

Gun Lawyer S1 Episode 4

SUMMARY KEYWORDS

gun, mental health, new jersey, guns, firearms, expungement, rights, problem, Dave, state, gun rights, Garand, nics, commitment, lawyer, anti, gun owners, doctor, mental health issue, collector

00:18

Welcome to Gun Lawyer. I'm Attorney Evan Nappen. What I want to talk about, so I'm going to tell you an interesting story. You see, I've been practicing gun law for well over 30 years, and I've represented all kinds of folks in every type of gun situation. I've practiced in the toughest gun control state in the country, which is New Jersey. In doing so, a lot of times my experiences have given me pause for reflection -- thinking about how bad the system is and what it does to people.

01:05

But what I want to tell you about today is, without a doubt, one of the most scariest situations I was ever in as a person practicing gun law as Gun Lawyer. Here's how it went down. You see, I'm fully immersed in our wonderful gun culture. I'm a collector, I'm a shooter, I hunt, I do everything that involves firearms you can legally do and really have a passion for gun collecting. I'm proud to say that I've been a life member of one of the largest gun collector organizations on the East Coast. They have great gun shows, and I've been going to gun shows since I was 17. If any of you know the Forks of the Delaware Weapons Association, what's affectionately known as the Allentown show, that's been a show that I've been going to since I could drive.

02:09

Well, I've made friends and acquaintances there from the Allentown show, met top notch collectors and folks that really know their stuff, and it's really a great experience. If you ever get a chance to go to the Allentown show, by all means go. One of the folks that I knew well from the Allentown show who was a collector and also a dealer and very knowledgeable, one of the most knowledgeable guys in terms of historic firearms. Well, he had an FFL in a gun store down in the south, but he resided, and originally came from New Jersey in the north. During the summer months, he would be up in New Jersey. He had a very nice house on the shore, large house near the ocean, and he had his personal firearms there. When he would close up down south, he would bring his inventory with him, and he would secure it in his home in Jersey. He didn't want to leave it just sitting there unattended, but he didn't deal in firearms in New Jersey. He was strictly a dealer in the Southern Carolinas where he had his shop and all that he enjoyed.

03:32

So, he's in his home, and he has his firearms - all his personal collection and guns that he has secured from his business. One day I'm driving, and I get a call from his wife. And his wife says, "Listen, the State Police are here, and they're raiding the house." She's very upset, and my buddy, Dave, he's very upset. "You need to need to come over here because we don't know what to do." I said no problem.

So, I immediately went to the house where they were. Upon going in there, I saw there was half a dozen State Police, and they were taking his firearms out of the house. I'm like "what's going on"?, Apparently they for some reason believe that he was acting as an unlicensed New Jersey dealer, which he was not, okay. We later were able to show this was not the case at all, but didn't matter somehow they got this bad information and ended up raiding and seizing his guns.

04:44

Now, you see Dave was a really interesting guy because not only was he a collector and a historian, but he also was a veteran of the Korean War. He was formerly a tank commander in the Korean War, and he fought in the Battle near Yalu River. He's known as one of the chosen frozen, chosen whatever they call them, and he was there, been there done that, and he was a very experienced guy when it comes to that. Dave was also a fierce patriot and believer in America and in our rights. So, when I got there, I ran into his wife and I said, "Okay, I see the State Police are doing this." They had the papers, they had the warrant, they had what they were doing. So, okay, where's Dave? Well, I don't see him. "I think he may be upstairs". Upstairs was his office, where he had his private office up there and a number of his personal firearms and other things. So I said, "Okay, I'll go up there, and I'll see what is going on. I can talk to Dave more about the police just taking all his guns out to the van and loading them up and taking everything." He hadn't been arrested yet, because this was the search warrant part. I get up there and get up to the third floor.

