

Gun Lawyer Episode 24 Transcript

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SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:20

Hi, I'm Evan Nappen, and welcome to Gun Lawyer. Accidental Discharge (AD). Boy, that's a problem, a very embarrassing problem for a lot of folks. In the practice of gun law, I see this come up, and there are many ramifications that can come from an AD. If you experience an AD, it is not pleasant at all, and it can really create a lot of problems. If somebody gets injured because of it, oh, boy, that is a world of mess. Even without that, your license and the ability to possess firearms gets placed in jeopardy. There can be criminal charges against you. All these things can happen from this. Through the years, I have had many cases where we have had to deal with the AD situation.

Evan Nappen 01:29

Now, what's interesting is I was at an NRA event a number of years ago. It was in Missouri, and I went to the Jesse James Farm and Museum in Kearney, Missouri. It's pretty cool. While I was in the Museum, looking at all this cool, Jesse James stuff, something kind of caught my eye. I saw on different things that it seemed like Jesse James was being referred to as "Dingus". And I'm like, "Dingus". Who the heck would call Jesse James, Dingus? And live no less, right? I mean, what is that. So, I went to one of the museum folks there, and I said, "What's this stuff I'm seeing about Dingus? What's that all about?" And the person said, "Well, Jesse James was playing around with his gun one day. Spinning it or doing something, and he shot off two of his fingers. He was in front of his men when this happened."

Evan Nappen 02:54

There is an interesting fact about Jesse James. You see, Jesse was a stone-cold killer, not a problem, and you had to do whatever you had to do. But one thing he would not do was use profanity. He did not use profanity ever. So, when he shot off two of his fingers (I know what words I might say. You probably know what words you might say, if you shot off your fingers.) but what Jesse James said was "Dingus". When he said Dingus, his men fell off their horses or whatever laughing. And the name kind of stuck. I guess if you were his buddy, you could call him Dingus and tease him about it a little bit. I guess he allowed them to call him that. So, that became known as his nickname amongst friends, believe it or not, Jesse James was "Dingus" of all things.

Evan Nappen 03:50

In my law practice, anytime we get an Accidental Discharge (AD) case, well, of course, we call it a "Dingus" case. When we get a Dingus case, there are certain things we must have a lot of concern

about. Is it affecting any licensing? Are there criminal charges on the Dingus? Was there confiscation of firearms on Dingus? All these things affect the Dingus pretty bad. It does not help gun owners and our gun ownership rights to have ADs occurring, but accidents happen. I get it.

Evan Nappen 04:28

I had one guy, believe it or not, who was unloading his Glock, and he shot himself in the hand. Sure enough, his Dingus case was bad because he's shot, and the police came. Because he is wounded, they take his guns because in Jersey that is what they do. They charge him with reckless and endangerment. So, I had to fight really hard, and we were ultimately successful. I love Glocks. They are great. But as you should know, there is no manual safety on a Glock. There is good and bad with a Glock. The good news a Glock (and I have found it to be true) is they are very reliable. When you pull the trigger on a Glock, it goes bang. But then on the bad side, when you pull a Glock trigger, it goes bang. There is no manual safety. So, you better treat every firearm as loaded. You must be very conscientious when dealing with Glocks because if you have a round in the chamber, your booger hook better not be touching that bang spot or it is going to go. This is what happened. So, yeah, however it happens. This was a Glock accident, and he shot himself. We were able to get it all resolved. All the criminal stuff was dismissed. We got his guns and licenses returned. We dealt with the whole Jersey thing, and we were highly successful. I was very glad to help them, and you know, accidents happen.

Evan Nappen 06:28

About a year and a half, two years later, he shoots himself in the hand again. Only this time with a Sig. How he did it with a Sig I have no clue. But you know, in our office, he was a double Dingus. I have only had one double Dingus as a client, but he definitely earned the title. I could not believe it. How do you do this twice? Oh, man. This took an even greater fight, Herculean effort. We were finally able to get that resolved, too. We have had many different accidental discharges over the years. Another guy was an off-duty officer. He was lawfully carrying his off-duty gun, a baby Glock, in an ankle holster. He was at a bar and he was there with others of course in the bar, and he is perfectly legal in Jersey as an off-duty officer to be carrying his gun in this bar.

Evan Nappen 07:48

What happened was some maniac with a knife started going crazy and slicing people. He's ripping through the bar cutting person after person, and my client is there and sees this going down. So, he reaches into his ankle holster to remove his baby Glock and stop the slasher from injuring these individuals. Unfortunately, his holster was a Velcro-type holster, and I will get to that back to that in a minute. When he pulled the Velcro up to remove the gun, it folded back down again. Instantly locking the loop back over the gun even though he had not extracted the gun fully. In the melee and all the craziness, he went to pull the gun and unfortunately, he ended up pulling the trigger while he was trying to get the gun out of the holster that had relocked itself. When the gun went off, he shot himself in the foot. The whole crowd freaked, as you can imagine with a gunshot, and the slasher took off. He ran away. So, my client did stop the slasher from cutting anybody else.

