute is susceptible of two constructions, by one of which grave and*
15 *doubtful constitutional questions arise and by the other of which such questions are avoided, our*
16 *duty is to adopt the latter.*" United States v. Delaware & Hudson Co., 213 U.S. 366 (1909); and
17 "*when a statute is reasonably susceptible of two interpretations, by one of which is*
18 *unconstitutional and by the other valid, the court prefers the meaning that preserves to the*
19 *meaning that destroys.*" Panama Refining Co. v. Ryan, 293 U.S. 388 (1935).

21 ¹¹ Williams v. United States, 289 U.S. 553 (1933).

22 ¹² Phelps v. United States, 274 U.S. 341 (1927).

1 Thus, the answer to the Second Federal Question must be: No. The terms "*possess and carry*"
2 and others as *entitled* by MGL 140 § 131 must not also mean the *right* of the people to *keep and*
3 *bear Arms*.

4
5
6 THIRD FEDERAL QUESTION

7
8 Does the claim and exercise of the right of the people to keep and bear Arms dependent upon the
9 *license to carry firearms*?

10
11 The licensing statute, MGL 140 § 131 states "...A license shall *entitle* a holder thereof to
12 *purchase, rent, lease, borrow, possess and carry: (i) firearms...*" According to this statute, to
13 obtain a license to carry, an application must be submitted with a \$100 fee¹³, then both the
14 applicant and the police chief must sign the license. Hence, the authorization by statute,
15 application, consideration and mutual acceptance are *prima facie* elements of a contract. In fact,
16 the Supreme Court describes such statutes as "*acts authorizing the making of contracts with the*
17 *government...*" See The Floyd Acceptances, 74 U.S. 666 (1868). Therefore, I believe the license
18 to carry firearms is plainly a contract for an *entitlement*, authorized by a statute.

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21 _____
22 ¹³ FEE. "A charge fixed by law for services of public officers or for use of a privilege under control of government..." Black's Law Dictionary, 4th Edition, page 740.

1 Since our nation is established on the principle that "*Governments are instituted among Men,*
 2 *deriving their just powers from the consent of the governed,*¹⁴" contracts with the government
 3 require consent. The Supreme Court makes the voluntary nature of licenses clear, when it further
 4 declares in The Floyd Acceptances that "*...the person entering into such a contract must... see for*
 5 *himself that his contract comes within the terms of the law.*"

6
 7 As a doctor, I have a medical license, which entitles me to *doctor* for hire to benefit others; but
 8 there is no license to diagnose or to treat my own ailments. Attorneys are entitled to *attorn* for
 9 hire to benefit others, but there is no license for me to appear in court. Accountants are licensed
 10 to *account* for hire to benefit others, but there's no license to calculate and submit my own tax
 11 return. Likewise, carriers are licensed to *carry for hire* to benefit others, such as security guards,
 12 or those in the business of transportation, but there's no license for me to bear Arms for a
 13 traditionally lawful purpose¹⁵; such as "*arms for the common defence*¹⁶," or "*arms in defence of*
 14 *[my] property*¹⁷," or to aid officers with "*arms*" to disperse and suppress riotous or unlawful
 15 assemblies¹⁸, or to keep "*arms for personal use*" as recognized in MGL 62C § 55A.

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 18 ¹⁴ The Declaration of Independence, 1776.

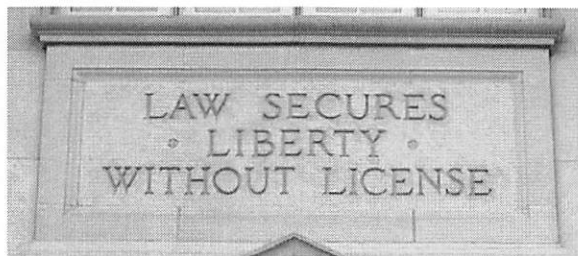
19 ¹⁵ "*The Second Amendment declares that it [i.e., the right of bearing arms for lawful purpose]*
 20 *shall not be infringed.*" District of Columbia v. Heller, 554 U.S. 570 (2008), quoting United
 21 States v. Cruikshank, 92 U.S. 542 (1876).

