

Richard Vasquez
Rick Vasquez Firearms LLC
235 Deer Creek Road
Winchester, VA 22602

Case: U.S. V Wright, 3:18
CR162

Date the evidence was evaluated:

7/17/18

Location of evaluation: AUSA office Toledo Ohio

EXHIBITS:

1. The item in question is a Maxim Defense CQB Pistol EXC Cheek Rest (CR)

Pertinent authority:

ATF letter 903050:MCP, 3311/304296
ATF letter 903050:MCP, 3311/2011-772
ATF letter 9000:GM, 5000

The amended Gun Control Act (GCA), 18 U.S.C. Section 921(a)(7) defines the term **rifle** as:

...a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

The National Firearms Act (NFA), 26 U.S.C. Section 5845(a)(3) and (a)(4), defines **firearm** as:

...a rifle having a barrel or barrels of less than 16 inches in length; a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length....

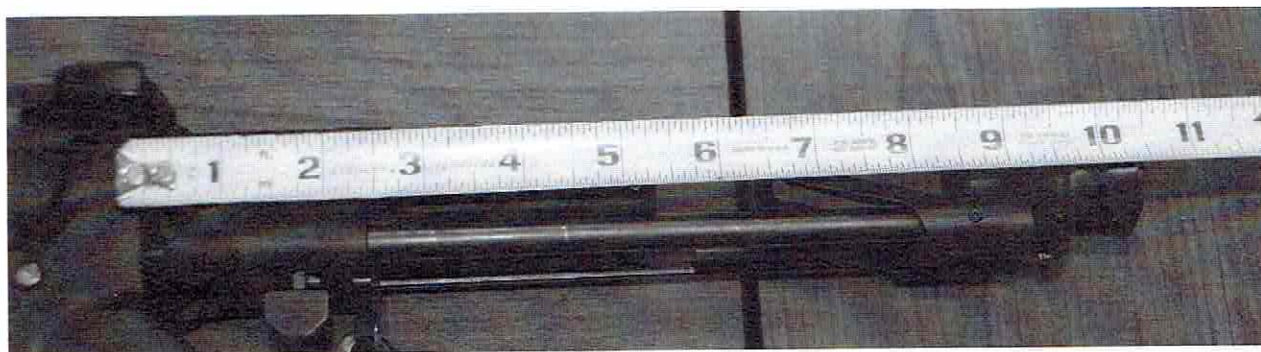
The device is an extendable pistol check rest that is not regulated by the Gun Control Act, the National Firearms Act, or the Code of Federal regulations.

Findings

On July 17, 2018, I traveled to Toledo, Ohio to evaluate an extendable cheek rest device that was being identified as a stock attached to a Spike's Tactical, model The Jack, .300 caliber, serial number 12022 pistol.

A cheek rest is a device, that when attached to a pistol, helps a shooter support the firearm by allowing the shooter to rest the raised portion of the device against the shooters face. These devices have been evaluated by ATF and are defined as accessories. This device which is manufactured by Maxim defense is a collapsible/extendable cheek rest. With the cheek rest extended, the length from the rear of the receiver to the end of the cheek rest is approximately 9-1/2 inches.

Loosely attached by a string to the end of the extendable cheek rest is a rubber buffer identified as a cane tip. This cane tip is not permanently attached and is not an integral part of the extendable cheek rest. By simply touching the cane tip, it swiveled around and would have fallen out had it not been tied in. The cane tip was gently pushed in to ensure it set in the opening as flush as possible. The length of the device from the rear of the receiver, with the rubber tip as part of the measurement, is approximately 10-3/8 inches.



A second measurement was taken from the trigger to the end of the device. The measurement from the trigger to the end of the extended arm brace is approximately 12-3/4 inches. The measurement taken including the cane tip is approximately 13-1/2 inches. It is important to note that the measurement was taken with the measuring device parallel to the extendable cheek rest and hooked to the trigger (see govt. report Exhibit 1 Pictures 11-13). Also, the measurement fluctuates as the rubber cane tip slides out of place with no tension on tip.



