

Gun Lawyer Episode 19 Transcript

SUMMARY KEYWORDS

registration, gun, handgun, firearms, guns, new jersey, gun laws, registered, gun owners, lawyer, charged, register, fight, national firearms act, based, possession, police, confiscating, issued, criminal

SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:20

I'm Evan Nappen, and welcome to Gun Lawyer.

Evan Nappen 00:26

I want to talk about gun registration today, and I want to tell you about an actual case that I had. Just to show you how outrageously insane it can get when we're talking about registered guns. This case was funded by the NRA Civil Rights Defense Fund, so that I could represent this individual. In so doing, he gave permission to use his name, his name was Nonio. His case is just fascinating, because it really hits home on the problems of registration. See New Jersey has gun registration. I know none of you are shocked to hear that. But New Jersey has gun registration, and it is incredibly half-assed. I mean, it is just idiotic, whoever designed New Jersey's registration system. Now, I'm not in favor of any gun registration, I completely oppose gun registration.

Evan Nappen 01:41

I oppose it because of four words that are very important. Anytime you hear about gun registration, you need to think of these four words: legislation, registration, confiscation, extermination. Those four words all go together when dealing with gun registration, and you can see them repeated throughout history. Okay, this is history, and that's how the process goes. Now, luckily, New Jersey hasn't gotten to the extermination phase yet. But I have no doubt that at some point, New Jersey will want to have capital punishment for gun owners as much as they would oppose capital punishment for just about any other crime. When it comes to gun ownership, we get that right. Gun owners can be given capital punishment for not obeying the gun laws. Regardless of what happens in the future with extermination, New Jersey has still got the first three. Let me tell you how this case went down, specifically with these first three words coming into full force and effect.

Evan Nappen 03:04

In New Jersey, registration of handguns occurs on your acquisition of the handgun. So, when you buy a handgun in New Jersey, you have to get a Handgun Purchase Permit, and you're given one permit, only per handgun. It's four pages and will be sent all around; one goes to the State Police, one goes to the local Police that issued the permit, one is kept by the seller, and the other goes to you. Right on it the form says, "Form of Register." So, your gun is registered automatically upon purchase in New Jersey.

Evan Nappen 03:45

But here's where it gets really weird, and most folks don't understand this. Registration is only required in New Jersey on Purchase of a Handgun in New Jersey. You are allowed to possess unregistered handguns in New Jersey. People are often shocked to hear that and that's because New Jersey doesn't mandate that all handguns be registered. They just mandate that on acquisition of a handgun in New Jersey it gets registered. The only thing that's getting registered is your acquisition. Registration is not a prerequisite for possession. It is legal to possess an unregistered handgun, completely legal to do so.

Evan Nappen 04:34

As a matter of fact, there is not even a criminal charge in New Jersey of possession of an unregistered handgun. Because your possession is not based on whether your gun is registered or not. It's based on whether you possess it under the exemptions such as possession in your home, possession at the range, or whether you have a license to possess, which for handguns is a New Jersey Carry Permit, which basically nobody can get. In the whole state of New Jersey, there's less than 600 permits issued to civilians. So, all civilians are left with to possess handguns is exemptions. Their purchase of handguns is done by a pistol purchase permit, and that simply registers the acquisition. Yet that acquisition registration database is maintained by the State Police. So, the State Police have a computerized list of every handgun purchase that created a registration. They also have copies that you applied to get licenses and if you were issued a Firearms ID Card which is used for long arms. When your handgun is purchased, the make, model, serial number, and everything on the pistol purchase permit is put into the database of registration, and you have your form of registration.

Evan Nappen 06:07

But here's the kicker. Not only is registration not required to possess a handgun, but there is also no unregistration in New Jersey. So, when a dealer buys a handgun from you, that handgun goes in the dealer's books. Let's say you trade in your old handgun to get a new handgun, which people do all the time. At some point, a new sale of your old handgun will be made. Since it's not unregistered, the dealer doesn't report it to the State police to take it off your name list. Nothing, because the registration was only for acquisition. It's not for possession. So, why would you unregister it because the acquisition already took place? It's history. You acquired it. It's a known deal. After that point, registration means nothing.

Evan Nappen 07:03

As a matter of fact, in New Jersey, if you have a registered handgun that you just bought from a dealer. It's got a form of register, and you just did all the paperwork. You go right across the street to another gun dealer five minutes later. You change your mind and sell that gun to the dealer across the street to get some other gun or maybe just cash. There's no unregistration of it. This is what folks, even in law enforcement, prosecutors' offices, judges, don't understand how New Jersey's registration system works. They assume that it's a full constant, possessory registration.

