

Lincoln v Police

A synopsis of the judgment

There has been a measure of disinformation and speculation concerning the decision of the High Court and its findings in regard to the interpretation of a military pattern free standing pistol grip. This is an analysis of the decision by the applicant.

It is important to consider the contents section of the judgment; set out as follows:

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It is clear in the table of contents that the sections relevant to the meaning of *military pattern free standing pistol grip* are [43] to [90].

[43] to [46] traverse the evidence given for the applicant as to the meaning of **pistol grip**. [46] summarises the respondent's evidence in regard to the meaning of pistol grip and concludes what is meant by "pistol grip".

[Note] An important point is that a pistol grip's "*function is to facilitate the trigger hand holding the rifle.*" It reiterates that a **fore-grip is not a pistol grip**. See also [88] Military pattern free standing pistol grip does not "*suggest that it is concerned with any grip where the forehead will be vertically aligned under the trigger*" and [99a] compared to [30] "*Does not mean.... a second grip forward of the trigger.*"

[48] then concludes. "*What pistol grip falls outside the —sporting configuration definition therefore depends on the meaning of —military pattern free-standing rather than what is meant by a —pistol grip.*"

The judgment then traverses the meaning of **free-standing**. [49] explains the applicant's assertions as to what is meant by free-standing and the implications [50] of that interpretation in so far as how that would apply to an example rifle. [51] then explains the respondent's position on the meaning of free-standing and likewise the implications of that interpretation in so far as how that would apply to the same example rifle. There is then a full discussion of the opposing views and the arguments advanced by each party as to why the opposing party's position amounts to an incorrect interpretation. The discussion also includes independent judicial research and commentary (i.e.: matters not submitted by either party).

[69] and [70] then state which of the two arguments are accepted and the reasons why. [69] *Mr Lincoln's interpretation is that is an interpretation that is open on the natural meaning of the words.* [70] *The police interpretation..... seems a less natural meaning of — "free-standing" and*

if that were the intended meaning it might have been expected that different wording would have been used.

The Court accepts the applicant's interpretation of the meaning of freestanding. Which is [69]: ***“if the pistol grip is integrated with the stock (i.e. they are part of the same piece of the firearm such that one cannot remove one from the firearm without removing the other) then it is not free-standing.”***

Then the decision turns to the meaning of **military pattern** and traverses the evidence for the applicant (and states that the respondent's case was that they don't know what “military pattern” means” [77].)

Her Honour states [88]. *From all of this I accept Mr Woods' evidence that —military pattern is a term which has a particular technical meaning. It refers to **equipment that meets military specifications**. That technical meaning also fits with the natural and ordinary meaning of —pattern. It does not suggest that the equipment (here the pistol grip) will be similar in appearance.*

After setting out the reasons for the decision, the judgment then makes two specific declarations. I have set out the first declaration below and for clarity complete with its reference to paragraph 30. The first declaration is binding on **all semiautomatic long arms pistol grips**.

First declaration:

“Military pattern free-standing pistol grip as referred to in the Arms Act 1983 does not mean what is set out in the police communication dated 2 July 2009 refer [30] above); “

[30]

“A semi-automatic rifle that has a grip which has either the appearance or function of a military pattern free-standing pistol grip is classified as an MSSA. A semi-automatic rifle with any of the following features is considered to have a ‘military pattern free-standing pistol grip’ and is therefore a MSSA:

- *an obvious pistol grip below the trigger guard that allows a full hand pistol grip irrespective that the pistol grip may be connected to the stock – this includes the HK USC .45, SL8-4 and*
- *any addition that connects the pistol grip to the stock or butt in an attempt to make it no longer free standing (such as adding a metal or plastic rod).*
- *a second grip forward of the trigger. “*

[Note] Contrary to the assertion that the judgment only affects the SL8 rifle, Her Honour has specifically said that the Dragunov style stock is not a military pattern free-standing pistol.

Conclusion:

This decision is not about the interpretation of which category any one rifle (the H&K) or all rifles falls into. The decision is about the interpretation of the meaning of “military pattern free standing pistol grip.” All (semi-automatic) long arms have a pistol grip [47] therefore the judgment effects by implication all semi-automatic firearms in that it conclusively determines which guns are equipped with military pattern free standing pistol grips and which are not.

A military pattern free standing pistol grip is a grip which is not incorporated into the stock. It is free standing in the sense that it connects to the receiver of the firearm at one point only and removing the stock would leave the pistol grip attached independently to the firearm. It is also designed, manufactured and supplied to military specifications. It is also a pistol grip rather than a fore grip.

A pistol grip that is not a military pattern free standing pistol is a pistol grip that is integrated into the stock. Removing the stock from the firearm also removes the pistol grip. Also not a military pattern free standing pistol is a free-standing pistol grip that is not military pattern but instead a civilian pattern – for example, the A1 or A2 type military issue M16 pistol grip specified by the USDoD is a military pattern free standing pistol, whereas the Hogue over-moulded AR15 pistol grip is not a military pattern free standing pistol.

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