

Gun Lawyer Episode 23 Transcript

SUMMARY KEYWORDS

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Evan Nappen 00:18

Hi, I'm Evan Nappen, and welcome to Gun Lawyer. Lately it has been so crazy. I've had multiple cases of law-abiding citizens just being turned into criminals. One case is more outrageous after another. I want to review with you these cases because it illustrates how out of control New Jersey is and the kind of damage that gets done. It's just disturbing. One of my cases right now involves a guy who is charged with 11 counts of possessing rifles and shotguns in his home. Now, what's significant about this is that you are allowed to possess rifles and shotguns in your home. As a matter of fact, they are BB guns and some honey shotguns. 11 counts. He is facing over 50 years in State Prison for doing nothing wrong. Nothing. He is in his home, and his guns are in his home.

Evan Nappen 01:37

Let me be clear, New Jersey has this thing called a Firearms ID card, which maybe you're aware of, and that's for long arms. In the law it says if you possess a rifle or shotgun, without having first obtained a Firearms ID card, then that's a problem. Except there's an exemption to that very law, where it says you don't need a Firearms ID Card in so many words, if you possess firearms in your home, or at your place of business, or at the target range or while hunting, you know, given the parameters, and that's called the exemptions. So, there is a home possession exemption. Doesn't matter whether you have a license or not, you're exempt in your home. Here, it doesn't seem to matter. They charged him with every gun in his gun safe that was a long arm in his home.

Evan Nappen 02:31

This goes forward to the degree that today, I'm in court on a predisposition conference. The judge says to the prosecutor, what are we doing on this? The case has not been indicted yet. It's early on, what are we doing on it? The prosecutor said, "Oh, we are withdrawing out of the EDC, and we're going straight to Grand Jury to seek indictment." And I'm like, WTF? I didn't say that to the judge. The Judge says, "Counselor, do you have anything to say?" "Yes, there is something I would like to add, Judge. What I'd like to add here is that my client is innocent as a matter of law". Imagine that. "Because the prohibitions, all eleven (11) counts NJS 2C:39-5c., are all exempt for possession in your home under NJS 2C:39-6e. Straight out exempt and the State here should not be moving for indictment. They should be dismissing all these charges and apologizing to my client for even bringing them."

Evan Nappen 03:51

Oh, yeah. Okay. Well, do you have discovery? I don't have discovery. Well just go talk to the prosecutor. We'll put it off. Yeah, okay, here we go. Believe me, I'm happy to talk with the prosecutor. Yeah, give me the discovery. But I can tell you right now that these 11 counts are absolutely not valid charges in New Jersey. Even more disturbing is that this is the heart of the Heller McDonald decision.

It's the heart of it. When you read Heller, the seminal landmark case on establishing the individual right to keep and bear arms. The key takeaway from Heller is that it is an individual right and without question it protects your right to possess a firearm in your home. Now, there is debate about whether Heller and the Second Amendment protect your right to carry a gun outside the home. But it is not even disputed, it's not even a question anymore, that you have a Constitutional right, an individual right to possess firearms in your home. So, this case is flying directly in the face of the Second Amendment and the Supreme Court ruling considering the Second Amendment. It is completely ignoring the exemption in New Jersey law.

Evan Nappen 05:27

Now, they are forcing this client to have to pay me to go through this judicial process with all the stress, anxiety, and wasted time for something that he is not guilty of on its face. Right away, prima facie - not guilty. Now, you hear this, and if you're not from New Jersey, you're like, "What, are you kidding me? Is that really how it works? There must be more to it." There isn't more to it. Or you're thinking, "Hey, this is just a one of a kind of a deal. You know, it's a one off?" Well, let me tell you, folks, it's ain't no one off. This is routine. This is what happens if you ever let your State enact all these idiotic gun laws, and they don't even understand it themselves. Let law enforcement essentially go wild, make the charges, and let the courts and the prosecutors sort them out. Because that's what's going on here. This is ridiculous, and what we have to do now is stand up to these things.

Evan Nappen 06:44

As a matter of fact, you can help this fellow out. He's got a GoFundMe; you can call him Uncle John. But it's the John Miragliotta case. You can Google it and go to GoFundMe on Uncle Johnny. You can see that I'm representing him on this. And you know, this is just one of what has been a series recently. I've always had cases that did things like this, but, just recently, these have come down like one after another after another.