The Maxim Defense extendable cheek rest is not a stock, is not designed to be fired from the shoulder, and is not regulated by the Gun Control Act (GCA), the National Firearms Act (NFA), or the Code of Federal Regulations (CFR). After reviewing the letters listed in the pertinent authority, along with several others provided, it is apparent that the Spikes Tactical pistol has not been made into a short barreled rifle (SBR) as defined in Title 26 U.S.C., Chapter 53, section 5845(a) (3). The distinguishing factor that the government is using as a change of the classification of the extendable cheek rest, is the addition of a rubber cane tip to the extendable cheek rest. This 1-inch diameter cane tip is simply a device installed to level off the firearm when stored in the upright position in a gun safe.

The ATF letters named in the pertinent authority indicate the extendable cheek rest is an accessory and these types of devices have previously been classified by ATF as accessories. The government exhibit report of examination appears to have created a new regulation by determining that adding a rubber cane tip to an approved accessory is a redesign of the Maxim Defense extendable cheek rest. The new design is being determined to be a rifle stock, and, therefore, with the addition of a rifle stock, the pistol would become a SBR. The assumption that the addition of a cane tip to a pistol is for the intent of shooting of the pistol from the shoulder makes no sense. Having a loose object that rotates like a marble between a stock and a shoulder, would be a detriment to shooting a rifle. The government report page 2, paragraph 2, stated “The collapsible stock has been assembled by using a piece of black cord to attach a rubber pad (Nev-a-slip brand cane brand cane tip) to the back end of a Maxim Defense collapsible “extension only” device. The redesign of the extension is done in such a manner that provides a pad for shouldering, and in a manner which creates a length of pull that has no other purpose than to facilitate its use as a stock.”

To imply a that an approximate one-inch diameter cane tip, that wiggles in the opening that it is placed in, is a “pad” for shouldering a rifle, is a far stretch of the imagination. As a previous competition shooter (distinguished marksman) and having trained 1000s of civilians and law enforcement personnel in the use of a rifle, the goal is to have a rifle as rigid as possible, the loosely installed cane tip would be a detriment to accuracy as it would be similar to a ball bearing swiveling against the shoulder.

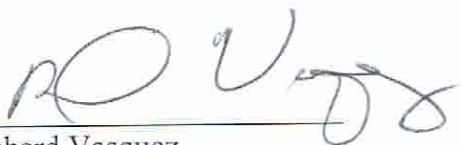
The ATF letters show approval of a rubber tip attached to a buffer tube, and it is not called a “pad to shoot a rifle.” If the cane tip converts an extendable cheek rest into a stock, it should also convert a buffer tube or anything else that could be used as a stock, into a stock. Additionally, ATF letter 9000:GM, 5000 clearly discredits the redesign of an arm brace, if it is used to fire a pistol from the shoulder.

Conclusion:

The Maxim Defense extendable cheek rest is not a stock, the one-inch diameter never-slip cane tip is not a butt pad, and it is not conducive or designed to aid in shooting a rifle. The addition of a 1-inch diameter cane tip to a device that is designed to be shot resting against the cheek of the face cannot be redesigned into a stock because it is not designed to be a stock. The Maxim Defense extendable cheek rest, even with the rubber cane tip attached, is not intended to be fired from the shoulder.

The quantity of ATF opinion letters, which are not statutes or regulations, that have established different standards for arm brace/cheek rest devices, do not clarify for the public what is the complete standard. It should be incumbent on the ATF to prepare a regulation in the CFR to set a standard for their approval process of arm braces/cheek rests.

Neither the Maxim Defense extendable cheek rest or the never slip cane tip is regulated by the GCA, the NFA, or the CFRs. Due to the confusing and inconsistent opinions written by ATF a citizen does not have the knowledge of the ATF to purchase an item that would place them in violation of a "made up" violation.

A handwritten signature in black ink, appearing to read 'Richard Vasquez', written over a horizontal line.

Richard Vasquez