

Judge overrules ATF, restores gun license

Concludes paperwork mistakes didn't support allegation of being willful

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A judge has overruled the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, restoring a gun license to a family-run North Carolina business, because the evidence didn't support BATFE claims that paperwork mistakes in the records of gun sales were willful.

"The court finds, after hearing all the evidence, that the **errors made by Jim's of Fayetteville or Jim's of Wilmington do not constitute the type of 'conscious, intentional, deliberate, [and] voluntary' actions that are deemed willful,**" wrote U.S. District Judge Malcolm J. Howard. The store, Jim's Gun Jobbery, which is run by James Faircloth and his family in two stores, **had been tracked by federal agents for more than a decade** – and through tens of thousands of transactions, for paperwork errors in its record-keeping system for gun sales. It was in 2004 when the BATFE revoked the gun sales licenses of the stores. **The federal agency alleged the stores were willfully lax in keeping records of gun inventory and sales.**

The store owners responded that there were unintentional paperwork errors in record keeping, and that might well be expected with the high volume of business the stores did. But they trained employees, instituted new procedures and provided workers with written guidelines on handling such transactions. The store's appeal of the order allowed it to remain in business while the case was pending, including through the efforts of the U.S. attorney's office, which twice tried to convince the judge the store owners deliberately failed to keep records, or just didn't care. The judge, however, disagreed, noting the store appeared to have "made a concerted effort to comply with the laws and regulations governing firearms transactions." He continued: "At both locations, petitioners also went to great lengths to determine the acquisition and disposition of guns where the records were incomplete, even continuing to search for answers following the Notices of Revocation." "Other than the violations themselves, **there was no evidence that petitioners displayed a disregard for the regulations. In fact, the evidence shows the opposite,**" the judge wrote in his decision this week. "The evidence shows that Mr. Faircloth told his daughters, 'If you are going to be in the gun business, you have to comply with the law.'"

"Jim's of Fayetteville and Jim's of Wilmington took many steps to increase their compliance with the [federal gun law], including printing an employee manual dedicated to proper cataloging techniques, holding repeated training courses on how to keep proper records, establishing a calendar system to keep up with multiple sales, and designating one staff member at each store to be in charge ... of the books." "Rather than willfulness to commit violations, the court finds that the evidence before the court shows, through a pattern of improvement during the years in which the inspections took place, a conscious effort to comply with [the law]," the judge said. "Accordingly, **the court finds [the BATFE] was without authority to revoke peittioners' licenses and ORDERS that respondent's previously issued orders revoking petitioners' federal firearms licenses are hereby overruled and set aside,**" the judge said. A lawyer for the store said he was pleased the judge took "a realistic view" of the procedures for handling such large amounts of paperwork.

The paperwork mistakes involved blanks left on gun purchase forms, a failure to properly document the purchase or sales of others weapons, and other infractions. **At the store's worst performance, the federal agency cited about a one percent error rate on the documentation of more than 100,000 transactions.** The issue of paperwork violations has come up in other cases, and WND has reported on the case of an Idaho gun shop also facing similar allegations. WND also has reported on industry concerns that federal agents are using the technicalities of such rules and regulations to shut down gun shops, reducing the number of federally licensed dealers in the nation by tens of thousands.