The Supreme Court's Emerging Divide Between Firearms Regulation and Prohibition

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I. Introduction

Since its landmark decision in *District of Columbia v. Heller*,[1] the United States Supreme Court has become the principal forum for adjudicating the nation's most contentious firearms disputes, extending beyond the core question of Second Amendment rights to statutory interpretation and administrative authority. These issues encompass not only the scope of lawful gun possession, but also the extent of administrative authority over weapons and their components. Recent rulings reveal a complex and at times internally inconsistent stance on the regulation of firearms and their components, which continues to generate significant debate across the ideological spectrum of policymakers and stakeholders. The Court has simultaneously curtailed administrative efforts to prohibit bump stocks, while upholding broad regulatory authority in the context of ready-to-assemble firearms kits.

Two recent cases illustrate this developing divide, as the Court is willing to protect the firearm itself from administrative prohibitions, while it upholds regulations when statutory language is deemed sufficiently clear or adaptable. In *Garland v. Cargill*,[2] the Court struck down the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") rule banning bump stocks, finding that the agency had exceeded its statutory authority under the National Firearms Act ("NFA"). Conversely, the Court in *Bondi v. VanDerStok*[3] upheld the ATF's regulation of unfinished gun kits and frames under the Gun Control Act ("GCA"), affirming the agency's ability to adapt its regulation to modern technological realities. The Justices that were part of the majority in each of the two cases might explain that the doctrinally divergent outcomes are not at all contradictory, as the underlying judicial philosophy remains the same: agencies must operate within the confines of statutory language, and the Court must enforce those boundaries regardless of policy considerations. However, the pattern that emerges suggests an underlying judicial reluctance to expand the category of prohibited weapons or their accessories, even as the Court tolerates some forms

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1) District of Columbia v. Heller, 554 U.S. 570 (2008).

2) Garland v. Cargill, 602 U.S. 406 (2024).

3) Bondi v. VanDerStok, 145 S. Ct. 857 (2025).

of regulation.

These decisions raise significant questions about the consistency of the Court's approach to firearms. Is the Court drawing a principled distinction between regulation and prohibition? Or is it applying standards of varying rigidity to yield divergent outcomes depending on the statute at issue, to prevent agencies from perceived statutory overreach? Comparing these cases, the Court's application of statutory standards presents as most exacting when the result constrains federal authority to prohibit firearms or accessories, and more accommodating concerning regulations of the assembly or traceability of firearms.

The Court is in effect drawing an emerging doctrinal line between regulation and prohibition that has significant implications for administrative authority, statutory interpretation, and the future of federal firearms law. The article weighs the broader implications for congressional responsibility in an era of rapid technological change and shifting judicial doctrines.

II. Restricting Administrative Authority in the Absence of Statutory Clarity

While the Supreme Court is vested with the authority to review and interpret statutory law in cases and controversies brought before it, the intent of Congress is often clearly reflected in the statutory language in a straightforward way to make the Court's interpretation relatively easy. Whether the Justices agree or disagree with the philosophy or politics of the law is irrelevant so long as the statute is constitutional.[4] Other times, Justices may determine that the language of a statute is less clear, and disagree on what the actual meaning is or should be. In such instances, "[i]t is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule."[5] As closely divided opinions could attest, it is not always easy to "expound and interpret" statutory law.

4) A relatively straightforward case involving statutory interpretation related to firearms was resolved in *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280 (2025), where the Government of Mexico sued seven American firearms manufacturers and one gun distributor for failure to exercise reasonable care in their distribution practices, thereby enabling criminal misuse of their products. The Court unanimously held that the lawsuit was barred by the Protection of Lawful Commerce in Arms Act ("PLCAA"), 15 U.S.C. § 7901-7903, which generally shields gun manufacturers and sellers from liability for crimes committed with their products. Mexico did not sufficiently allege that the manufacturers intentionally participated in or sought to further illegal transactions as required to establish liability under the statute. *Smith & Wesson* at 294. In a concurring opinion, Justice Jackson noted the lack of statutory violations in Mexico's complaint and emphasized that the PLCAA was designed to preserve legislative control over firearms regulation. Mexico attempted to impose obligations on manufacturers that Congress had not enacted, effectively trying to "turn the courts into common-law regulators. But Congress passed PLCAA to preserve the primacy of the state and federal political branches… in deciding which duties to impose on the firearms industry." *Id*. at 302 (Jackson, J. concurring).

5) Marbury v. Madison, 5 U.S. 137, 177 (1803).

The Court in *Garland v. Cargill*[6] was asked whether certain devices that enable semiautomatic rifles to fire at rates comparable to machineguns, known as bump stocks,[7] fall under the statutory definition of a "machinegun" under the National Firearms Act ("NFA")[8] and can thus be regulated without further congressional action. The NFA defines a "machinegun" as "any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include… any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun…."[9] Conversely, semiautomatic guns allow a shooter to fire only once each time the trigger is pulled, and require the trigger to be released before it can be pulled again.

The central issue in *Cargill* is whether a bump stock turns a semiautomatic rifle into a "machinegun" under the statutory definition in NFA §5845(b). In 2006, the ATF determined that some types of bump stocks are machineguns. From 2008-2017, it held that other types of bump stocks were not machineguns, consistently concluding that guns equipped with permissible bump stocks do not fire more than one round automatically with a single trigger action.

