

NANCY M. TINGTON, CLERK  
COURT

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Under 18 U.S.C. § 925(c), an individual “prohibited from possessing, shipping, transporting, or receiving firearms or ammunition may make application to the Attorney General for relief from the disabilities imposed by Federal laws” and, if denied, may seek judicial review “of such denial” in the United States district court. *Id.*

During the course of this litigation, defendant obtained a copy of the petition at issue and responded by letter of June 28, 2007. Def.’s Mot., Declaration of Philip A. Awe ¶¶ 7-8. Defendant rightly informed plaintiff that it could not act on his petition because Congress has prohibited the use of appropriated funds for investigating and acting on such petitions since 1992. Awe Decl., Ex. 2; *United States v. Bean*, 537 U.S. 71, 74-5 (2002). ATF’s inaction “does not amount to a ‘denial’ within the meaning of § 925(c),” *Bean*, 537 U.S. at 75, and, absent “an actual denial of respondent’s petition by ATF,” judicial review is not available. *Id.* at 78; accord *Mullis v. United States*, 230 F.3d 215, 217-21 (6<sup>th</sup> Cir. 2002) (surveying cases) (dismissing case for lack of subject matter jurisdiction). See 5 U.S.C. § 704 (authorizing judicial review of “[a]gency action made reviewable by statute and final agency action”).

## *2. Plaintiff Fails to State a Constitutional Claim*

Plaintiff has not articulated a cogent argument with regard to his constitutional claim. On a developed record based on facts similar to those presented here, however, a district judge of this Court found no violation of the due process clause stemming from, *inter alia*, “the absence of a mechanism for the restoration of federal firearms privileges.” *Black v. Snow*, 272 F. Supp.2d 21, 28 (D.D.C. 2003) (Huvelle, J.). To the extent that plaintiff’s constitutional claim survives, the Court hereby adopts Judge Huvelle’s reasoning and rejects the claim. See *id.* at 32-35.

For the foregoing reasons, the Court concludes that it lacks subject matter jurisdiction over the statutory claims and that plaintiff has failed to state a constitutional claim. A separate Order accompanies this Memorandum Opinion.

  
RICHARD J. LEON  
United States District Judge