

Gun Lawyer Transcript S1 E9

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SPEAKERS

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Evan Nappen 00:19

I'm Evan Nappen, and welcome to Gun Lawyer. Today, I want to tell you about some interesting things that I think will help protect you, and the way we do this is to learn from what has happened to others. I've been practicing gun law for over 30 years. I've done hundreds of cases, and some of them really have lessons to be learned. It's astounding as to what the system can attempt to do to people, especially in a state like New Jersey, where the laws are so bad, and the anti-gun bias is so thick and heavy. They have this agenda to fit a narrative, and we're up against it when these charges of firearm-involved matters get made and pursued. So, I had this one case that really is a great example of an absolutely law-abiding collector who was unbelievably meticulous in his record keeping and everything that he did. He got a C&R - Curio and Relic Federal License. His books were just perfect, and he had documentation on everything. He was following the law 100% to the letter, absolutely, doing it correctly. What happened was, and this is where, particularly if you live in New Jersey or other bad states, I would highly recommend not getting a CNR license. That's the Federal Curio and Relic license, sometimes called a Collector's License. It does allow you to acquire certain C&R firearms that are older than 50 years and are on the list of Curio and Relics. You can buy them even through the mail and have it shipped to you because you're now a federal licensee. It's a Collector's License, and folks like it for that reason. But the problem is, New Jersey can access and really anyone can access the list of FFLs. It's publicly put out there as to who has licenses. When this case took place, the New Jersey State police took the list of FFLs which included Curio and Relic licensees, not just retail dealers, and they ran it against the New Jersey Retail Dealer License, which is a separate state license. When it came up with folks that had FFLs but did not have a state license, they used that as the pretext to raid these individuals as being unlicensed dealers. Even though a Curio and Relic License has nothing to do with being a gun dealer. It's just the opposite your gun collector, but they didn't care. This particular client was a subject and became a victim of this game. When they came and raided his house, the Feds and the State Police worked together. It's like the old silver platter situation where the Feds send in someone to talk about the Federal License and then gives the information to the state. Then the state jumps on it and does the raid. That's what they did to my client. They raided and seized from him all his wonderful collectible firearms. They seized his books that he kept, and they took his magazines. They ended up charging him with a series of New Jersey gun laws including: being an unlicensed New Jersey dealer; unlawful acquisition of handguns; possession of an assault firearm; possession of large capacity magazines, etc. They just slammed him with a dozen felony-level offenses where he was

looking at lots of time. But you see, there's only one problem - that was he was completely innocent of every charge. And I mean, absolutely bona fide innocent. So, I brought a Motion upfront to Dismiss the Indictment. I was able to show, as a matter of law, that he was completely legal, did not unlawfully acquire anything, and was legal for everything. The judge was a good judge, and he read the papers and agreed. He said your client really, as a matter of law, did not break any of the laws, even though he was put through this horrible experience, and arrested and all that and jailed, and they had to get him out of jail, and all this happened. But yes, he agreed, and he dismissed the case. And that's great. And, hey, it's a lesson. This is one of the problems you open yourself up to in these bad anti-gun states like Jersey. If you have a CNR, it can be abused and misinterpreted. That would all be fine and dandy, and a shame that he had to go through any of that, except for one thing. When you get something dismissed on motion, a lot of folks might be surprised to learn that there's no Jeopardy. Double Jeopardy doesn't exist. In other words, most of us know that you can't be tried twice for the same offense. Right? Well, that's the key there, tried twice for the same offense. When you dismiss it on motion, there hasn't been a trial. So, Jeopardy hasn't attached. That's what they say Jeopardy hasn't attached. So, if the State wants to, they can rebring the charges if there's "new evidence". They're able to do it, because it's not a dismissal with prejudice, it's a criminal matter. It's a dismissal that did not have jeopardy because a jury never was seated on it. That's just what they did. They rebrought the exact same charges, and this is insane. They claimed to have a little bit more evidence, but it was nothing. They abused their discretion, frankly, in doing it, but they did it anyway. Now, we were standing again on the exact same charges that the judge dismissed. So, I think, what should I do? What do you do? I'll tell you what I did, and it may be surprising to a lot of you. Because I know we treasure all our Constitutional Rights, and we treasure, of course, the right to a jury trial. But it's not always a good idea to have a jury trial. You've got to think about it because you have a right to a jury trial, but you also have a right not to have a jury trial. Sometimes it's more important not to have a jury trial. Because think about this, I just had a judge agree with me on all the law and dismissed the case. The prosecutor now brings the same exact indictment. So, I demanded that we have a trial without delay, have a trial, and that it be a bench trial, meaning a trial without a jury, and that my client was waiving his right to a jury. When we waived the right to a jury, which was his right to do, the State objected, the State objected. Now, why do you think the State objected? The State objected because they wanted 12 dummies. Twelve people not smart enough to avoid jury duty that they could fool about guns and confuse about guns and the gun laws. It wasn't happening on my watch. So, we get a trial in front of this judge, and it's fine. It's a bench trial, and it's great. We go to trial, and this is where it's absolutely insane. The state's expert is the largest ass I've ever seen. I mean, this guy wins the prize. How he got qualified as an "expert" to this day I have no clue, but this is who the State was using. What this expert said was a number of things. Number one, he said it was an assault firearm and met the definition. These were large capacity magazines and met the definition, and that he's an unlicensed dealer, and he was all about this. Well, let me tell you, I had the trooper on the stand. Okay. The state trooper that made the arrest. The Trooper is on the stand, and I said "You charged him originally when you found this AK- 47. semi-auto. You charged him with possession of an assault firearm, didn't you? He said, "yes, I did." I said that assault firearm is listed on the list as an assault firearm, isn't it? "Yes, it is, sir." I said, "However, there's one exemption in Jersey that says if it's been rendered inoperable, and he's filed a Certificate of Inoperability, which you were only allowed to do between May of '90 and 91. Then that was an exemption that allowed for him to continue to possess it. Isn't that true?" "Yes, it is". I said, "At the time when you seized it you didn't know whether that had happened, right?" "No, I didn't." "But now

