



Published: 07.01.2006

## Court backs conviction of machine-gun owner

By Howard Fischer

*CAPITOL MEDIA SERVICES*

People can't legally make their own machine guns and escape federal prosecution, the 9th U.S. Circuit Court of Appeals ruled Friday.

In a unanimous ruling, the judges upheld the conviction of a Mesa man who is serving a five-year prison term for possession of five machine guns.

The judges rejected arguments by Robert Stewart Jr. that Congress has no authority over items not involved in interstate commerce.

Stewart actually prevailed with those arguments three years ago.

That, however, was before the U.S. Supreme Court decided a case last year brought by people charged with possession of marijuana under federal law.

They, too, argued the federal government had no legal authority over the drugs that never crossed state lines.

But the nation's high court said the fact the drugs could enter interstate commerce gave Congress jurisdiction to regulate their possession.

Federal Appeals Court Judge Alex Kozinski, who originally wrote in 2003 that Stewart's conviction was illegal, said Friday the Supreme Court ruling changes everything — and that the same logic applies here. Stewart's homemade machine guns eventually could cross state lines.

The U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives got a search warrant for Stewart's home after he advertised on the Internet and in Shotgun News his kits for large-caliber rifles. Agents also determined Stewart had a conviction for possession and transfer of a machine gun.

All content copyright © 1999-2006 AzStarNet, Arizona Daily Star and its wire services and suppliers and may not be republished without permission. All rights reserved. Any copying, redistribution, or retransmission of any of the contents of this service without the expressed written consent of Arizona Daily Star or AzStarNet is prohibited.