

Bond Case Briefs

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MUNICIPAL ORDINANCE - MONTANA

City of Missoula v. Fox

Supreme Court of Montana - October 22, 2019 - P.3d - 2019 WL 5417786 - 2019 MT 250

City brought action seeking declaration that firearm ordinance, imposing background checks on firearm transfers within city, was a lawful exercise of city's self-governing powers.

The District Court granted summary judgment to city. Attorney General appealed.

The Supreme Court held that:

- Action was justiciable, and
- Ordinance did not fall within exception to general prohibition on local government regulation of firearms, authorizing cities to prevent and suppress possession of firearms by convicted felons, adjudicated mental incompetents, illegal aliens, and minors.

City's action for declaration that firearm ordinance was lawful exercise of self-governing powers, following Attorney General's issuance of opinion to contrary, was justiciable, as required by Uniform Declaratory Judgment Act, even though city had not attempted to enforce ordinance; to enforce the ordinance at all, city would need to proceed in contravention to Attorney General's opinion, which carried imprimatur of legal authority.

City firearm ordinance, requiring background checks on firearm transfers within city, did not fall within exception to general prohibition on local government regulation of firearms, authorizing cities to prevent and suppress possession of firearms by convicted felons, adjudicated mental incompetents, illegal aliens, and minors; nothing within language of such exception permitted cities to regulate functions other than possession in any manner.