06:15

As I'm about to knock on his office door, Dave opens the door and comes out of his office, and he is holding his M1 Garand rifle. He is locked and loaded. He's got his bandoliers with the eight round on block clips, all loaded up, everything's ready to go. He is going down the stairs to fight for his rights, and I grabbed him. I said, "Dave, what are you doing? He said, "Evan, I can't take this, I can't stand this. I'm not gonna, I'm not gonna put up with it", and I stopped him right there. He's holding that Garand, and he's ready to go down. And I'm like, Dave knows how to handle a Garand really well, using it to save his life in Korea many times. He is very skilled, and even though he's an older guy, they don't have a chance down there because with .30-06 military ball, there is no vest, if anyone is even wearing a vest, that are going to contain the round that's coming out of that Garand rifle. I grabbed Dave and I say, "Dave, no, no, listen, listen, don't do this, please don't do this." I said, "what's important here is not your guns, but you - and think about your wife. Think about that if you do this, they're gonna end up killing you and your wife could get injured." I said, "the bottom line is we can fight them in the system, and we'll get your guns back, we'll get this resolved. Please Dave, don't do this." And he was dead set. I mean, he was ready to do it. This was no idle threat. This was that moment. He's looking at me, and I'm looking at him. We're either going to have a whole bunch of dead New Jersey State Troopers and a whole mess go down or it was going to end right there. I'm looking at him, and he's looking at me, and he just hands me the Garand. I immediately open the action, get the ammo out, and tell him that it's gonna be okay, which it will be. We're able to even give that Garand to the police as they were confiscating guns. They never knew, those police never knew, how close they came to an absolute mess going down. Afterwards, they were very thankful - Dave and all. We were able to get everything resolved and get everything returned. And it did work out.

09:18

So, what are the lessons here? The lesson here is a couple things. Number one - As much as this is extremely upsetting, and it's very, it's very emotional; if you're ever the target of a raid and have your personal possessions seized from you, you need to remember that we do have a system that can work. With the right representation and using the system as it's designed, you can succeed in getting your firearms back and your gun rights back. I have done that many, many, many times throughout my entire career. I can't even count how many times. So don't lose hope, and don't fall to a desperate situation that will make things worse for so many others, including yourself. Now, with all that being said, I think many times that the anti-gunners have no clue as to the emotional investment that gun owners have in their guns and in their rights. And things now are not looking good. Because if the Democrats push their gun control schemes to basically eliminate the Second Amendment, they have no clue what they're dealing with. They just don't. They don't understand the emotional tie, the dedication that we have to our rights, and how easily these things can go south very quickly. It's just going to create unbelievable danger to both law enforcement and otherwise law-abiding citizens. It's as foolish as foolish can be. So I hope we don't see it. But keep in mind, part of Joe Biden's platform, which includes all the gun bans, and everything else is a relinquishment program to ensure that gun owners of the guns that they're banning and outlawing, are forced into relinquishment, which means this very thing -- coming to take your guns. I think it's a very dangerous and deadly situation, and you never hear the anti's even consider that aspect. But we need to, so you need to think ahead and realize that we still have a system we can fight within and do it within the law and not end up threatening ones we love or others. Beware - because gun seizures are going to be more and more an issue. So, when we come back, I want to talk to you about an important issue in guns called a "mental health disqualifier", where they treat mental health as a crime.

12:22

For over 30 years, Attorney Evan Nappen has seen what rotten laws do to good people. That's why he's dedicated his life to fighting for the rights of America's gun owners. A fearsome courtroom litigator fighting for rights, justice and freedom, and unrelenting gun rights spokesman tearing away at anti-gun propaganda to expose the truth. Author of six best selling books on gun rights, including Nappen on Gun Law, a bright orange gun law Bible that sits atop the desk of virtually every lawyer, police chief, firearms dealer, and savvy gun owner. That's what made Evan Nappen America's Gun Lawyer. Gun laws are designed to make you a criminal. Don't become the innocent victim of a vicious anti-gun legal system. This is the guy you want on your side. Keep his name and number in your wallet and hope you never have to use it. But if you live, work, or travel with a firearm, the deck is already stacked against you. You can find him on the web at EvanNappen.com or follow the link on the Gun Lawyer resource page. Evan Nappen - America's Gun Lawyer.

13:45

You're listening to Gun Lawyer with Attorney Evan Nappen. Available wherever you get your favorite podcast.

14:01

Hey, we're back here on Gun Lawyer. I really appreciate having the opportunity to speak to you. As a matter of fact, if you get a chance, please tell your friends to listen to the Gun Lawyer podcast. We can get our message out to more and more folks so we can protect our rights and save our guns. So, don't

forget to subscribe and to rate our program as we try to make it grow. Because you know how we have to deal with big tech, and they're not exactly our friends. So, we want to stay in good graces there and keep the show going. I appreciate all your help. Any kind of high review you can give us, makes it get higher and proves our standing and gets more and more the message out to protect our gun rights. So please, please do that.

