

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO.11-CV-10644-DPW

CHRISTOPHER M. FLETCHER,
187 Pearl Street
Cambridge, MA 02139

EOIN M. PRYAL
200 Hudson Street
Apartment 21
Northborough, MA 01532

SECOND AMENDMENT
FOUNDATION, INC.
12500 NE 10th Place
Bellevue, WA 98005

COMMONWEALTH SECOND
AMENDMENT, INC.
22 River Street
Braintree, MA 02184
Plaintiffs

v.

ROBERT C. HAAS,
In his official capacity as
Cambridge Commissioner of Police
125 Sixth Street
Cambridge MA 02142

MARK K. LEAHY
In his official capacity as
Northboro Chief of Police
211 Main Street
Northborough, MA 01532

JASON A. GUIDA, ESQ.
In his official capacity as
Director of the Firearms Record Bureau
200 Arlington Street
Suite 2200
Chelsea, MA 02150
Defendants

DEFENDANT MARK K. LEAHY'S
OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

Defendant, Mark K. Leahy, in his official capacity as Town of Northborough Chief of Police (“Chief Leahy”), hereby opposes the Plaintiffs’ Motion for Summary Judgment.

As grounds for this motion, Chief Leahy relies on the Memorandum in Support of Defendant Jason A. Guida’s Motion to Dismiss All Claims filed by the Attorney General on May 19, 2011 and the Reply Memorandum in Support of Defendant Jason Guida’s Motion to Dismiss All Claims and In Opposition to Plaintiffs’ Cross-Motion for Summary Judgment filed by the Attorney General on July 20, 2011. As stated in those papers, the plaintiffs’ constitutional challenges to portions of the Massachusetts firearms licensing statutes should be dismissed as a matter of law. The only allegations against Chief Leahy are that the Northborough Police Department, in compliance with the Massachusetts firearms laws, did not process an application for a License to Carry that plaintiff Eoin Pryal purportedly brought to the Northborough Police Station. If the Court finds said firearms laws constitutional, then all allegations of the Complaint should be dismissed as against Chief Leahy.

For the purposes of this motion, Chief Leahy does not assert that there is a genuine issue of material fact to be tried. In the event that this matter proceeds to trial, however, Chief Leahy reserves the right to dispute any facts raised in the Plaintiffs’ Local Rule 56.1 Statement of Material Facts at a later juncture in the proceedings.

WHEREFORE, Chief Leahy respectfully requests that this Court deny the Plaintiffs' Motion for Summary Judgment and instead allow his Motion to Dismiss.

MARK K. LEAHY,
CHIEF OF POLICE

By his attorneys,

/s/ Katharine I. Doyle
David J. Doneski (BBO# 546991)
Katharine I. Doyle (BBO# 634131)
Kopelman and Paige, P.C.
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CERTIFICATE OF SERVICE

I, Katharine I. Doyle, certify that the foregoing document, which was electronically filed with the U.S. District Court for the District of Massachusetts, will be served upon any party or counsel of record who is not a registered participant of the Court's ECF system, according to notification by the Court of those individuals who will be served electronically. /s/ Katharine I. Doyle.