

## 12-1493 ABRAMSKI V. UNITED STATES

DECISION BELOW: 706 F.3d 307

LOWER COURT CASE NUMBER: 11-4992

### QUESTION PRESENTED:

When a person buys a gun intending to later sell it to someone else, the government often prosecutes the initial buyer under 18 U.S.C. § 922(a)(6) for making a false statement about the identity of the buyer that is "material to the lawfulness of the sale." These prosecutions rely on the court-created "straw purchaser" doctrine, a legal fiction that treats the ultimate recipient of a firearm as the "actual buyer," and the immediate purchaser as a mere "straw man."

The lower courts uniformly agree that a buyer's intent to resell a gun to someone who cannot lawfully buy it is a fact "material to the lawfulness of the sale." But the Fourth, Sixth, and Eleventh Circuits have split with the Fifth and Ninth Circuits about whether the same is true when the ultimate recipient *can* lawfully buy a gun. The questions presented are:

1. Is a gun buyer's intent to sell a firearm to another lawful buyer in the future a fact "material to the lawfulness of the sale" of the firearm under 18 U.S.C. § 922(a)(6)?
2. Is a gun buyer's intent to sell a firearm to another lawful buyer in the future a piece of information "required ... to be kept" by a federally licensed firearm dealer under § 924(a)(1)(A).

CERT. GRANTED 10/15/2013