The ATF reversed its position with a new rule issued in the aftermath of October 1, 2017, when a gunman attacked a large crowd at an outdoor concert in Las Vegas using several AR-style rifles equipped with bump stocks. He rapidly fired hundreds of rounds, killing fifty-eight people and wounding about five hundred others. The bump stocks recovered at the scene included two different models from the same manufacturer, both widely available online and through retailers. In response to this mass shooting, the ATF proposed a rule classifying bump stocks as machineguns,[10] thus effectively banning the devices. A final Rule in 2018[11] reversed the ATF's previous guidance that bump stocks did not qualify as machineguns under §5845(b), and amended earlier regulations by adding:

> For purposes of this definition, the term "automatically" as it modifies "shoots, is designed to shoot, or can be readily restored to shoot," means functioning as the result

6) Garland v. Cargill, 602 U.S. 406 (2024).

7) *See* Bump-Stock-Type Devices, 83 Fed. Reg. 66514, 66516 (2018). Bump stocks are designed to replace a rifle's standard stock and enable rapid fire by using recoil to repeatedly engage the trigger without the shooter manually pulling it each time. They typically feature a sliding shoulder stock connected to a pistol grip with a finger rest, and often include a receiver module to help guide the recoil when fired. By channeling the firearm's recoil, bump stocks allow semiautomatic rifles to fire at speeds similar to automatic weapons, by "bumping" the shooter's immobile finger without additional trigger pulling by the shooter.

8) 26 U.S.C. §§ 5801-5872.

9) 26 U.S.C. § 5845(b).

10) Bump-Stock-Type Devices, 83 Fed. Reg. 13442 (2018).

11) 83 Fed. Reg. 66514 (2018).

> of a self-acting or self-regulating mechanism that allows the firing of multiple rounds through a single function of the trigger; and "single function of the trigger" means a single pull of the trigger and analogous motions. The term "machinegun" includes a bump-stock-type device, i.e., a device that allows a semi-automatic firearm to shoot more than one shot with a single pull of the trigger by harnessing the recoil energy of the semi-automatic firearm to which it is affixed so that the trigger resets and continues firing without additional physical manipulation of the trigger by the shooter.[12)]

The ATF further ordered owners to either destroy or surrender their bump stocks within ninety days. Failure to comply would leave bump stock owners subject to prosecution.[13)]

When the ATF rule went into effect, owners of the previously legal accessories for their firearms were caught off guard. Michael Cargill was one such owner. He surrendered his lawfully acquired bump stocks to the ATF under protest and sued to challenge the agency's rule. He argued that the ATF lacked statutory authority to classify bump stocks as machineguns. The Supreme Court agreed, holding that bump stocks do not meet the statutory definition of machineguns under 26 U.S.C. §5845(b), and invalidated the ATF's rule regulating such devices, as the ATF lacked the authority to issue such a regulation.[14)]

The Court adopted a narrow reading of the language in Section 5845(b) over an interpretation more closely aligned with the broader intent of Congress. The majority decided that § 5845(b)'s definition of a "machinegun" as a weapon able to fire "automatically more than one shot ... by a single function of the trigger" excludes bump stocks, because semiautomatic weapons equipped with bump stocks do not fire automatically, or fire more than one shot by a single function of the trigger. The Court held that to fire a semiautomatic rifle, whether or not equipped with a bump stock, "a shooter must release and reset the trigger between every shot. And, any subsequent shot fired after the trigger has been released and reset is the result of a separate and distinct 'function of the trigger.' All that a bump stock does is accelerate the rate of fire by causing these distinct 'function[s]' of the trigger to occur in rapid succession."[15)]

The ATF argued that a "single function of the trigger" meant "a single pull of the trigger and analogous motions."[16)] Its position was that Congress intended to restrict machineguns because such weapons eliminate the need for manual trigger actions to achieve continuous, rapid fire, which is a function that bump stocks effectively replicate. Therefore, the ATF argued that disallowing bump stock regulations simply because the trigger still moves would be a superficial technicality that undermines the intent of the law. However, the opinion reasoned that the law is not rendered ineffective just because it does not cover

12) *Id*. at 66553-66554.
13) *Id*. at 66525, 66529-66530.
14) Garland v. Cargill, 602 U.S. 406, 415 (2024).
15) *Id*.
16) 83 Fed. Reg. 66553 (2018).

every weapon capable of high-speed firing. Excluding bump-stock-equipped semiautomatic rifles from the definition of machineguns still leaves the statute fully applicable to traditional automatic weapons, preserving its core regulatory purpose.[17]

The Court was concerned by the ATF's change of heart regarding the status of bump stocks, as the bureau previously issued determinations that semiautomatic rifles with bump stocks were not automatic weapons.[18] The majority declined to account for how a change in law or regulation might be influenced by evolving real-world considerations, finding it "difficult to understand" the agency's "about-face" on the issue.[19] The Court's skepticism toward agency reversals, however, contrasts with its own willingness to revisit precedent.[20]

Ultimately, the Court places the responsibility for resolving statutory ambiguity with the legislative branch. "Congress could have linked the definition of 'machinegun' to a weapon's rate of fire, as the dissent would prefer. But, it instead enacted a statute that turns on whether a weapon can fire more than one shot 'automatically... by a single function of the trigger.' And, 'it is never our job to rewrite... statutory text under the banner of speculation about what Congress might have done.'"[21]

Justice Sotomayor's dissent criticized the majority for adopting a definition that focuses on the internal mechanical resetting of the trigger rather than the shooter's single initiating act. She argued that the majority's interpretation is inconsistent with both the plain meaning of the statutory language and the legislative intent behind the NFA. "When I see a bird that walks like a duck, swims like a duck, and quacks like a duck, I call that bird a duck. A bump-stock-equipped semiautomatic rifle fires 'automatically more than one shot,

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17) *Cargill*, 602 U.S. at 427-28.