with the forensic report back, you see that the gun was in fact rendered inoperable, didn't you?" "Yes, sir. I did." "Also, now you've seen that he has an actual Certificate of inoperability. Properly filed, don't you?" "Yes, sir. I do." I said, "Trooper, do you have any problem with him having this gun now?" "No, I absolutely do not. He's legal." And I said, "Thank you." Then State's so-called expert witness gets on the stand after the State's own law enforcement witness just said it's absolutely good. But no, State's expert says it's still illegal. That doesn't matter. That doesn't count. Based on what? Pulling it out of his butt. No, the law is the law. This guy was unbelievable. So, we get into a discussion over whether his guns were lawfully acquired. Under a C&R license, he's allowed to make acquisitions out of state without a New Jersey pistol purchase permit. And it was legal for him to bring them back. Absolutely. It does not have to be registered because registration is not required in New Jersey, only on acquisition in New Jersey. So, his handguns were legal, and a number of his guns were bona fide black powder firearms, "antiques" under Jersey law. How is that determined? Well the definition talks about guns that don't use fixed ammunition. So, the judge at this point asked the so-called expert, "Can you tell me how you define fixed ammunition?" This expert on the stand, takes out his duty gun on the stand, drops the magazine out and extracts a round from the magazine on the stand. He holds the bullet up, the cartridge, he holds it up, and he says, "See this judge?" (I'm ready for him to say this is fixed ammunition, right? Because that's what it is.) "This is not fixed ammunition." I'm like what? It's exactly what fixed ammunition is. "Well, how do you define fixed ammunition", the judge asked. "Oh, that's when the bullet and the casing go down the barrel as one unit." I'm like what? So, on cross examination I asked this expert, "Please tell me one example of such a bullet that is fixed ammunition." And he's like "I can't think of any." So, he can't even think of a single example. If he was smart, he would have said Gyrojet which was an obscure cartridge from the early 1960s that actually launched the entire cartridge like a rocket as one unit out the barrel. But that's not what fixed ammunition is as well. He didn't even know that they couldn't even think of an example. So, I said look, "Here's Steindler's book The Firearms Dictionary. What does it say fixed ammunition is? He reads it. I said "Oh my, exactly what you told the judge wasn't. What about Shooters Bible's Dictionary right here on gun terms? The lexicon? What is that? Oh my, same thing. Well, you just told the judge wasn't fixed is fixed ammunition. So, why did you lie to the judge?" "I didn't lie to the judge." "The judge asked you to define fixed ammunition, and you told him it's when the bullet and the cartridge go down the barrel as one unit. That's a lie." "No, it isn't." "How can that not be?" Are you ready for this, folks? This is actually what he said. "The judge asked, "How do I define fixed ammunition?" I swear to God, what? That's like say it in your own words, and you go "gibba dubba zingo bach". I just made up those words in my own words. This is their frickin moron "expert witness". It's unbelievable. Unbelievable. It went on, by the way, with the guns that my client had were Curio & Relics. One of them was a Walther PP Zella-Mehlis marked. When they were in the Grand Jury seeking the indictment, he said a juror actually asked this guy, "What is a Curio & Relic? What is that?" He goes, "Oh, that's just a gun you can't find anywhere." No, it's not. That's absolutely wrong. It's a gun that's either on the list or defined by Federal law to be a curio and relic. It's a list of guns that are on the Curio and Relic's list. Well, by the time trial came, someone wised him up. I asked him, "You told this Grand Juror that this exhibit here, which is a Walther PP, was not a Curio & Relic when in fact, what's this?" And I showed him the C&R list. "It's right there, isn't it?" He then said "Yeah, it says a pre-1946 Zella Mehliis." "Right, and I said "What does this say on the slide, Zella Mehliis? Then he said, "But you can't tell whether it's pre 1946." I said "Oh, no. What's this proof mark, right here, Mr. Expert?" "Oh, that's a Nazi proof." Do you think they were doing that after '46? No, this guy took the cake. It's unbelievable. So, anyway, you get the message. Make sure you've got a lawyer