Evan Nappen 07:52

This is what ended up causing a serious incredible problem for Mr. Nonio. Mr. Nonio was having some issues at home, and things were a little tumultuous. He felt that he wasn't sure whether he was going to

stay together with his spouse, and things weren't going really well there. He preemptively did not want to have firearms in his home. So, he went and actually surrendered his firearms to the police for them to hold. Now listen, there were no charges against him. There was no restraining order. He just didn't want them in the house and went to the police. Now, if he had talked to me prior, I would have said store them at a proper storage facility where they store firearms and those exist or bring them to a dealer. Just don't turn them into the police. Once you turn them in to the police, good luck trying to ever get them back. But that's what he did.

Evan Nappen 08:57

But you know what, even though he took that extraordinary step, it didn't matter because things went south, and he ended up with a Temporary Restraining Order (TRO) placed against him. In New Jersey, the Temporary Restraining Order ends up ordering seizure of all firearms. This is pretty standard. It is built into every form. There is a block on every Temporary Restraining Order, and it is simply checked, and guns are seized. Well, guess what? In his case, there were no guns to seize because he had already turned them into the police. Okay, so there's no guns. He's got the restraining order now, and we'll deal with it.

Evan Nappen 09:43

Even though he had turned in his firearms to the police, the police ended up searching his residence three separate times. Okay, three separate times. Every time they came based on this restraining order, three times, no firearms were found. Why were no firearms found? Because he had already surrendered them to the police in advance. So, here you have the situation where the police keep coming, and he's already surrendered them. They're like, we have this list from the State Police, and it lists firearms on it that are registered to you. It listed 15 handguns that aren't accounted for. Well, of course, they're not accounted for. Because as I explained, they are acquisition permits, and he had gotten rid of these over the years. This is over all his years of enjoying firearms, and he traded them into dealers and such. So, of course, he doesn't have them, and they are unaccounted for because registration is not for possession.

Evan Nappen 11:07

Well, guess what happened? Oh, no, "we have this list." He was arrested and charged with Contempt of the Order for failure to surrender firearms that he no longer had. They put him in jail, and he's held in jail on contempt of the order. They said, if you want to get out, tell us where the guns are. "I don't have them, they're gone." Well, then you're gonna sit in jail till you tell us where they are. This is outrageous. Outrageous. They arrested him, charged him, and jailed him for guns that he no longer possessed. He sat in jail for 90 days before he got a hold of me on this ridiculous charge, and apparently, no attorney or whoever was involved, could understand how this works.

Evan Nappen 12:17

I'm like, this is insanity based on registration. And I said, "I'll bring a motion right away to get you out." They're relying on a list that is not only invalid to be relied upon, but it's also hearsay on top of that. They arrested you and this contempt is outrageous. You turned in your guns already. But I said, you know what, knowing how the system is, and I want to get you out, do you remember? Do your best. Where do you think these guns went? Which dealers do you think got them?

12:50

He mentioned some dealers, certain ones. With all the dealers knowing me, that I am a pro-gun attorney and that I'm trying to help a good guy, they were very helpful. They scrounged up records as fast as they could to show that his guns had been turned into them. Here's the deal, folks. Thanks to some great dealers being very helpful, I was able to account for 14 of the 15 guns, 14 of the 15. Though I shouldn't have had to account for any of them because he shouldn't even be in jail. Doesn't matter. We accounted for 14 of the handguns, and it was amazing to find 14 of them.

13:33

I quickly brought a motion to the court for him to be let out of jail and for these charges to be dismissed. Explaining how outrageous it is that he was arrested for this and held in jail based on a flawed system of no possessory registration. I said, "Even with that, I've got 14 of the 15 handguns accounted for to show you just how absurd this list is, and how unreliable and outrageous it is. And do you know what the prosecutor said, "Well, what about the 15th gun?" At which time I said to the prosecutor, "We know what happened to the 15th gun." "Oh, really what?" What happened was he turned the gun in to your county buyback, where you have quote, "no questions asked." You give no receipts, no records and have no ability to document a damn thing. But that's who has it, you, the prosecutor's office. You have his 15th gun. So, that shows you the value of registration. I was able to get him out after 90 days in jail on absolute garbage of a charge based on the flaws of registration.

15:04

When I join you in a little bit, we're gonna talk more about registration, and some more fascinating things that you need to know to help protect yourself.

15:17

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.

16:32

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

16:47

Hey, we're back, and do you know what? I want to just mention that do you know how many folks out there in New Jersey, have bought handguns and turned them into dealers later or wherever, and they have no record of this. Yet, in the State Police database, it looks like you own all kinds of guns that you no longer have. This same lousy problem that Mr. Nonio experienced, could happen to you. So, be aware of that. We can think of places where you may have sold them and what have you. Try to keep your records together on that because, even though it's ridiculous that you would have to show it, this case demonstrates what can happen. So, if you're in a system where there is registration, try to keep track of the disposition of guns that are registered to you.