18) *E. g.*, 82 Fed. Reg. 60929, 60930: "'Bump fire' stocks (bump stocks) are devices used with a semiautomatic firearm to increase the firearm's cyclic firing rate to mimic nearly continuous automatic fire. Since 2008, ATF has issued a total of 10 private letters in which it classified various bump stock devices to be unregulated parts or accessories, and not machineguns or machinegun conversion devices as defined in section 5845(b) of the NFA or section 921(a)(23) of the GCA."; ATF's proposed rule in 83 Fed. Reg. 13442, 13443 (2018): "In 2006, ATF concluded that certain bump-stock-type devices qualified as machineguns under the GCA and NFA. Specifically, ATF concluded that devices attached to semiautomatic firearms that use an internal spring to harness the force of the recoil so that the firearm shoots more than one shot with a single pull of the trigger are machineguns. Between 2008 and 2017, however, ATF also issued classification decisions concluding that other bump-stock-type devices were not machineguns, including a device submitted by the manufacturer of the bump-stock-type devices used in the Las Vegas shooting… ATF has now determined that that conclusion does not reflect the best interpretation of the term "machinegun" under the GCA and NFA..."

19) Garland v. Cargill, 602 U.S. 406, 428 (2024).

20) *See* Dobbs v. Jackson Women's Health Org., 597 U.S. 215 (2022) overturing the longstanding precedent that the federal constitution provides a right to abortion as established under Roe v. Wade, 410 U.S. 113 (1973). *See also* Loper Bright Enters. v. Raimondo, 603 U.S. 369 (2024), which abandoned the principles of Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837 (1984), for the Court's "about-face" in holding that courts do not need to defer to an agency's interpretation of the law simply because a statute is ambiguous, and may not do so under the Administrative Procedure Act.

21) Garland v. Cargill, 602 U.S. 406, 428 (2024) (citations omitted).

without manual reloading, by a single function of the trigger.'… I, like Congress, call that a machinegun…"[22] The dissent contends that the phrase "single function of the trigger" should be interpreted as a single action by the shooter that sets off a firing sequence, regardless of the internal resetting of the trigger mechanism. "Every Member of the majority has previously emphasized that the best way to respect congressional intent is to adhere to the ordinary understanding of the terms Congress uses… Today, the majority forgets that principle and substitutes its own view of what constitutes a 'machinegun' for Congress's."[23] What was so clearly a duck to Justice Sotomayor was a bird of an altogether different feather in the eyes of the majority.

The Supreme Court's decision to strike down the ATF's bump stock rule reflects a strict adherence to the letter of the law, even in the face of compelling public safety concerns. Where an agency interpretation operates as a de facto prohibition, the Court demands an exact statutory fit and shows little willingness to treat a weapon's functional equivalence as sufficient. Further, the majority's skepticism toward agency reversals reinforces a push for the separation of powers, as any expansion of the current statutory firearms prohibitions require an act of Congress. *Cargill* signals a judicial preference for parsing statutory mechanics narrowly when an agency interpretation would eliminate an entire category of devices from lawful civilian possession. This point of view sets the stage for the contrast with *Bondi v. VanDerStok*, where the Court accepted a comparatively broader reading of a different statute to sustain regulatory measures governing ghost guns. Read together, the cases illustrate that regulatory flexibility is tolerated when anchored in broad textual grants, but prohibitory interpretations face exacting scrutiny without clear and explicit congressional action. That distinction best explains the divergent outcomes of the Court's developing approach to federal firearms law.

III. Deference to Administrative Authority in the Presence of Statutory Clarity

When the Court in *Garland v. Cargill* found that the ATF did not have the authority to prohibit bump stocks, it relied on statutory interpretation, rather than an analysis of whether such regulation was or was not permissible under the Second Amendment. Similarly, the question in *Bondi v. VanDerStok*[24] was not whether the Second Amendment permits regulation of "ghost guns," but whether Congress, through the Gun Control Act of 1968 ("GCA"),[25] authorized the ATF to regulate ready to assemble weapon kits and partially complete frames or receivers. Unlike *Cargill*, which turned on a narrow, mechanical

22) Garland v. Cargill, 602 U.S. 406, 430 (2024) (Sotomayor, J. dissenting) (citations omitted).
23) *Id*. at 445-46 (Sotomayor, J. dissenting) (citations and quotations omitted).
24) Bondi v. VanDerStok, 145 S. Ct. 857 (2025).
25) 18 U.S.C. §§ 921-934.

definition in the NFA, *VanDerStok* implicated the GCA's broader definition of weapons.

Congress enacted the GCA to address growing concerns about firearm accessibility and traceability. Lawmakers found that existing regulations made it too easy for criminals to obtain untraceable weapons, often bypassing state laws by simple workarounds like purchasing guns through the mail. In response, the GCA introduced several new requirements: individuals involved in importing, manufacturing, or dealing firearms were now required to obtain federal licenses, maintain detailed sales records, and conduct background checks before transferring firearms to private buyers. Additionally, manufacturers and importers were mandated to mark firearms with serial numbers to aid in tracking.