Evan Nappen 07:16

This includes another case where my client, before I represented him, pled guilty, pled guilty now, to possession of a handgun in his home. Again, he's freaking exempt. Again, NJS 2C:39-6e., possession in home, regardless, notwithstanding any prohibition under the other law. You can keep and carry a firearm in your home - rifle, shotgun, or handgun. This guy pled guilty, and he's about to be sentenced. He's looking at up to 10 years in State Prison. But regardless, there's a minimum mandatory on this. The minimum mandatory, my friends, is three and a half years. The judge has no discretion. Well, the prosecutor was so generous here. They did a Graves Waiver. So, not only is he going to be a felon, but they're so nice that they're going to lower the minimum mandatory to only one year in State Prison. One year, and he will have to do every day of the sentence in State Prison before he gets a chance of getting paroled out. For possessing a handgun in his home.

Evan Nappen 08:46

An outrage that has now gotten to the point of the ineffective assistance of his prior counsel for getting him to plead guilty. Because in order to plead guilty in New Jersey, you have to be guilty, which means he had to put a factual basis on the record that explained why he's guilty. I read this factual basis. The factual basis went like this. "Sir. Did you possess and were you in the county of whatever the county?

Yes, I was in that county. Did you possess a handgun in this county at this time? Yes, I did. Did you have a carry license? No, no, I didn't. And the handgun is a 45. Yes. Okay."

Evan Nappen 09:29

That's it. Boom. Nothing about Oh, it was in your home. Oh, that little factor. Oh, and it was the exemption? You know, oh, no, we'll just ignore all that. Because he's saying he doesn't have a carry permit in New Jersey? Well, that's about what 99.9999% of everybody in New Jersey that has a handgun. They don't have a carry permit. Consider this, less than 600 civilians have a carry permit in the whole state. So, how does anybody possess a handgun in New Jersey? Oh, by the way of these things called exemptions. What are those exemptions again? Possession in your home, possession at your place of business, possession while going to the target range, possession while hunting. Oh, and what happens here? They are ignored. No, no, just a simple factual basis. He possessed the handgun and did not have a carry license. Boom, you're guilty. We accept your plea. Now you're going to get sentenced, and you're looking at a one year, minimum mandatory. Insanity. Insanity.

Evan Nappen 10:34

This is what is going on. And you say, well, maybe this is a two off, right? No, no, sorry to say it is not a two off. Because I have yet another case, and in this case, my client possessed what we're calling these days, an "other". What is an "other"? Well, an "other" is things like the Mossberg Shockwave, maybe you're familiar with it. The gun has a 14-inch barrel, and it does fire 12-gauge ammunition. But it's not a shotgun because according to the ATF, it's an "other" since it was not born as a shotgun therefore it can't be a sawed-off shotgun. The New Jersey State Police, to their credit, at least initially, they said, hey, since the Fed say it's okay, we say it's okay in so many words. You can acquire them lawfully in the state, and just about every gun dealer in the state sells these types of firearms.

Evan Nappen 11:36

My client has a variation of it made by Charles Daly. I believe it's called a Honcho, and the same thing, a pump shotgun, 14-inch barrel etc. It falls in the category of "other". What's the charge? Possession of a sawed-off shotgun. Well, the point is, it's not a sawed-off shotgun. Do you think the New Jersey State Police just sanctioned sales of sawed-off shotguns? No, they allow the "others" to be sold and so do the Feds. Now maybe they're wrong in allowing this. But that's a whole other issue. But it doesn't matter. The State Police have officially put out information, and dealers all through the state sell these guns of that type. Yet, here is someone being prosecuted. He's looking at up to five years of State Prison for possessing a gun that is declared legal by the State Police and by the government.

Evan Nappen 12:30

Again, he now has to go through the process of having to move to get it knocked out. Nobody on the other side seems to understand what a gun law means. How this gets interpreted, what's the standard in the industry, how these are sold, and why no, no they're clueless. It's insanity. And yet what's happening? Good people are suffering. They're suffering. Think of the stress, aggravation, and loss of sleep. Worrying. Am I going to end up in State Prison over this when I did nothing wrong? And by the way, all this has so much to do with fighting crime. Oh, my God, criminals are just running scared out of New Jersey. No, it doesn't do crap about crime. But it sure turns a lot of law-abiding citizens into criminals.

Evan Nappen 13:26

Let me tell you, when we come back from the break, I'm going to tell you about another even more outrageous case, involving a law-abiding citizen. You'll see that this is never ending and things you need to do to protect yourself.

Evan Nappen 13:47

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, the bright orange gun law Bible that sits atop the desk and 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.

