

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-CV-00265-H

MICHAEL BATEMAN, VIRGIL GREEN,)
FORREST MINGES, JR., GRNC/FFE, INC.,)
and SECOND AMENDMENT FOUNDATION,)
INC.,)

Plaintiffs,)

v.)

BEVERLY PERDUE, REUBEN F. YOUNG,)
STOKES COUNTY, and CITY OF KING,)

Defendants.)

**AFFIDAVIT OF
NATHANIEL H. SANDERSON**

I, NATHANIEL H. SANDERSON , being duly sworn, do depose as follows:

1. I am over 18 years of age, am competent to testify, and have personal knowledge of the matters referred to herein.

2. I served in active duty for the U.S. Navy between 1968 and 1972. Between 1972 and 1985, I served in the U.S. Navy Reserves (UDT/SEAL 206). I served in the U.S. Coast Guard from 1985 to 2004 as a diver with the Atlantic Strike Team, where my last duty was as a Search/Rescue coordinator at Cape Hatteras.

3. With over 30 years of public safety and military experience, I was appointed to the position of Emergency Management Director for Dare County in 1993. Since that time I have managed response/evacuation/recovery efforts stemming from Hurricanes Emily (1993), Felix (1995), Bertha (1997), Bonnie (1998), Dennis and Floyd (1999), Isabel (2003), Alex (2004), Ophelia (2006), and Earl (2010).

4. In 1994 I received the State of North Carolina's Order of Long Life Pine from Governor Jim Hunt.

5. Dare County is a barrier island county located in northeastern North Carolina. A population of approximately 33,000 residents can grow to more than 200,000 during the summer months during the county's tourism season, which is also the peak time for hurricanes. The Dare County Department of Emergency Management is responsible for providing for the safety and welfare of its residents and visitors before, during and after major emergencies and disasters. Dare County Emergency Management is the local community-based equivalent of the N.C. Division of Emergency Management at the state level and the Federal Emergency Management Agency (FEMA) at the federal level. It must work closely with all agencies (public and private) before, during and after emergencies and disasters to provide coordinated, comprehensive protection of lives and property. Under North Carolina law, county emergency management agencies have the lead responsibility for coordinating disaster response and recovery operations within the county's jurisdiction. This responsibility includes coordinating efforts with municipalities in the county, other local governments assisting through mutual aid agreements, neighboring jurisdictions, state and federal agencies, and other entities, including disaster services non-profit groups.

6. The county's emergency management and first responder personnel receive specialized training in varied fields. Like other public safety officials, emergency management personnel serve the community twenty-four hours a day, 365 days a year.

7. Based on my emergency management experience, I am very familiar with those provisions of the North Carolina General Statutes that allow local governments to declare states of emergencies and use the authority contained therein to protect the public safety.

8. One such area of authority relates to the ability to restrict the possession and sale of firearms during a declared state of emergency by means of local ordinance or proclamation. This statutory authority allows local governments to be proactive with regard to deterring the potential for confrontations both with well-intended citizens who choose to be armed as well as with potential criminals who seek to arm themselves to take advantage of disaster circumstances. The presence in public areas of such armed individuals in a state of emergency only heightens the potential for confrontations that can quickly escalate to the use of deadly force.

9. The opportunity for local officials to use this authority gives those governmental employees tasked with directing and implementing the disaster response much greater assurances of safety. It also reduces the likelihood of persons trying to take the law into their own hands and of innocent citizens falling prey to opportunistic armed criminals. Otherwise, the presence of armed civilians during emergency circumstances gives rise to a threat of armed confrontation, which in turn requires governmental officials to determine the extent of the problem and take necessary protective action. This often requires additional manpower and takes away resources from an already undermanned team of workers that could be better used for other emergency tasks.

10. In addition, major disasters often necessitate evacuating all or parts of Dare County. Having the ability to impose restrictions on carrying weapons off-premises enables local government officials to better protect the property of evacuated residents and visitors and, more importantly, protect the lives of emergency response personnel who may have to respond to reports of break-ins and other criminal activity.

11. Public safety concerns are also heightened during a disaster when there is a temporary interruption of utility service. Downed power lines and damaged transformers can leave entire


neighborhoods and even whole areas of the county in complete darkness. Public safety concerns and the challenges facing law enforcement officers become exacerbated under such conditions. Being able to restrict the off-premises possession of weapons can be essential to law enforcement officers' ability to protect both the lives of residents and the officers' own lives when moving around in neighborhoods and other areas with little or no visibility.

12. Local states of emergency declarations are issued in Dare County only when necessary to protect life and property and ensure public health, safety and welfare. Emergency management operations in the county are generally governed by the Dare County Control Group, a committee constituted under Chapter 92 of the Dare County Code of Ordinances comprised of the Chairman of the Dare County Board of Commissioners (or the Chairman's designee), the Mayors of the six incorporated municipalities within the County (or their designees), the Dare County Sheriff and the Superintendent of the Cape Hatteras National Parks. Under the county's Emergency Management Standard Operating Procedures, the Control Group activates when there is a threat of widespread damage, either man-made or natural, or other imminent threats to public health, safety or welfare. In consultation with the Dare County Emergency Management Director, the Control Group reaches consensus on whether the situation, such as an approaching hurricane, warrants issuing a local state of emergency declaration and what, if any, emergency protective measures should be imposed. Most typically, these emergency protective measures consist of ordering mandatory evacuation of visitors within the County. In extreme situations, emergency protective measures will also include a mandatory evacuation of residents in projected impact areas of the county and, depending on the level of post-disaster damage, limited reentry restrictions and curfews in impacted areas. State of emergency declarations and accompanying emergency protective measures are not imposed without

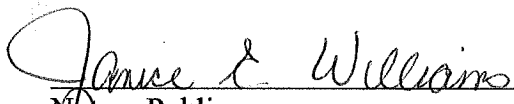
careful deliberation by the Control Group and only when deemed necessary to protect public health, safety and welfare. Once imposed, local state of emergency declarations and their accompanying emergency protective measures remain in effect only as long as is necessary to restore essential services (such as utilities), reestablish safe passage on roadways in the impacted areas, and otherwise ensure that life and property are secured and protected.

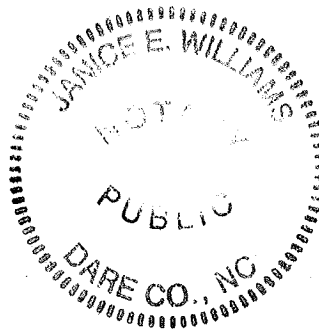
13. Having the authority under disaster circumstances to adopt emergency measures such as restrictions on the off-premises transport of firearms can mean the difference between life and death for emergency management personnel, law enforcement officers, first responders and innocent citizens.

This the 8 day of December, 2010.


NATHANIEL H. SANDERSON

Sworn to and subscribed before
me, this the 8 day of December, 2010.


Notary Public



My commission expires: 11-27-13

Respectfully submitted, this the 15th day of December 2010.

ROY COOPER
Attorney General

/s/Mark A. Davis

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CERTIFICATE OF SERVICE

I hereby certify that on this day, December 15, 2010, I electronically filed the foregoing **AFFIDAVIT OF NATHANIEL H. SANDERSON** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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