The GCA's requirements serve two primary purposes. First, background checks aim to prevent firearms from falling into the hands of criminals. Second, licensing, recordkeeping, and serialization help law enforcement agencies investigate serious crimes by enabling them to trace firearms to their origin and ownership. GCA §921(a)(3) defines "firearm" broadly, to include any weapon "which will or is designed to or may readily be converted to expel a projectile by the action of an explosive", the frame or receiver of any such weapon, or "any destructive device."

Technology has come a long way since the GCA's enactment in 1968. The type and cost of equipment that precluded many would-be individual gunsmiths from constructing functional firearms at home has been superseded by innovations such as 3D printing and the availability of weapon parts kits, raising new challenges for regulation and enforcement. In recent years, companies began selling weapon parts kits that allow consumers to buy all the components of a gun, often including an unfinished frame or receiver. With such kits, most purchasers can assemble a fully functional, untraceable firearm at home in minutes, without any specialized technical skills. These home-assembled weapons are commonly known as "ghost guns." Because these kits were not technically "finished" firearms, manufacturers argued they did not have to follow the GCA's rules.

In 2022, the ATF implemented a new rule aimed at curbing the spread of ghost guns, invoking its authority under the GCA. This rule clarified that weapon parts kits and partially complete frames and receivers which can be readily converted into functioning firearms fall under the GCA's definition of "firearms," requiring manufacturers and sellers to comply with licensing, background checks, keeping sales records, and serial number marking. To determine whether a kit can be "readily" converted, the ATF would consider factors such as time, ease, expense, extent of change, necessary expertise, required equipment, and the availability of parts.[26] The rule additionally expanded the definition of a firearm's "frame or receiver" under the GCA to include partially complete or nonfunctional components that can be readily converted into working parts, making these components subject to the same regulations as complete firearms. The ATF noted that clearly unfinished

26) 27 C.F.R. § 478.11.

components like forgings, castings or unmachined bodies remain outside of the rule.[27] This expansion in the scope of the rule reflected the critical role frames and receivers play in firearm construction and aimed to close regulatory gaps exploited in the production of ghost guns.

The central question of whether the ATF's regulation concerning weapon parts kits facially conflicts with the GCA hinged on the definition of a firearm in 18 U.S.C. §921(a)(3)(A), which includes any weapon that either 1) expels a projectile by explosive force, 2) is designed to do so, or 3) can be readily converted for that purpose. This definition implies two conditions: a) the presence of a "weapon" and b) that it meets one of the three criteria. The Fifth Circuit held that weapon parts kits cannot meet both conditions and are therefore outside the scope of the statute. However, the Supreme Court disagreed, holding that some kits do meet both requirements, making the regulation valid in at least those cases.[28]

The Court rejected the plaintiff's argument that unfinished gun kits did not fit the definition of a "weapon" by explaining that the word "weapon" is an artifact noun, which is a term for something made by humans with a specific purpose. People often use such words even when the object is not finished, as long as its intended use is clear. The majority provided examples of this where someone might call a box of parts containing a "some assembly required" type of table a "table," or refer to an unfinished manuscript as a "novel." Similarly, a disassembled rifle is still considered a "weapon" because its purpose is obvious. In the same way, a kit which includes all the parts needed to make a gun can reasonably be called a "weapon," even if it takes some time to assemble, because its intended function is clear from the start.[29]

Congress clearly intended the term "weapon" to cover items that are not fully functional yet, and the applicable statute supports this view. It defines "weapon" to include objects not necessarily considered weaponry in the plain meaning of the word, such as starter guns, which do not fire bullets but can be easily modified to do so. Moreover, the statute does not just regulate guns that already work, but also covers those designed to fire or that can be easily converted to do so. Thus, kits which can quickly become operable firearms fall under the law's definition of a weapon and are subject to regulation.[30]

As to whether the ATF's regulation on unfinished frames and receivers is inconsistent with the GCA, the Court held that the GCA allows the ATF to regulate "at least some" partially complete frames or receivers, [31] with the caveat that this reasoning has limitations. The Court declined to presumptively hold that any set of parts that could eventually be

27) 27 C.F.R. § 478.12(c).
28) Bondi v. VanDerStok, 145 S. Ct. 857, 865-66 (2025).
29) *Id*. at 868.
30) *Id*. at 868-69.
31) *Id*. at 872.

turned into a frame or receiver with enough time, tools, and skill falls under the GCA. Like the term "weapon," the words "frame" and "receiver" have boundaries. Some items may be too incomplete to reasonably be classified as such. However, this case did not require the court to define those boundaries. The plaintiffs did not challenge how the ATF's rule applies to specific products, but instead argued that the ATF's rule is facially inconsistent with the GCA. On that point, the Court firmly disagreed.[32]

The Court declined to elaborate on the degree to which its reasoning might extend. The dissent warned that interpreting §921(a)(3)'s definition of a firearm of "the frame or receiver of any such weapon" to include unfinished frames or receivers could lead to unintended consequences under the NFA.[33] The NFA prohibits possession of "machine-guns," which it defines to include the "frame or receiver" of such weapons. The dissent argued that if the government applies a similar interpretation to the NFA, the ATF might classify the receiver of an AR-15 rifle as a "machinegun," simply because it can be converted to function as one. This, the dissent warned, could expose many law-abiding Americans to unexpected criminal liability for owning a widely available and commonly used firearm. The majority was not convinced, however, as the government stated that AR-15 receivers do not qualify as machinegun receivers under the NFA, and the ATF never suggested otherwise. Similarly, the Court's reasoning in this case was limited to interpreting the GCA and did not imply any authority for the ATF to regulate AR-15 receivers as machineguns under the NFA. Each statute must be interpreted based on its own language and context, and "without doubt, the NFA and the GCA are different statutes passed at different times to address different problems using different language. Our analysis of the GCA thus does not begin to suggest that ATF possesses authority to regulate AR-15 receivers as machineguns under the NFA."[34]

