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Judge rules for Houston County man seeking home firearms business license

By WAYNE CRENSHAW

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WARNER ROBINS -- A Houston County man plans to be at the next County Commission meeting for a third try at getting a license to operate a firearms business in his home. But this time he has a judge's order on his side.

After his second try in June failed, Brian Gross filed a lawsuit against the board. Superior Court Judge Katherine Lumsden issued a ruling in favor of Gross on Wednesday.

She concluded the county did not have a legitimate basis to reject a special exception and ordered the commission to grant the license at its next regular meeting, which is Oct. 21.

Commission Chairman Tommy Stalnaker said Friday he expects the board will approve the request and likely won't appeal the judge's order.

Gross, who lives in Bonaire, said he plans to attend the meeting. His attorney, Kelly Burke, said the county's opposition to the business was based solely on the nature of the business.

"I think they are scared of guns," said Burke, a staunch gun rights advocate.

County Attorney Tom Hall said the denial was not related to guns but rather Gross operating a retail business from his home with the items stored there.

The county made a change in the ordinance earlier this year to allow retail businesses in homes if sales are done over the Internet and the items are not shipped to or from the home. That change was made for a business that was shipping Jeep parts directly from the manufacturer to the customer. But the difference is that Gross would have the items in his home.

Hall said the county would have the same objection regardless of what Gross was selling.

The ruling did not address whether the county will be required to pay Gross' legal fees. Burke said that is a separate issue he will pursue.

Gross holds a federal firearms license to operate the business, in which he plans to buy, sell and customize guns. He says the business will be almost entirely Internet-based and will not increase traffic in his neighborhood, which already has delivery trucks.

There has been no public opposition during the commission or zoning board meetings, Burke said.

The ruling accepted Burke's contention that regulating a firearms business was under the jurisdiction of the state. He said state law specifically prohibits local governments from denying a business license solely because it is a firearms business when all other legal requirements are met.

Hall said he disagrees with that point because he thinks the state law was intended to prevent local governments from instituting blanket zoning policies against standalone gun businesses.

"I just have a hard time believing that the Legislature would say we don't have a right to protect our citizens from the standpoint of businesses within a residential area," he said. "That's our motivation, whether it's widgets, or whatever it is, to make sure that folks in a residential area still have the nature of a residential area."

Hall, who has done work for the county for 21 years, said this is the first time he can remember the county being court-ordered to approve a home-business license.

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