14:52

Well, I want to talk to you about mental health. And you see, as I'm sure most of you know, possession of a firearm by a felon is prohibited under Federal law and states have state laws. This is an issue but everyone seems to know, you know, felon in possession, you got a problem and you're barred. Well, what a lot of folks don't necessarily realize is how mental health can also make you the equivalent of a convicted felon. If you've ever been committed to an institution and even though you've been cured, or recovered, doesn't matter, you now have a disqualifier under Federal law makes you the equivalent of a convicted felon. And you're barred and banned from gun possession, even though you may be completely fine and healthy, and no longer have those mental health issues. This mental health commitment bar, which is in the federal law, states like New Jersey, particularly, they go even further. It's really amazing and scary how much further New Jersey goes. So, this is the kind of thing that we're gonna see happening federally, as the anti-gun Democrats push it, and they use states like New Jersey as the petri dish, so to speak -- to test these things and then make them into Federal laws. So, in New Jersey, the problem we have with the mental health commitment being a prohibitor is even a voluntary commitment (if you checked yourself in because you wanted to get help) becomes a New Jersey statutory disqualifier. We've seen as well in New Jersey is there's no distinction, by the way, between juvenile mental health and adult mental health commitments. So, if your parents when you were literally eight years old (because I've had this case) put you in a mental health facility, for whatever reason, that's a mental health commitment. Lots of times I've seen it, you know, when the parents were just unable to assert their parental control properly, because really, it's often the parents that had the problem, not the kid, but they put them in the institution to solve their problem. That's a mental health commitment. Same as if you were committed as an adult to the mental institution. And of course, it's an involuntary commitment because you're committed by your parents. They created a disqualifier on you, both federal and state, often.

18:12

To top it off, mental health is a tough issue when it comes to guns. Because most of the time, particularly the so-called mass shootings, they are most of the time somebody who has a mental problem, okay. Many times they're even documented with their mental health issues. When you look at the Virginia Tech atrocity that occurred, we had a mental health issue in a person using the firearm to kill others. And it's an atrocity and by the way, these are atrocities, not tragedies. Tragedy somehow implies that we're to blame that, you know, it was a tragedy. We call it an atrocity is what it is or atrocities anytime you have these horrible killings that take place.

19:04

In response to the Virginia Tech killing, the Federal government passed the 2007 NICS Improvement Act. Under the NICS Improvement Act, it's set out to encourage states to put the mental health records into the NICS system because they didn't have a lot of these mental health records in. The feds offered

millions of dollars, millions, to the states if they would put the data into the NICS database. New Jersey never willing to pass up any money that the Feds offer, immediately seized upon it and put in 57,000 juvenile mental health records, 57,000 juvenile records. In addition to the monies, there was a little rider, a little catch, that NRA was able to get through. If you wanted the money, you had to put the data in, but also, you had to establish a mental health expungement in your state, so that you could at least expunge and get rid of your mental health record if you could meet the qualifications to get it expunged. So, once you get a state expungement of your mental health records, then it's no longer a federal or state disqualifier. So that is a good thing to keep in mind.

20:41

But so many people don't realize that their commitment is a problem and in New Jersey even a voluntary commitment is a problem. So, many people didn't know about the juvenile records. I've had many, many cases where because we treating mental health as a crime (which itself is outrageous), I've had people that have bought and owned guns and had gun licenses and been doing it for years. Then they go to buy a new gun, and they get denied on a NICS check. They're like, why am I denied, I've always been approved, I didn't do anything. Suddenly they realize that their record when they were eight years old, because their parents put them in a mental health facility because the parents were bad at parenting didn't matter; they're now a prohibited person, the equivalent of a felon. They have falsified their 4473 Form so they can be prosecuted for lying on the form where it asks if you had a mental health commitment. Then any guns they possess were the same as felon in possession, so they can have their home raided, and their guns taken. They can be charged with being a prohibitive person in possession, and the whole thing snowballs into a hell for that person over mental health, my friends, mental health.

22:10

In New Jersey, if you even see a psychiatrist, or a doctor about any mental health condition, you are asked on the Jersey licensing Form about that, and you have to say what psychological, any treatment, any evaluation, whatever it is, you've got to write it down. When you write that you got depressed after your father died, you had to talk to a psychiatrist and even put you on some meds for a while, and then you were fine. Doesn't matter. Now, you're going to have to get a medical report or letter or proofs that you are not a danger - simply because you saw a doctor (not even get a commitment). That's how extreme it is. And of course, in the process of this, there is no medical privacy in New Jersey. It's a joke - doesn't exist. You're forced to have to reveal what should be private medical records and treatment. Oh, but New Jersey's fine with it. Because it's simple. It's real simple. They'll say, if you don't want to reveal it, then you don't want a gun. But if you want a gun, you got to reveal it. That's all. It's fair, right? So they intrude on our privacy, intrude on a medical privacy, create disqualifiers and hurdles and burdens so that we can't exercise our rights. They make mental health a crime, which has the effect of discouraging people from getting the mental health help.