The Court thus held that the GCA permits the ATF to regulate some weapons parts kits and unfinished frames or receivers, and reversed the judgment below.[35] The decision potentially leaves manufacturers and sellers in the position of not being able to determine what does and does not violate the law without first seeking government approval. This presents an inherent risk of "arbitrary and discriminatory enforcement"[36] from regulatory uncertainty. When a law is not clearly defined, it leaves the "what is legal" decision to the whims of individual agency officials. If the ATF uses a "we know it when we see it" standard for weapon parts kits, manufacturers are at the mercy of shifting political winds. A product deemed legal under one administration might be deemed illegal in another via a new agency interpretation rather than a change in the law by Congress. A lack of a fixed

32) *Id*. at 874.
33) 26 U.S.C. §§ 5801-5872.
34) Bondi v. VanDerStok, 145 S. Ct. 857, 875 (2025).
35) *Id*. at 875-76.
36) Grayned v. City of Rockford, 408 U.S. 104, 108-09 (1972).

standard can push manufacturers into a state of perpetual regulatory uncertainty, where their business's legality depends on the current agency's subjective mood rather than a stable statutory text.

In an attempt to allay the concerns that the ATF's regulations may create ambiguities or leave manufacturers in limbo, Justice Sotomayor offered some guidance in a concurring opinion. "To the extent any manufacturer has doubts about whether a particular product qualifies as a covered firearm… it can eliminate uncertainty by seeking clarification from the agency. ATF encourages manufacturers to submit potentially covered products to the agency for classification decisions."[37] As long as such decisions are issued in a timely manner and consistently applied, the risk of arbitrary application is diminished in an open process. Were the ATF to engage in unreasonable classifications, the courts would still be open to future litigation by aggrieved parties. In practical terms, this approach trades some upfront statutory precision for an adaptable administrative mechanism.

VanDerStok exemplifies the emerging divide between regulation and prohibition. The Court accepted an adaptive, ordinary language reading of "weapon" and "readily converted," and it validated regulation that conditions market entry rather than eliminates an entire class of arms or accessories. Unlike *Cargill*, where an agency interpretation would have functioned as a ban, the Court here found sufficient statutory breadth to sustain regulations closely connected to the GCA's text and aims. Read together, the cases indicate that the Court will apply exacting scrutiny when agency action approaches prohibition, but may tolerate textual flexibility to sustain regulation within an existing statutory framework.

IV. Reconciling *Cargill* and *VanDerStok*

A cursory view of the decisions in these two cases indicate that they cut in opposite directions. Justice Gorsuch initially joined Justice Thomas's opinion invalidating the ATF's bump stock rule in *Garland v. Cargill*, yet authored the opinion sustaining the ATF's ghost gun rule in *Bondi v. VanDerStok*. On closer inspection, however, the decisions can be reconciled along the application of a consistent "text first" methodology to the applicable statutes. In each case, the Court determined that the government must follow the specific words Congress wrote, rather than the perceived intent or purpose of the statutory scheme.

In *Cargill*, the Court hesitated to give Congress the benefit of the doubt as to its true intentions when creating this statute. A narrow focus on statutory text was not always so strictly applied, however. When Congress passed the Chemical Weapons Convention Implementation Act of 1998 ("CWCIA"),[38] it was to ostensibly implement the international Convention on the Prohibition of the Development, Production, Stockpiling, and Use of

37) Bondi v. VanDerStok, 145 S. Ct. 857, 876 (2025) (Sotomayor, J. concurring).
38) 18 U.S.C. §§ 229 - 229F.

Chemical Weapons and on Their Destruction. The statute thus explicitly prohibited the use of toxic chemicals as weapons. The law was put to the test when Carol Bond attempted to seek revenge on a woman having an affair with her husband, by spreading chemicals on the other woman's car and mailbox with the intent to cause rashes, but not to kill. Although the victim suffered only a minor chemical burn, federal prosecutors charged Bond with violating the CWCIA. Rather than subjecting the statutory language to an intricate parsing that led to interpretations likely unforeseen by the drafters, the Court held that "as a matter of natural meaning, an educated user of English would not describe Bond's crime as involving a 'chemical weapon.' Saying that a person 'used a chemical weapon' conveys a very different idea than saying the person 'used a chemical in a way that caused some harm.'"[39] The Court thus determined that application of the CWCIA should not extend to local crimes despite the strict language of the law.[40]

The *Cargill* opinion was comparatively less focused on natural meanings. Even if the plain meaning of the NFA is narrowly read, when a term is seen one way in isolation, but becomes untenable when viewing the statute as a whole, "the context and structure of the [statute] compel us to depart from what would otherwise be the most natural reading of the pertinent statutory phrase."[41] In other words, common sense should prevail. For example, in *King v. Burwell*, the Supreme Court ruled that the Affordable Care Act's tax credits were available to individuals who purchase health insurance on federally facilitated exchanges, not just those established by a state, despite the actual text of the statute indicating otherwise. The Court concluded that denying these subsidies would destabilize the insurance markets and contradict the fundamental intent of the law. "Congress passed the Affordable Care Act to improve health insurance markets, not to destroy them. If at all possible, we must interpret the Act in a way that is consistent with the former, and avoids the latter."[42] Similarly, if the NFA was passed to limit the spread of automatic weapons, the Court could arguably have interpreted the NFA in a consistent manner to achieve the original purpose.