Evan Nappen 09:28

But now this poor guy, he gets charged. They launch a job action and the whole bit. They take his personal firearms. The State wants to yank everything including his job for this AD. What I was able to

do was demonstrate to the authorities that what he had was a defective holster. That is truly what he had. Once you unlock, unsnap, release, or whatever the release mechanism is, if it has one, that mechanism should not be able to reset itself. It needs to be something that you must affirmatively relock or resnap. That's not how Velcro works, and because of that Velcro reattaching, stopping the gun, and in the excitement, unfortunately, his hand slipped around and fired the shot. It caused great havoc but stopped the slasher.

Evan Nappen 10:43

We had my good friend, Mitch Rosen, whose holster I love, and I have talked about on the show. Mitch's stuff is just the best. I highly recommend you check out Mitch Rosen's products. Anyway, Mitch wrote an expert report on holsters, and I was able to show why this cheap Velcro holster is defective. It is something that should never be made into a holster because of its poor design. Utilizing that expert report, we were able to save the officer's job and his gun rights, but still, again, AD and carrying.

Evan Nappen 11:21

There are some firearms that can discharge themselves without even hitting the trigger when they are taken apart. You must always unload your gun before you take a gun apart. Before you work on any gun, examine it. Make sure, double check that it is unloaded. These are fundamental steps, folks. Never take it for granted. Always double check. Be absolutely sure your gun is unloaded if you are going to do anything with it. I have had ADs where guys shot through their house and it hits a neighbor's house because it is a rifle. Then there are all kinds of trouble. Luckily, no one was hurt.

Evan Nappen 12:12

In another case, again with a Glock, this fellow is at a party. He always carried his Glock with no round in the chamber. Somebody knew he carried and wanted to see his gun. Unfortunately, he let somebody look at his gun that he thought knew about guns. While he is at the party, he gets his gun back. Unbeknownst to him, the person had racked the slide, and he did not know it. So, when he took the gun and went to put it in his holster, it passed his chest and boom. It fired by accident. Of course, I know the finger should not have been on the trigger. We know the rule, but he always carried in condition three. Does not matter, boom. The round went into his chest, and he almost died. But he got charged because the people next to him were endangered, you see. It took a lot of work to win on that case, believe it or not, on that AD that happened from that. So, these things can really go on.

Evan Nappen 13:20

I remember early, early on. I had a case that I worked on with another fellow. There was an older gentleman, and he was in his home. This elderly man was being harassed by young punks on his front yard. They were just harassing him and constantly bothering him with nasty stuff. It was more than just get off my lawn kind of a deal, and he finally had enough. He had an old single barrel shotgun, super old. Single barrel. It was probably 100 years old. It had sat barrel down in his closet for over 50 years. He took that gun, and he pointed it out the window to scare the kids. You know, just scare them with the gun. Granted, it is not the smartest thing to do. But the gun discharged. Luckily, no one was killed, but the gun did go off and he was charged. As much as somebody's harassing you in your yard, you cannot shoot unarmed people even if they are on your lawn. As much as we would like to, we cannot do that.

Evan Nappen 14:49

One of the interesting things we were able to show is that he never pulled the trigger. Never even touched the trigger. So, how did the gun discharge? Well, I will tell you. When the shell itself was examined, there was no primer strike on the shell. How can this be? How could the gun go off? We were able to get expert testimony to show that because this gun had sat there loaded for 50 plus years with the hammer on the pin, pushing the pin against the primer. After 50 years, it created a condition called a "sensitized primer". By merely shaking the gun, moving it, without actually pulling the trigger, it was able to ignite the primer that was sensitized from sitting for all that time. That itself became an accidental discharge, even though it was not in any way, the person's fault or that he had wanted to discharge it. So, these things are out there.

Evan Nappen 16:02

Many of the old gun shops I went in, there are holes in the ceiling, and there are holes in the floor. They would always tell me plenty of good stories. I remember a place in Jersey, it is now closed, there is a hole up top that was made by the Chief in the town when he brought a 25 ACP in and shot it by accident thru the roof. And I said, What about the one on the floor? Oh, that was a guy that came in with an eight-millimeter Mauser, did not unload it, and shot it. I am telling you, folks, a lot of folks should know better, and they do not take precautions. You must do that. You must be insistent on gun safety.

Evan Nappen 16:46

You may recall the story I told you when I was in court, where they are showing an evidence gun in a bag, and the action is closed on it. I insisted, Judge, this is unsafe in a bag with the action closed, and the allegation is that the gun was loaded. We don't know. You can't do this. The Judge agreed. He cleared the court and ordered that officer to make the gun safe. So, we all knew it was. When we came back, the prosecutor was like, "Well, now that Mr. Nappen is satisfied . . ." and the judge said, "Oh, no, Counselor. He was right. I am satisfied. He is absolutely right. You don't bring in unsafe guns." He was a retired Marine, and he knew. No, you make sure all guns are safe. I am telling you that is true.