Evan Nappen 17:46

We received some great mail from listeners, and I have one here from Steve. Steve says "Hi, Evan. I absolutely love the podcast. I've been shooting for a little over 20 years, and I learn so much from your show every week. I also constantly reference your New Jersey gun law book. Thank you very much and keep up the great work." Well thank you, Steve, and I love doing this. I love helping fellow gun owners to protect themselves. I appreciate that you have the New Jersey gun law book, which I'll shamelessly plug, you can buy it on my website at EvanNappen.com. It is really the Bible, the guidebook for New Jerseyans, particularly to stay on the good side of the insane matrix of anti-gun laws that New Jersey has created. I also have a book on New Hampshire gun law. The New Hampshire gun law book is completely the opposite of New Jersey. As a matter of fact, New Jersey's book is well over 500 pages, but the New Hampshire book is only about 25% the size, about a quarter. And that's with more about great pro-gun things and explaining the Federal law, which I do in that book, as well as in New Jersey's book. Yeah, it is definitely night and day between the two states. It is amazing. So, if you're interested, check out the gun law books on my website.

Evan Nappen 19:16

I want to mention as well, the emails I get here are very important, and I want to ask you folks to think about joining for free my Inner Circle. You can keep a fellow gun owner from becoming a law-abiding criminal. That's what I call them. Folks like Nonio. He was a law-abiding guy, and the laws turned him into a criminal. Tell your friends to listen to Gun Lawyer radio. Visit our website at Gun.Lawyer. Instead of .com, it's .lawyer. So, it is Gun.Lawyer.

20:01

What I'd really love for you to do is join the Inner Circle. It's right on our website at Gun.Lawyer. Sign up for it, and you're going to get insight from me. I'll be giving you tips, tricks, and insights, and we'll have some fun doing it. It's free. Sign up and stay ahead of the game here. Remember, this helps me communicate with you to touch base and let you know what's going on. Because big tech doesn't care about our gun rights. Actually, they hate us. They've been shutting us down all different places. This is why to have a voice like this and our ability to reach out and contact you is so important. They don't like us, and they just want us gone. So, we're gonna have to fight that, and the Inner Circle is a way that we can stay in contact despite their efforts. We're gonna have big issues coming up with executive orders, all kinds of nasty things, gun laws, proposed things we've talked about. The onslaught is heading our way, and you're going to need to know what to do to protect yourself what the loopholes are, and I love loopholes. I'm gonna let you know the loopholes, and I'm going to fill you in with all that you're going to

want to know. So, subscribe to the podcast, tell your friends to join my Inner Circle, and help me get the word out. I'm depending on you.

Evan Nappen 21:17

Registration is a threat that we're facing right now. We're facing it because of legislation that wants to place basically every semi-automatic rifle and every magazine into the National Firearms Act, which is National Gun Registration. The National Firearms Act is a registration database, currently of machine guns, SBRs, destructive devices and suppressors. They want to expand it now to basically every semi-auto and every magazine. The idea, folks, is to get this as a registration, to make it harder to get guns, and to make it more expensive. Because, of course, there's a \$200 tax per gun or magazine for the privilege of registering your guns and magazines. As they tax us into this position of registration, then we're vulnerable to not only confiscation, but also misapplication, misuse of the registration databases. This is all requiring us to fight very, very hard. Some folks say at times, oh, well you register your car. You register to get married? Well, the fact is, at least nobody rationally, is speaking about confiscating your wife, and banning them and no matter even confiscating your car. Although we may see that with the green agenda. You may not be allowed to have cars, and all cars are registered. So, it'll be easy for them if they do embark on car confiscation, which I guess is not that farfetched in a modern day.

Evan Nappen 23:10

But you see, gun registration is just that problem. Even if the guns aren't registered, and they're kept off databases, then they don't know where they are. That helps keep us free. It's part of freedom and privacy. The ability to own firearms that are not registered is freedom, and our freedom is dependent upon this. There's a reason we have the Second Amendment. The Second Amendment is not about duck hunting. The Second Amendment is about self-defense. It's about defending ourselves and as a check on tyranny. It absolutely was put forward by the founders as a check on tyranny of enemies, foreign and domestic. It's a last resort but you know, that's how our revolution was fought. It was armed citizens joining in the militia, coming to the calls on the green and they fought with our continental soldiers together. That's how we fought and won our revolution.