In a concurring opinion, Justice Alito noted that "Congress can act" and amend the law if it does not like the *Cargill* decision. But it is unrealistic to assume that Congress can promptly enact remedial legislation in response to the Court's narrowing of the provision. Because the Court decided that even though "[t]here can be little doubt that the Congress that enacted 26 U.S.C. §5845(b) would not have seen any material difference between a machinegun and a semiautomatic rifle equipped with a bump stock"[43] a Supreme Court

39) Bond v. U.S., 572 U.S. 844, 860 (2014).

40) *Id*. at 848, 866.

41) King v. Burwell, 576 U.S. 473, 497 (2015). Note that in this case upholding a key provision of the Affordable Care Act, Justice Thomas joined Justice Scalia's dissent.

42) *Id*. at 498.

43) Garland v. Cargill, 602 U.S. 406, 429 (2024) (Alito, J. concurring).

decision replaced Congress's intent on the matter with its own very narrow reading of a provision. If there was, indeed, little doubt that Congress would not have differentiated between a machinegun and a semiautomatic rifle with a bump stock, the intent of Congress is now subject to linguistic analysis and reshaping by the Supreme Court.[44)]

Nevertheless, the strict statutory interpretation in *Cargill* may be distinguished from *Bond v. U.S.* and *King v. Burwell* because the reasoning in *Cargill* left existing regulations covering other automatic weapons unaffected. While the primary regulatory effect of the statute is maintained, the *Cargill* majority emphasized that bump stocks do not change the fundamental nature of semiautomatic firearms. The technically precise statutory definition of a machinegun does mean, however, that even if a bump stock makes a gun fire as fast as a machinegun, the trigger still moves back and forth for every single shot. Because the physical "function" of the trigger happens multiple times, the device does not fit the narrow, technical definition written by Congress. This strict interpretation takes precedence over what may seem the obvious Congressional intent in its overall purpose for passing the law. For example, if Congress passed a law to regulate "aircraft" defined specifically as a "fixed-wing vehicle" to achieve flight, no amount of legislative sympathy could justify including a helicopter under that definition, despite the fact that both machines achieve the same end result of flight. The *Cargill* majority applied similar logic to the mechanics of the trigger. Even though a bump stock allows a shooter to achieve a rate of fire indistinguishable from a machinegun, it does so through a series of distinct mechanical "functions" where the trigger is released and reset. To the Court, a "machinegun" is not defined by its speed, but by its internal mechanical process, just as a helicopter is not a "fixed-wing" aircraft simply because it flies.

In contrast with the narrow reading of the applicable statute in *Cargill*, the Court in *VanDerStok* determined that the law's definition of a firearm was intentionally broader in comparison. The GCA defines a firearm as something that "may readily be converted"[45)] to fire a projectile. Unlike the machinegun statute, which has a rigid mechanical definition, the GCA explicitly includes things that are *almost* guns. The majority argued that a kit you can finish in a brief period of time with home tools is "readily converted" by the very definition of the words. Therefore, since Congress enacted a law that covers things that look and act like guns, such as kits, the ATF was actually following the text as legislatively

44) By shifting the issue back into the hands of Congress, the implication is that a ban on bump stocks would not be problematic for the Court. If Congress does manage to amend the NFA to specifically include bump stocks in a way the meets the majority's stringent construction of the language of the statute, the Court would have the opportunity to make a more controversial decision that would examine the text, history and tradition of the nation and preclude any Congressional prohibition of bump stocks altogether. *See* New York State Rifle & Pistol Ass'n., Inc. v. Bruen, 597 U.S. 1 (2022) and United States v. Rahimi, 602 U.S. 680 (2024) for the application of the history and tradition test to Second Amendment issues.

45) 18 U.S.C. § 921(a)(3).

authorized.

In both cases, the Court expressed deep skepticism of the ATF changing its mind after years of telling the public a product was legal. The *Cargill* opinion was critical of the fact that the ATF had considered bump stocks as legal for a decade prior to changing its position. The sudden about-face was viewed as an agency trying to "fix" a law because Congress was too slow to act. In *VanDerStok*, however, the Court identified a critical distinction: the principle of regulating unfinished parts was already an accepted practice that the plaintiffs themselves did not dispute.[46] Thus, in the majority's view, the *VanDerStok* ruling was not granting the ATF a new, invented power, but was instead a legitimate application of existing statutory authority to modern technological workarounds.

Justices in the minority in the *Cargill* and *VanDerStok* decisions may understandably believe that the divergent holdings should have been reconciled in their respective favors. In both cases, the Court was asked to determine whether the modern technological workarounds of regulation presented by bump stocks and ghost gun kits fall under the regulatory umbrellas of the NFA and the GCA. A unified conclusion could have determined that if a kit "readily convertible" into a firearm is legally a firearm, then a device that allows a weapon to function indistinguishably from a machinegun should likewise be classified as one. By failing to bridge this gap between *Cargill* and *VanDerStok*, the Court arguably created a legal paradox: it validated the ATF's authority to close loopholes regarding the physical components of a gun while simultaneously stripping that authority when a mechanical accessory achieves the exact high-capacity lethality the underlying statutes were designed to curb. Instead of strict statutory construction, the distinction between regulation and prohibition becomes the true deciding factor for agency authority. In *VanDerStok*, the Court's decision to uphold the ATF's rule essentially validates a regulatory framework, as firearms may still exist and be sold, provided they are serialized and subjected to background checks in compliance with the statute, while the Court's narrow reading in *Cargill* suggests a fundamental discomfort with prohibition. Because classifying bump stocks as "machineguns" would have effectively triggered an outright ban on their possession under the NFA, the Court required a level of statutory precision that the existing text could not meet.