22 ¹⁶ Article XVII, Part the First, Massachusetts Constitution.

¹⁷ MGL 149 § 177: Police assistance in protecting property.

¹⁸ MGL 269 § 4: [Officers] Requiring aid; dispersing and suppressing assembly...

1 The defendant may claim that a license to carry firearms is required to keep and bear Arms in
2 Massachusetts; but, what law requires me to *contract* with the state for an *entitlement*, in order to
3 exercise a *right* already secured by the Constitution? Obviously no such law exists, and the State
4 has hitherto failed to produce any¹⁹. I believe my understanding is affirmed by the Supreme
5 Court in that "*A state may not impose a charge [or a license tax] for the enjoyment of a right*
6 *granted by the Federal Constitution.*" Murdock v. Pennsylvania, 319 U.S. 105 (1943). A similar
7 public message is also inscribed upon the newly built (2017) Franklin County Court House in
8 Greenfield, Massachusetts, to wit:



12 **LAW SECURES * LIBERTY * WITHOUT LICENSE**

13

14 Since "*A state may not impose a charge [or a license tax] for the enjoyment of a right granted by*
15 *the Federal Constitution;*" and "*Where rights secured by the Constitution are involved, there can*
16 *be no rulemaking or legislation which would abrogate them*" Miranda v. Arizona, *supra*; there's
17 no reason to believe that my right to keep and bear Arms is dependent upon a license.

18

19 In fact, "...it has always been widely understood that the Second Amendment, like the First and
20 Fourth Amendments, codified a *pre-existing* right. ... As we said in *United States v. Cruikshank*,

21

22 ¹⁹ See Exhibits 1, 2, 3.

1 92 U.S. 542, 553 (1876), "[t]his is not a right granted by the Constitution [*or MGL 140 § 131*].
2 Neither is it in any manner dependent upon that instrument [*nor a license*] for its existence.²⁰"
3

4 Thus, the answer to the Third Federal Question must be: No. The exercise of the right of the
5 people to keep and bear Arms is not in any manner dependent upon the *license to carry firearms*.
6

7
8 AS APPLIED CHALLENGE

9
10 I completely agree with the defendant in that the state's firearm licensing statutes are perfectly
11 constitutional as written, and further I insist that they be applied as it is written. That is: "*As*
12 *judges, it is our duty to construe legislation as it is written, not as it might be read by a layman,*
13 *or as it might be understood by someone who has not even read it.*" See Meese v. Keene, *supra*.
14

15 The facts of the case plainly show that my 12 year old son and I were enjoying our
16 constitutionally secured right to keep and bear Arms. Yet, the defendant and her subordinate
17 officers of the government have failed to apply the *legislation as it is written* by making
18 impermissible and erroneous presumptions, which are both untrue and unsupported by the facts.
19

20 "*The principle that there is a presumption of innocence in favor of the accused is the undoubted*
21 *law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of*
22

²⁰ District of Columbia v. Heller, 554 U.S. 570 (2008).

1 *our criminal law.*" See Coffin v. United States, 156 U.S. 432 (1895). By presuming that I
2 "*possessed or carried a firearm,*" the defendants have suppressed the reality that I was merely
3 keeping and bearing arms for personal use. This is in error, as "*It is constitutionally*
4 *impermissible to shift the burden of proof as to an element of the crime to the defendant by*
5 *means of a presumption.* Sandstrom v. Montana, 442 U.S. 510 (1979)..." See Mass. Jury
6 Instruction 3.240: Presumption.

7
8 "*The prosecutor is not a witness, and he should not be permitted to add to the record either by*
9 *subtle or gross improprieties. Those who have experienced the full thrust of the power of*
10 *government when leveled against them know that the only protection the citizen has is in the*
11 *requirement for a fair trial.*" Donnelly v. DeChristoforo, 416 U.S. 637 (1974). Thus, it is
12 impermissible for the defendant or her agents to violate my due process right to the presumption
13 of innocence, by falsely presuming and describing my arms for personal use (MGL 62C § 55A)
14 as statutory "*firearms*" (MGL 140 § 121), when no fact supports this presumption.