Speaker 3 15:02

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Evan Nappen 15:18

Hey, you know, I love my EDC carry rig, I really do. This is because my good friend, Mitch Rosen, made it, and I'm talking about his product because I believe in him. He didn't pay me to do this, nothing like that. Folks, if you carry a gun, you need to check out Mitch Rosen's extraordinary leather. It is extraordinary. It's just a pleasure. I'm spoiled rotten. There's no other rig I want to carry because the way every holster he makes is made to the gun, and it holds it without even a keeper strap. Then you can draw it, and you can put it back. It's just wonderful. When you get a holster, it's important that you have a belt made also because these are strong, sturdy belts. The belt with the holster combo is the rig. Man, it just carries like a dream. It is top notch, top notch. I can't say enough good about it, and I love talking about it because it really means a lot to me. I'm telling you, my really personal absolute recommendation. Check out Mitch Rosen Gunleather at MitchRosen.com. You will not be disappointed, and you'll see why myself and so many others rave about this product. It really is fantastic.

Evan Nappen 16:45

But I do have a letter that I'd like to read to you. I think you'll find it very interesting. This is from Dave, and what he says is something that you may have heard about or even inclinations about. Here's what he said. My daughter's pediatrician pulled my daughter aside and asked her if I had any guns in the house. And my daughter not understanding how this question is, of course, an invasion of privacy, said yes. Now Dave says, the pediatrician is calling me constantly asking me where he can find ammo. Yeah, that is a common problem these days because the ammo shortage is real. So, I understand that,

and it is a pain in the neck. People know you have guns, and they just think you know where the magic source of ammo is. But it's tough to find ammo these days. That's true.

Evan Nappen 18:00

By the way, I also want to mention, before I tell you about this other case that's going to knock your socks off, is I really need your help spreading the word here, and I need your help to do it. You need to help keep your fellow gun owners, friends, and relatives from becoming what I call law-abiding criminals. The very people that we're talking about here. Tell them to listen to Gun Lawyer radio. They'll get educated, know about the dangers, and be much more careful and discreet. You can visit our website at Gun.Lawyer. It's dot lawyer. Like, you know, they have dot coms. Well, I have a dot lawyer and it's very simple. It's www.Gun.Lawyer.

Evan Nappen 18:45

What I would really love is for you to take a look at our Inner Circle that's on our website. If you join the Inner Circle, it's free. You're going to get the inside from me, Evan Nappen. I'm going to give you tricks and tips, insights and fun. Sign up. It's free. We have got to maintain this because as you know, big tech, they're against us. As I'm sure you know, we're dealing with a wave of censorship. The other side, our opponents, they're not just out to end Second Amendment rights. They're out to end our First Amendment rights. Across the board, they just despise and disrespect our Constitution, and not just the Second Amendment. So, the purpose behind this is for you and me to be able to continue to communicate as they keep making efforts to stop us because you need to know. Knowledge is key here. You need to know what you're up against and how to fight it. We're going to have big issues coming up.

Evan Nappen 19:43

Right now, they are trying to pressure Joe Biden into executive orders right at this moment. There's legislation, any moment now, that's going to be voted on in the House. You need to be aware and know what's going on. There's stuff coming up, and it's going to directly affect your right to keep and bear arms, your personally owned firearms, your property, and your freedom even if you inadvertently end up violating these laws. You are going to want to know. So, please subscribe to this podcast. I really appreciate all the subscriptions, and it really helps get the word out. Join the Inner Circle. I'm depending on you to do that.

Evan Nappen 20:34

Now. This other case that I want to tell you about. You thought those other three cases were bad, and they are bad, they are bad. But let me also tell you about this case I got recently. Now he owns a nice Italian deli in South Jersey, which I love clients that own delis. Let me tell you that. Mmmm, special advantages there. So, he owns the deli, and he owns the property as well. He owns the business, and that exemption we talked about for in the home, you are exempt at your place of business as well. The reason is you are allowed to have a firearm in your place of business to protect yourself and your business just like you can in your home. So, if you're the owner of the business, that's an exemption. He owns the property there. That's another exemption. So, he's double exempt for his possession.