Conversely, a unified conclusion could also have determined that the Court must prioritize strict textualism and the mechanical definitions set by Congress over the ATF's concerns regarding regulatory workarounds. In *Cargill*, the Court determined that a device's effect does not change its mechanical state of being. Following this reasoning, a collection of parts or a partially machined block of metal is not a "firearm" simply because it can eventually become one. In *VanDerStok*, the Court arguably allowed the executive branch to bypass the legislative process, expanding the definition of a "frame or receiver" to

46) Bondi v. VanDerStok, 145 S. Ct. 857, 874 (2025).

include items that are explicitly not yet those things. From this perspective, just as a bump stock remains a legal accessory because it does not meet the technical definition of a machinegun, an unfinished kit should remain a non-firearm until Congress decides to redraw the statutory lines, rather than allow administrative agencies to haphazardly draw and redraw the lines as the political winds may blow.

The NFA definition of a "machinegun" is narrow and mechanical, while the GCA definition of "firearm" is broad and includes terms such as "readily convertible." When read independently, each of the two cases follows a logical line following the separate statutes in its own isolation. With these two interpretations, the Court implicitly chose a middle path of textual fidelity moderated by institutional caution toward administrative prohibitions. Some clear guidance is formed from these two cases. Congress is now on notice that any prohibitory expansions must be expressed in unambiguous statutory language or risk having agency efforts to achieve bans via reinterpretation struck down by the courts. Agencies need to ensure that regulations are more likely to withstand review when accompanied by transparent classification processes and are not abrupt departures from set internal precedents. Lower courts also will likely be more cognizant of the regulation versus prohibition distinction when interpreting firearms statutes in future challenges. *Cargill* and *VanDerStok* set a framework sensitive to the difference between conditioning access to firearms and eliminating access. These cases are, however, unlikely to be the last word on the subject.

V. A Preview of What Lies Ahead: *Snope v. Brown*

The doctrinal tensions illuminated in *Cargill* and *VanDerStok* are unlikely to remain confined to administrative agency disputes. As states continue to regulate categories of firearms directly, the Court will be called upon to revisit *New York State Rifle & Pistol Association v. Bruen*[47] to clarify the application of its history and tradition framework. *Snope v. Brown*[48] represents an early indication of how these questions may return to the Court in a manner that implicates not administrative overreach, but the Second Amendment's constitutional limits on legislative authority.

The core question in *Snope* moved beyond whether an agency has exceeded its statutory authority and instead asked whether the legislative branch itself has the power to ban a class of firearms, such as AR-15s, that are in "common use" by law-abiding citizens. In response to rising gun violence and mass shootings, Maryland enacted the Firearm Safety Act of 2013,[49] which banned the sale and possession of certain military-style assault weapons. The constitutionality of this law under the Second Amendment was previously

47) New York State Rifle & Pistol Ass'n., Inc. v. Bruen, 597 U.S. 1 (2022).
48) Snope v. Brown, 145 S.Ct. 1534 (2025).
49) Md. Code Ann., Crim. Law § 4-301 - 4-306.

upheld in 2017,[50] but the *Bruen* decision introduced a new framework for evaluating Second Amendment challenges under a "text, history, and tradition" test.[51] Applying *Bruen*, the United States Court of Appeals for the Fourth Circuit on remand reaffirmed its earlier conclusion that these weapons are not protected by the Second Amendment because they are weapons of war designed for combat rather than self-defense, and that Maryland's law fits within America's historical regulation of dangerous arms. The circuit court emphasized that its ruling neither imposed Maryland's standards on other states, nor did it dictate how states should regulate firearms. Ultimately, the court held that *Bruen* does not require abandoning historical precedent or the principle of self-governance in firearms regulation.[52]

The Supreme Court denied plaintiff's petition for certiorari,[53] leaving the Fourth Circuit's decision in place. Two members of the Court, however, issued separate statements underscoring the continuing doctrinal uncertainty. Justice Kavanaugh pointed to the Second Amendment's protection of the right to own handguns as determined in *Heller*, as they are "in common use" by law-abiding citizens.[54] This "common use" standard remained intact in subsequent rulings, including *Bruen* and *Rahimi*,[55] reinforcing the idea that widely owned firearms are presumptively protected under the Second Amendment.

Justice Kavanaugh noted that the petitioners in *Snope* challenged Maryland's ban on AR-15 rifles, which are owned by tens of millions of Americans and permitted in the majority of states. Given their widespread lawful use, petitioners argued that AR-15s meet the "common use" threshold and should be protected under *Heller*. The difficulty in distinguishing AR-15s from handguns, as many handguns are also semi-automatic and used for self-defense, raises questions about the Fourth Circuit's ruling upholding Maryland's ban. Kavanaugh criticized the Fourth Circuit's decision as "questionable" under existing Supreme Court precedent, and emphasized that the denial of certiorari does not indicate agreement with the lower court. Although the Supreme Court declined to hear the case now, he suggested that the issue should be addressed in the near future, especially as other appellate courts continue to weigh in on similar bans.[56]

Justice Thomas took a more pointed approach in his dissent.[57] He argued that Maryland's ban on AR-15s violates the Second Amendment under the framework estab-