23:53

Because if you're a gun person and you know this (because you've heard the horror stories), and you would love to get mental health treatment, you know that you can't do it because they'll take away your gun rights. It will become a licensing disqualifier. You'll now face confiscations and seizures and requisitions. You know what Germans called this - the appropriation right - they would take your

property. So, this is really a problem. It snowballs and becomes more and more of an issue. What did you do to cause it? All you did was try to get help. And so the idea is, it discourages it. Now let's just say you've seen a doctor or you had some minor treatment or you had some voluntary commitment, and everything's all good now. You're 100% fine. You've got to provide the proofs and those proofs mean a doctor or psychiatrist has to write the report that you're recovered and okay. You need that to get the mental health expungement. You need that to overcome the gun disqualifier. And guess what? Doctors don't want to write that. You know why they don't want to write it, because they're afraid of the liability.

25:26

The medical establishment, of course, is anti-gun and pushes an anti-gun agenda. They want to run it through your health insurance as well. And make note that you have a gun. Why does your doctor ask if you've got a gun? Why is that a health issue? Right? But they do. This is all part of it. You try to get that guy, that anti-gun guy, or maybe he's pro-gun, but still, he doesn't want to put his name on the line saying you're okay for guns because of the off chance that you do something stupid. He's afraid he's gonna be blamed, and then he's gonna end up having to have his malpractice insurance go up. You know, just a bad situation. So good luck finding the doctor that's willing to say you're okay for guns. So, this is a compounding problem, and it all initiates because you sought help. Think of what our system is doing here. Our system is creating a discouragement to seeking mental help. Yet at the same time, they'll have public service ads. You know, if you feel depressed, seek help. You see it all the time - get help, don't be afraid, don't start a stigma, all the good stuff to get help which is all fine, you should be helped. If you need help, you should get the help.

26:56

I agree. But the consequences of it are now costing you your Constitutional rights, your property, subjecting you to criminal sanction. It is a disgusting sin, what the government has done regarding that interplay between mental health and guns, and it is creating the opposite effect. It needs to be addressed. It needs to be changed so that mental health is not treated like a crime, that it doesn't have these consequences that end up causing people not to get the help they may need and then having this entire world of smelly stuff come down on their head. Because that's what happens, folks. I've seen it over and over again, and it's really a problem. It is a problem that is getting worse., and the anti-gun folks want to make this even more.

28:10

Now they've piled on Red Flag, you know - Extreme Risk Protection orders into the mix, that are readily getting abused. They put in Duty to Warn - where if you even have any issue with a firearm with a doctor, they have to tell the police about it. They're forced to betray your medical privacy. I mean, the list goes on and on, creating the opposite effect and endangering our rights, and folks that need to get the help. It's an absurdity. But keep it in mind. If you know anybody that has a problem or they have a commitment, the one thing is that it's possible to get their rights restored. That's the thing to do to take advantage of a mental health expungement if it's offered by your state, not all states even offer it by the way.

29:08

For example, in contrast, even though New Jersey is so outrageous about it, they do have the ability to get an expungement. Other states, for example, like New Hampshire do not have a mental health expungement. So, if you had a mental health commitment in New Hampshire, you're done. You're a prohibited person with no way to even get your rights restored even though you are now fine. I've had clients that 30 years ago had an issue. It was a temporary mental health issue; but because they had a commitment, they can't get an expungement. They're burned out of their gun rights with no way to get their rights back. For what - because they had a medical issue. Like I said they turned them into criminals. So, be aware of this. If you're able to get the relief, take advantage and get that relief, get your rights restored. Just beware of the consequences that can flow from a mental health record.

30:16

Well, my friends, I appreciate your listening. Keep a fellow gun owner from becoming a law-abiding criminal. Please tell them to listen to the Gun Lawyer podcast and visit our website at gun.lawyer. Till next time. This is Evan Nappen, reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

30:48

Gun Lawyer is a CounterThink Media Production. The music used in this broadcast was managed by Cosmo Music, New York, New York. Reach us by emailing Evan@gun.lawyer. The information and opinions in this broadcast do not constitute legal advice. Consult a licensed attorney in your state.