that knows what they're doing and understands guns when dealing with State's expert. Cause they aren't experts. Let me tell you. When we come back, we're gonna talk about accuracy.

Speaker 3 16:38

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. An 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.

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Evan Nappen 18:09

I don't know if any of you know of Townsend Whelen, but I hope you do. Townsend Whelen was one of the top riflemen, a great writer about rifle, and very influential with the .30-06 and Frankford Arsenal. He worked with Howe of Griffin & Howe fame, developing cartridges that use the .30-06 casing and some of you may even to this day, shoot like a .35 Whelen. He was a great, fascinating outdoorsman, expert on firearms, and really a man's man. One of the things that he said is "Only accurate rifles are interesting". That's a famous quote that he had - he believed in only accurate rifles. What it really means is, accuracy is critical, and that's what we as shooters love, right? We want accuracy. We want to be able to hit our target, want to make sure that we can put the rounds where they belong, right? And yet, what I want to bring to your attention, we talked last show about the absurdity of the anti-gunners talking about "gun safety". They don't know anything about gun safety. It's a propaganda term as we explored it. But I'm gonna take that one step further, and point out to you: Do you realize how many laws that the anti-gunners promote are simply efforts to ban accuracy? They want to make our guns less accurate. They want to make our shooting less accurate, and what they propose are laws that go directly to accuracy. Step aside and think about the following proposals and laws and things we're going to be experiencing soon under the next administration if, in fact, Biden gets inaugurated. For example, the controversy on pistol braces. So, what's a pistol brace? Well, it's been allowed by ATF. It goes on a handgun. It allows you to brace the handgun by using your forearm, and they also permit shouldering of the brace. So that what happens with your handgun, it becomes more accurate. If you use it as a brace on your forearm or if you use it as you shoulder that on your handgun, the brace on your handgun means you can hold the firearm more steady and have more accuracy in your shooting. So, why do they want to ban something that its ultimate effect is more accuracy? That's all it does. Think about it. Think about why are SBR (short barrel rifles) on the National Firearms Act? It's ridiculous. Why are they put in the same category as machine guns? It makes no sense. Who cares? If