Evan Nappen 21:24

But he is not charged with just unlawful possession of a rifle. No, he's charged with unlawful possession of an "assault firearm". Whoa. Scary words - "assault firearm". The anti's always coin these terms that they steal and malign and they put to be pejorative terms. So, this way, when the jury sees that you' are charged with possession of "assault firearm", or a ghost gun, whoa, you know, they make up all these scary words, and they create laws around them. So, what is this assault firearm that my client has? It's a High-Point Carbine. Oh, my God. There's one problem with this. It's not an assault firearm under New Jersey law. That's right. The High-Point isn't an assault firearm. It doesn't have more than one offending feature. It doesn't have a threaded muzzle. It doesn't have a flash suppressor. It doesn't have a grenade launcher. Isn't that cute? It is actually one of the features they list - grenade launcher. It doesn't have a folding stock or a telescope. None of that. It's not on the list, and it doesn't meet the criteria. Oh, my God. You mean, in other words, he's not guilty of this? That's right. Not guilty at all. You can go right to the gun store now in New Jersey, and if they got him in stock, they'll sell you one today.

Evan Nappen 22:53

Ah, but that didn't stop them from arresting and charging my client with possession of an assault firearm. What is possession of an assault firearm in Jersey? It is a Second-Degree crime and carries up to 10 years in State Prison. It has a minimum mandatory three and a half years, no chance of parole. Back to that jazz with the Graves Act and the minimum mandatory. Socking it to law-abiding gun owners. Well, guess what, even worse in this case. It's bad enough that he is innocent, but he's charged. Get a load of this, folks. He spent three weeks in jail because of New Jersey's bail reform where they can hold you and not let you out if they think you're some kind of danger and a threat to the public. Of course, we have something so scary as an "assault firearm" as they allege. Well, how can we have him get out of the jail? No, we better hold him because, oh my god, the danger to the public. Three weeks before he could get out, and he's lucky that he could get out.

Evan Nappen 24:04

Otherwise, they'll hold you until your matter is adjudicated. Meaning we finally get to a trial what years later or your plead out. Well, he's not going to plead to something he's not guilty of. So, he's going to sit in jail. Isn't that cute. Yeah, three weeks. And he's lucky he's only three weeks in jail for doing nothing wrong. That's always the kicker here. All four of these recent cases are law-abiding citizens being put through the shredder of the judicial system for no legitimate reason. No, no. It's based on an agenda, a narrative an anti-gun narrative agenda and bias. Their hatred of you and me for being gun owners comes into full bloom and their misunderstanding, maybe even intentional misunderstanding, maybe even intentional misapplication of the laws and the bias that comes out of the lamestream Media. It all comes into play here. The propaganda that's built into the passage of these gun laws, and even what they call these things that they're not, you know, the word "assault firearm". That's ridiculous.

Evan Nappen 25:39

What was the original assault rifle? Well, that was a Nazi development called the Sturmgewehr (StG-44). And what was the Sturmgewehr? What's the distinguishing features of a true assault rifle? It is a medium caliber rifle that is full auto and semi-auto. That's right, fully automatic. Of course, none of these guns are fully automatic. "Assault firearms", so called are not fully automatic. They're a pejorative term given by the anti- gunners to semi-automatic firearms, and it was done with intention which can be

traced back to what I call the "manifesto". Josh Sugarman's manuscript that he wrote about assault weapons and their accessories back even before Patrick Purdy shot up a school yard.

Evan Nappen 26:46

Sugarman admits in it that this is a great issue for us because the public will be confused between actual military assault firearms and semi-automatic, modern sporting arms. Yeah, they knew it from the beginning. It was their plan to create the confusion and sell the confusion so that they can get at our guns. That's how these people are. They have no qualms about turning us into criminals. Taking inanimate objects and arbitrarily declaring them illegal. And then if it's not illegal, because it's not on the list, why worry about that? Arrest them anyway, we'll just call it that and let the court sort it out. Let him sit in county jail for a while. Ruin life after life with these absurdities. For those of you listening, did any of you hear about any of this stuff in the lamestream media and the legacy media, in the newspapers, anything? Did you hear about it? No, you are never going to hear about it. They don't talk about this. They don't talk about the rampant injustice of the gun laws, and how bad they need reform and how they focus on the wrong people.

Evan Nappen 28:16

No, you know where you hear about it? You hear about it here on Gun Lawyer radio. You hear about it here because I'm in the trenches defending these people. And it's just a shocking to me. It's as sad and disturbing to me as it is to you. That's why I share these things because you have got to know what we're up against. Folks, you have to be vigilant. You have to use discretion. You need to be extra careful in these times as gun owners. Because you don't want to be chewed up and spit out by this ridiculous system that is in place with an agenda and a narrative that's looking to devour you to advance a wrongful cause. This is Evan Nappen. reminding you that gun laws don't protect honest citizens for criminals. They protect criminals from honest citizens.

Speaker 3 29:19

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