15
16 It is a fact that my 12 year old son and I were enjoying our constitutionally secured right to keep
17 and bear Arms. It is an impermissible and erroneous presumption that I "*possessed*" or "*carried*"
18 firearms, when there is no fact that I was undertaking to carry firearms *for hire*, within the
19 meaning of MGL 161A § 47, MGL 90 § 51M (2017 edition), MGL 90 § 49O (2017 edition),
20 MGL 159 § 12(b), MGL 161 § 52, MGL 266 § 38, or exercising a *power or duty* belonging to the
21 government, such as carrying weapons, authorized by MGL 41 § 98.
22

1 When there is clearly no such thing as a license for religion, a license for freedom of speech, a
2 license for the press, or a license to peaceably assemble, or a license for any other
3 constitutionally secured right, it becomes impermissible and even absurd for the defendant or her
4 agents to presume that I should be required to have a license to bear Arms. Indeed, the preferred
5 and primary presumption of innocence is that there is no such thing as a license to bear Arms,
6 and people cannot be compelled to contract with the state for an *entitlement* in order to exercise
7 a *right* already secured by the Constitution.

8
9 It is fact that I was keeping and bearing Arms, and it is the law that "*The claim and exercise of a*
10 *constitutional right cannot...be converted into a crime.*" Miller v. United States, 230 F.2d 486
11 (5th Cir. 1956); and since no fact shows that I exceeded the constitutional rights belonging to me,
12 "...there [can] be no sanction or penalty imposed upon [me] because of [my] exercise of
13 *constitutional rights.*" Sherar v. Cullen, 481 F.2d 945 (9th Cir. 1973). Thus, the defendants have
14 impermissibly and erroneously applied Massachusetts General Laws chapter 269, the title of
15 which is "Crimes Against Public Peace," when the presumption of innocence must primarily and
16 preferentially maintain that my son and I were merely exercising our rights, when there is plainly
17 no fact for an actual crime²¹.

18 Therefore, the defendant and her agents are depriving my constitutional rights under color of
19 statue by misapplying them at my peril.

21 ²¹ "*Crime, as a compound concept, generally constituted only from concurrence of an evil-*
22 *meaning mind with an evil-doing hand...*" in the causation of harm. Morissette v. United States,
342 U.S. 246 (1952).

PRAYER FOR RELIEF

WHEREFORE, I, Kang Lu, plaintiff, pray for judgement as follows:

1. A declaration that the explicit definitions in MGL 140 § 121, including "*firearms, large capacity feeding device, ammunition*" and others constitutionally exclude the *Arms* people keep and bear.

2. A declaration that the terms "*possess and carry*" and others as *entitled* by MGL 140 § 131 must not also mean the *right* of the people *to keep and bear Arms*.

3. A declaration that the claim and exercise of the right of the people to keep and bear Arms is not in any manner dependent upon the *license to carry firearms*.

4. An order of permanent injunction prohibiting the defendant, her officers, employees, attorneys and agents from misapplying the firearm licensing statutes in violation of the Constitution to abrogate or derogate my Second Amendment rights; including, the immediate cessation of any and all, possible, current or future prosecution, charges, indictment, seizure or detention for the lawful exercise of my right to keep and bear Arms independently of a "*license to carry firearms*," and the recall and nullification of any and all, possible, current or pending warrants or summons issued therefor.

1 5. An order for the immediately return of all property belonging to me, including my arms for
2 personal use, which were seized under color of state statute and without due process of law.

3
4 6. An award in compensation for all relevant court fees, attorney and court reporter costs related
5 to this action, as permitted by law and in such amounts to be proven at trial.

6
7
8 DEMAND FOR TRIAL BY JURY

9
10 I hereby demand trial by jury on all issues so triable.

11
12
13 

14 Kang Lu, M.D., plaintiff *in propria persona*.

15 9/21/2020

16 Date.

17 Address: 5753 Highway 85 North

Crestview Florida 32536

18 E-Mail: LibertyWithoutLicense@gmail.com

19 Phone: 850-517-1010