it's a short barrel rifle or a pistol brace pistol that you can shoulder a firearm that has a shorter barrel, but you can shoot it with accuracy. But they want to stop that. They want to get a reversal on pistol braces. They want to put all of it into NFA. For what? Why? Where is the problem? Why do they want our firearms to be less accurate? To do what? Hit an innocent bystander? It's absurd. What is the drive? It's because they want to be able to scare. They want to scare people. They scare people by making up all kinds of criminal purposes behind everything. But when you look at what they're actually suggesting, it's an attack on accuracy. Think about this. Why is a pistol grip on a rifle, an offending feature that makes it an assault firearm? A pistol grip, folks. What does the pistol grip do? It aids in your accuracy. It lets you get a great solid, strong grip on the rifle so that you can be more accurate because it has a pistol grip. This is why modern sporting rifles utilize a pistol grip. It improves accuracy. There's nothing intrinsically evil about a pistol grip. It's yet another attack on us being accurate. How about a telescoping stock? There's a ban - telescoping stock is an offending feature. We could call it an adjustable stock. Why is a telescoping stock a problem? Oh, we don't want you to be able to adjust your stock, so it fits better. I mean, who cares if it fits better? That's what is great about telescoping; you can have different positions. What makes a muzzle break a problem? A muzzle break - less recoil, more accurate shooting. Again, an attack on accuracy. There's nothing wrong with muzzle break - even a flash suppressor. You don't need to be blinded when you're shooting. Right? What is the point? It's again - accuracy, the ability to shoot well. It's foolish. What's wrong with silencers? First of all, it's not like TV portrays it. That's part of our problem. The television version of the whisper, poop poop, is no. Anyone that knows suppressors, knows they make a noise. It's just not a giant, freakin noise that has to blow your ears out and make you flinch. So, people learning to shoot love suppressors, because it cuts down the noise and recoil. You can even instruct better, and they cannot develop a flinching habit. Again, it goes to accuracy, better shooting, and used to protect your hearing. Yet, the antis keep yakking about "gun safety" laws. They go and try to put in bans on things that make it safer, things that make us able to shoot better and more accurately. Isn't that safety, when you are better at shooting? It's almost like they want wild flying shots everywhere, and not be able to hit your target at all, with the laws that they want to pass. This is ridiculous. If you start to think about it in this perspective, anytime you hear them. Why do they talk about banning "sniper rifles"? Telescopic mounts that are on rifles. Gee, what does this scope do? It helps us shoot more accurately. The "sniper rifle" whatever the heck that is, which, of course, it'll have some broad, sweeping ban as part of it. But in reality, it's another attack on accuracy. How about lasers on a gun? What's the laser? It's a sighting device to make it more accurate. This is a relentless attack on anything that gives us accuracy. It's such an absurdity. It's right up there with the ridiculous claims of "gun safety". Even the proposed .50 cal ban, what are they really talking about? The ability to have long range, accurate rifles. It's still about accuracy. It's just at long range. So, what is a longer range? I mean, this is ridiculous. It's an attack on us as shooters. It's attack on what is primary to what our interest is in shooting - accuracy. As Townsend Whelen put it, the only thing he found interesting was accuracy in rifles. That statement is what really should be on every shooters' mind about improving their shooting, and to have great guns that are accurate. As technology has evolved to give us greater accuracy, whether with braces, adjustable stocks, or any of these things, that's the idea. We want to be better shooters - not handicapped by absurd and ridiculous gun laws. For example, the .50 caliber at long range - why do you need to shoot that far? Well, you know, a .22 is dangerous and has a maximum range, not an effective range, but the max range of over 2,000 yards - basically a mile. But you're not gonna be able to shoot a .22 accurately at a mile. That's pretty steep, but it'll go that far. If you can shoot accurately and you have a rifle that'll do it, then that's a good thing,

because the idea is to improve accuracy. There's a funny thing, a classic prank that was done with .22s. You can push them a lot further, but not a mile. A mile shooting of .22 would be tough. But you can go pretty far - a quarter mile if you are someone who's got engineering skills and other things. You can plot that and figure it out. That's what led to a classic prank that was played at Harvard. If you want to read a great book, it's called *The Compleat Practical Joker* by H. Allen Smith. That book is great. It's full of pranks that are classic jokes, and pranks that were done in the book are hilarious. There was a prank in there that took place at Harvard. I want to share this with you. At Harvard, there was a clock in one of the university towers, and it began to act really weird. It would strike 13 times at noon. At midnight, it still rang 12 times, but at noon it would always be this extra stroke would hit. It was driving them crazy. So, they started investigating. They got clockmakers in to examine it. They couldn't figure out why this thing was ringing 13 times. They took it apart and examined it. They couldn't get it done. They had no clue, and yet there it was every day at noon - 13 rings. Until they found out that one of the students was in a house about a quarter mile away, and he was engineering guy. He calculated perfectly the trajectory of a .22 at that distance and knew that on the eighth ring, he would pull the trigger. By the time it hit at the distance, it would ring 13 times. So, he knew on which ring to pull the trigger. He had a mount all set with the trajectory perfectly so that lead would go bong and make it go 13 times. That's the classic Harvard prank with a .22 - so, there you go. Listen, keep a fellow gun owner from becoming a law-abiding criminal. Tell them to listen to Gun Lawyer radio. Visit our website at Gun.Lawyer, and subscribe and rate the show. Please help me get the word out. I'm depending you. This is Evan Nappen, reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

31:07

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