

United States V. Emerson
5th Circuit Court of Appeals, New Orleans
June, 13 2000

Presiding Judges: Garwood, DeMoss & Parker
Council for the

United States: Assistant U.S. Attorney William Mateja

Judge DeMoss: I have a 16 gauge shotgun in my closet at home. I have a 20-gauge shotgun. I also have a 30-caliber rifle at home. Are you saying these are "in or affecting interstate commerce"?

Mateja: Yes.

Judge Garwood: You are saying that the Second Amendment is consistent with a position that you can take guns away from the public? You can restrict ownership of rifles, pistols and shotguns from all people? Is that the position of the United States?

Mateja: Yes.

Judge Garwood: Is it the position of the United States that persons who are not in the National Guard are afforded no protections under the Second Amendment?

Mateja: Exactly.

Mateja then said that even membership in the National Guard isn't enough to protect the private ownership of a firearm. It wouldn't protect the guns owned at the home of someone in the National Guard.

Judge Garwood: Membership in the National Guard isn't enough? What else is needed?

Mateja: The weapon in question must be used in the National Guard. No one, even if a member of the National Guard, has a right to own guns privately.