50) Kolbe v. Hogan, 849 F.3d 114 (4th Cir. 2017), abrogated by New York State Rifle & Pistol Ass'n, Inc. v. Bruen, 597 U.S. 1 (2022).
51) New York State Rifle & Pistol Ass'n., Inc. v. Bruen, 597 U.S. 1 (2022).
52) Bianchi v. Brown, 111 F.4th 438, 441-42 (2024).
53) Snope v. Brown, 145 S.Ct. 1534 (2025).
54) Snope v. Brown, 145 S.Ct. 1534, 1534 (2025) (Kavanaugh, J. statement respecting the denial of certiorari).
55) United States v. Rahimi, 602 U.S. 680 (2024).
56) Snope v. Brown, 145 S.Ct. 1534, 134 (2025) (Kavanaugh, J. statement respecting the denial of certiorari).
57) Snope v. Brown, 145 S.Ct. 1534, 1534-1539 (2025) (Thomas, J., dissenting).

lished in *Bruen*, which requires historical analogues for any contemporary firearm prohibition, and that Maryland identified none. He emphasized that AR-15s are clearly "arms" under the Second Amendment, with no historical analogue to Maryland's law categorically banning a widely owned class of firearms. He rejected the lower court's reliance on the application of a "dangerous and unusual" rationale as applicable to AR-15s, as both conditions are required to be met, yet AR-15s are neither unusual nor uniquely dangerous. He further criticized the Fourth Circuit's reliance on speculative hypotheticals to reject the "common use" test, calling it a distortion of precedent.[58)]

Snope thus pointed to a further judicial skepticism toward prohibitions, whether administrative as in *Cargill,* or legislative as indicated by Thomas in *Snope*, when the relevant text or historical tradition does not clearly authorize them. The contrast with *VanDerStok* is instructive, as the Court accepted regulatory measures governing ghost guns grounded in broad statutory language. Nothing in *VanDerStok* eliminated a class of weapons from lawful possession. Conversely, *Snope* presents the prospect of a full legislative ban on a type of firearm lawfully owned by millions of citizens. If the Court is increasingly reluctant to uphold prohibitions in the statutory context absent explicit authorization, it may be equally reluctant to permit legislative prohibitions absent clear historical analogues. Thus, *Snope* offers a potential preview of the next major test of whether the Court intends to expand, limit, or recalibrate the framework for firearms regulation it announced just a few years ago.

VI. Conclusion

While the Supreme Court has consistently emphasized fidelity to statutory language in its recent firearms decisions, its rulings demonstrate a deeper judicial philosophy that distinguishes between regulatory measures and prohibitory ones. Although the Court consistently frames its reasoning as a faithful application of statutory text, its decisions in *Garland v. Cargill* and *Bondi v. VanDerStok* demonstrate an uneven degree of interpretive rigor depending on whether an administrative action restricts access to firearms or merely regulates their distribution and traceability.

In *Cargill*, the Court struck down the ATF's bump stock ban, narrowly interpreting the definition of "machinegun" and rejecting the agency's attempt to expand its regulatory reach. The decision focused on the interpretation of the NFA, which regulates machineguns and other specific categories of firearms. The Court's insistence on mechanical precision over functional equivalence reflects a broader reluctance to endorse administrative interpretations that operate as categorical bans without explicit congressional authorization.

In a contrasting decision, the Court in *Bondi v. VanDerStok* upheld the ATF's

58) *Id*. at 1535-37 (Thomas, J., dissenting).

regulation of unfinished frames, receivers, and weapons kits, emphasizing the breadth of the GCA's reference to firearms that "may readily be converted" to expel a projectile. There, the Court accepted a more adaptive reading of statutory language, permitting administrative regulation aimed at closing technological loopholes that enable the production of untraceable weapons. Unlike the outcome in *Cargill*, the regulatory framework in *VanDerStok* did not eliminate access to an entire class of firearms. Instead, it governed the conditions under which they enter lawful commerce. In upholding the ATF's authority to regulate unfinished gun kits and frames, the Court recognized the evolving nature of firearm technology and the need for administrative flexibility within statutory bounds.

Taken together, these decisions suggest that the Court is not uniformly hostile to firearms regulation, but rather is skeptical of prohibitive measures that lack clear and explicit congressional authorization. The Court appears willing to permit regulation when the statutory language is sufficiently broad or adaptable, but resists interpretations that stretch beyond the plain text, particularly when such interpretations result in outright bans of weapons or accessories for civilians. Holding that bump stocks are machineguns would have effectively made all bump stocks illegal. However, regulating ghost guns does not prohibit a class of firearms. Rather, it restricts the sales and manufacturing process but not the completed, fully assembled product when created in compliance with GCA regulations. This emerging divide carries significant implications for the future of federal firearms law, particularly in areas where technological developments outpace statutory language and place increased pressure on administrative agencies to adapt existing regulations.

As litigation continues to test the boundaries of the Second Amendment and the scope of administrative authority, this distinction between permissible regulation and disfavored prohibition will shape both legislative drafting and judicial interpretation. Upcoming cases will provide the Court with further opportunities to refine, reinforce, or reconsider the emerging jurisprudential pattern suggesting that the Court is not categorically opposed to firearms regulation, but it is deeply skeptical of administrative interpretations that function as de facto bans. Whether the Court ultimately embraces a coherent framework or continues to navigate firearms disputes through case specific analysis, its recent decisions make clear that the line between regulation and prohibition will remain central to the development of the Court's evolving approach to firearms law.