Evan Nappen 24:24

People say, Oh, that's outdated. That's old. Really, is it? You look at modern day where there have been confiscations based on registration. I mean, this is what Hitler did. This is it. They first imposed registration, and then went after the Jews' guns. Kristallnacht was based on taking guns from Jews. You don't hear that emphasized, but that was their excuse. That was what they were doing. Taking guns from the Jews. You see great genocides, not just of the Jews, and what preceded it? Confiscation of arms, and how are the arms confiscated? Because they knew where they were because they first imposed registration and put it forward as some benign thing. Based on some so-called, anti-crime measures. Look, registered guns and stopping crime, good grief, Canada tried to have a huge boondoggle of a registration system. Billions spent to register. The amount of crime solved from their registration. None. It was a complete waste. But it sure does make a list for confiscation doesn't it? It sure does make your life harder when trying to buy and exercise your Second Amendment rights. Bad news. So, remember that registration is not reasonable. Registration is reasonable, because it creates a danger to our liberty, and we have to fight it at every turn.

Evan Nappen 26:05

The current administration is proposing different registration schemes. Not only the idea behind NFA, but there's also talk about trying to implement micro stamping. Micro stamping is a technology in which when the firing pin hits the primer, it actually imprints identifying numbers on to the primer at a micro level. So that, in theory, any shell casing fired from a gun can be matched to that gun based on the micro stamping. They want to impose that every gun has the micro stamping feature. What does that mean? Well, that means every gun then has to get registered, so they know who that micro stamp belongs to. But, of course, criminals don't have to think real hard here now, do they? They'll just carry a revolver. Wow, that's pretty cool. You mean the one that doesn't eject brass? Yeah, a revolver. Right? Or pick up the brass. There's another. Brass isn't found. Or file the micro stamping down on the mech. There are so many ways to thwart this stupid system. Then to impose it, it'll raise the price of every gun by roughly \$200. That's the estimate. But what is micro stamping really? It's a scam, and a false sell of gun registration. It's not about stopping crime. It doesn't stop crime. It's about knowing who's got the guns, and you know why. So be aware.

Evan Nappen 27:57

Now, the interesting, funny thing about gun registration is a case called the Haynes decision. I don't know if you're familiar with it, but I want to just mention Haynes versus United States. As you may know, the United States Supreme Court invalidated the National Firearms Act in 1968. Mr. Haynes was a convicted felon, who was charged with failing to register his firearm under the Act. The United States Supreme Court found that to require Mr. Haynes to register his firearm under the Act, because he's a convicted felon, violated his Fifth Amendment rights against self-incrimination. So, registration could not be forced on felons. Only law-abiding citizens can be forced to register their guns. That shows you just how brilliant the registration scheme is. Not only does it violate our Second Amendment rights, but it also violates our Fifth Amendment right against self-incrimination.

Evan Nappen 29:22

So, what happened from that? You may say, how come the NFA is still out there? Because what happened was when they passed the 1968 Gun Control Act, they quickly scrambled to modify and amend the National Firearms Act, to make it that your registration under the National Firearms Act is confidential, and you're given immunity for when you register. You can't be prosecuted for this. They give you that immunity so that they can still try to force felons to register their guns under the NFA. Yeah, right. Tell me about it. So, this is how they arguably set out to save the National Firearms Act after the Haynes decision invalidated it for felons, finding that registration cannot be forced on felons. Now, that's what happened on the NFA. But think about any of these schemes that will mandate registration. Because if they're going to mandate registration, any of it, the argument of self-incrimination may still come into effect, unless they put immunity in. And if they put immunity in, then that may, in fact, stop some of the egregious enforcement aspects of it.

Evan Nappen 30:41

So, when it comes to defending our Second Amendment rights, don't only think about the Second Amendment, but think about the Fifth Amendment as well, and our protection against self-incrimination. Many times, with registration, we see that stolen firearms come up with false reads, problems. The registration is messed up and wrong. People get charged. I've seen that. I've had cases where one of

my clients was arrested, and he was being held on possession of a stolen firearm. When I saw the discovery, the serial number they ran that came up stolen was 1911A1. Oh, my god. 1911A1. Guess what? It was a model gun that had no serial number. It was just a toy. A fake. He did nothing wrong with it, and they go ahead and arrest him for stolen firearm possession. Because in the NCIC, there were three other dummies that typed 1911A1 into the registration system. You see these mistakes all the time. You see the problems that it causes law-abiding citizens. Getting arrested, held in jail, it happens over and over again. Yet, the crime fighting aspect of it is virtually non-existent. You always have to keep in mind, they want to take our guns, and this is a step toward achieving it.

Evan Nappen 32:30

Okay, folks, this is Evan Nappen, reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 32:42

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.