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The Supreme Court recently granted certiorari in the case of United States v. Abramski. The defendant, Bruce James Abramski, appealed from a decision of the Fourth Circuit upholding a judgment entered on a conditional plea from the Western District of Virginia. He was convicted of making a false statement that was material to the lawfulness of a firearm sale, in violation of 18 U.S.C. § 922(a)(6), and making a false statement with respect to information required to be kept by a licensed firearms dealer, in violation of 18 U.S.C. § 924(a)(1)(A). Specifically, Abramski was found to have violated the statutes when he purchased a Glock 19 handgun for his uncle but identified himself as the actual buyer on ATF Form 4473.

The facts of the case are undisputed. On November 17, 2009, Abramski purchased a Glock 19 handgun, amongst other items, from a dealer in Collinsville. He purchased the pistol for his uncle, Angel Alvarez. Alvarez asked his nephew to purchase the handgun because, as a former police officer, Abramski could get a good price. Alvarez paid Abramski with a check before the purchase occurred; Abramski deposited the check a few days after the purchase.

To obtain the Glock 19, Abramski completed ATF Form 4473. At issue in this case is question 11a, which asks: "Are you the actual transferee/buyer of the firearm(s) listed on this form? *Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you.*" Abramski answered "yes" to question 11a; as a result, he was convicted of two crimes.

The government prosecuted Abramski because the "straw purchaser" doctrine seems to cover his conduct. A straw purchaser is an individual who legally purchases a firearm with the intention of transferring it to another. It is a legal fiction "which treats the ultimate recipient of a gun as the 'actual buyer' and the initial buyer as a mere "straw man.'" Brief of Petitioner, Page 6. The courts developed the doctrine to close a then-existing loophole in federal legislation, whereby it was legal to purchase a firearm and transfer it to an individual who would have been prohibited from purchasing the firearm himself. Congress would eventually close this loophole, but the courts continue to use the doctrine and its terminology.

What makes Abramski's case unique is that he purchased the Glock pistol for an individual who was legally entitled to purchase the firearm himself. Alvarez is not a prohibited buyer. The Fourth Circuit's decision suggests the only reason that Alvarez did not purchase the Glock pistol himself was because Abramski could obtain it at a better price.

Abramski argued before the District Court and the Fourth Circuit that he did not violate the statute. He contends that the legislation at issue was intended to prevent the purchase of firearms on behalf of prohibited buyers. Abramski argues that the law was never intended to penalize individuals such as himself who legally purchase a firearm for another person who is legally capable of purchasing the firearm.

Abramski is not alone in his view. The NRA, twenty-six states, Guam, Congressman Steve Stockman, and two men awaiting trial in the Eastern District of California have all joined Abramski in urging the Supreme Court to overrule the Fourth Circuit's opinion.

Abramski argues that question 11a does accurately represent the law. Brief of Petitioner Page 23. Thus, Abramski's answer to question 11a "has no bearing on the 'lawfulness' of the sale." Id. He also contends that the straw purchaser doctrine should not apply to him. According to Abramski, and the various *amici*, the doctrine evolved to prevent prohibited individuals from

easily obtaining firearms. "But when the ultimate recipient of a gun is legally entitled to buy and own guns, that concern is not even implicated." Brief of Petitioner, Page 29. Essentially, they argue that gun control legislation does not seek to prevent or penalize the transfer or sale of firearms between individuals who are legally entitled to purchase the firearms in the first place. Abramski argues that the lower courts have created a new crime not authorized by Congress.

Abramski also disputes the government's contention that his answer to question 11a is information the firearms dealer is required to keep under § 924(a)(1)(A). The plain language of the legislation, as Abramski argues, does not mention the type of information question 11a collects. As such, Abramski could not have violated the law.

The Supreme Court is scheduled to hear arguments on the case on January 22, 2014; a decision is expected within a few months from that date. The decision will have far reaching consequences for firearms owners. For instance, as one *amicus curiae* has argued, upholding the Fourth Circuit's decision will likely chill the common practice of purchasing guns as gifts for friends and relatives. The argument is that the so-called "gift exemption" to the actual purchaser question is created by ATF Form 4473 (and not by any statute), and that there is no logical distinction between purchasing a firearm with the intention to sell it to someone who may legally possess it, and purchasing a firearm with the intention to give it as a gift to someone who may legally possess it. As such, the *amicus curiae* argues that, although the government maintains that it will not prosecute gift transactions, citizens will fear prosecution for gift transactions and elect not to purchase firearms as a gift. Given the contentious national debate over gun control, it is likely that the media and elected officials will also contribute their opinions as the date of oral arguments draws closer.