Evan Nappen 17:33

I see these problems in my practice, and I just want to tell everyone, do not be a Dingus. Do not be a Dingus. Make sure your guns are unloaded. Really be conscientious about your handling of firearms. Because once you shoot, you own that bullet. No matter where it goes. You own it. So, beware. When we come back, I am going to be talking to you about the big threats that are facing us, some things you may want to do to preempt or prepare in case these things go down, and maybe even profit from them. Can you imagine?

Speaker 3 18:18

For over 30 years Attorney Evan Nappen has seen what rotten laws do to good people. That is why he is 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 propoganda 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. Do not 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 19:33

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Evan Nappen 19:49

Well, we have got a lot of things facing us, and I am going to get into some real specifics here about the dangers. As I mentioned first to you about Mitch Rosen Gunleather, I just want to tell you that Mitch Rosen makes great stuff. It is my favorite holster. You must experience a Mitch Rosen holster to know. I am spoiled rotten because of Mitch Rosen Gunleather. There is just no other holster for me. It is amazing the way it holds the gun. Each holster is formed to the specific model of the gun, and it just holds it without any keeper strap necessary. When you draw it, it draws easy, but it holds it tight. You can put it right back because it stays open. It literally fits like a glove, and the quality and workmanship are second to none. So, check out his line of holsters and rigs at MitchRosen.com, and make sure you get the belt with the holster. That is what makes it. The belt lets you carry that holster, and it is just a wonderful rig. You will see what I mean, once you have a Mitch Rosen holster and belt, you will not want anything else.

Evan Nappen 21:11

Anyway, the threats that are coming at us and they are really heating up right now. It is really heating up. You have got to be aware of it and know things that you need to do now to prepare. One of the things I would advise you, so you do not become a law-abiding criminal, is, of course, listen to Gun Lawyer radio, which you are doing, and I appreciate it. But visit our website at Gun.Lawyer. What I would really like is for you to look at our Inner Circle. When you join the Inner Circle, you are going to get the inside scoop from me, Evan Nappen. I'll give you tricks and tips, insights and fun. Sign up. It's free, go to Gun.Lawyer. Remember, this is what helps me communicate with you; to touch base and let you know what is going on. Because big tech does not care about our rights. They hate us and are trying to shut us down. As we get closer and closer in these battles, they are going to turn the screws again and who knows. So, the method of communication and our ability to communicate is vital. That is what I am trying to build and maintain here. The ability to communicate with my brothers and sisters that love guns. I want to warn you, we have executive orders that are going to come up. All kinds of nasty things. There are bills pending right now, and we are going to get into that in a minute. So, please subscribe to my podcast, join the Inner Circle, and help me get the word out. I am depending on you.

Evan Nappen 22:50

Such a threat right now is Senator Dianne Feinstein's bill "Assault Weapons Ban 2021" which was filed on March 11, 2021. We talked previously about H.R. 127 Sabika Sheikh Firearm Licensing and Registration Act proposed by Rep. Sheila Jackson Lee. H.R. 127 is a monstrosity - just outrageous and insane. Requiring every semi-auto gun and every magazine having a \$200 tax on it and having to

register it as NFA (National Firearms Act). Just chock full of all kinds of horrible anti-gun requirements. Just trampling on our Second Amendment rights like nobody's business. The best part of her bill is that it shows the kind of people we are having to fight. Those that have absolutely no regard for our Constitutional rights.

Evan Nappen 23:36

But along comes Senator Dianne Feinstein who is really much more savvy and more of a skilled politician. She succeeded in the past in getting an Assault Weapon Ban through. Remember Dianne Feinstein got the 1994 Crime Bill, which included the assault weapon and magazine ban through. So, if anyone can do it, she has proven she can. Do not take this lightly. Now the 1994 Crime Bill was sunshined, meaning it would go away after 10 years automatically. That is why in 2004, the assault weapon ban disappeared. In effect was repealed automatically. It only lasted 10 years, and that was enough for us to be put into a lot of frustration. It also completely distorted the market. It was crazy with what happened from it. I was quite a student of fighting it and the impact that it had then.

Evan Nappen 24:54

Now fast forward to 2021, and she has now put forward her new and improved Assault Weapon Ban for America. This bill is not as draconian as Rep. Sheila Jackson Lee's proposal. It is not as draconian as things that were bandied about before such as forced buybacks with Beto and all that. It is not the registration and \$200 tax on every gun and magazine. No, that is all not there. It is the approach she was successful with in 1994. What this new bill does is ban 1000s of guns that were not banned under the first Assault Weapon Ban. It bans any new manufacture. All the guns that are covered, all of them, and all the magazines in her bill are grandfathered. So, it does have the same grandfathering provisions as the first successfully passed Assault Weapon Ban.

Evan Nappen 26:21

But it is so extreme and everything advanced. Let me just highlight some points here because you may be surprised to hear it. In the original Assault Weapon Ban, you could not make a semi-automatic rifle that's magazine fed that had more than one offending feature. So, you were allowed one offending feature. That is why you could have a pistol grip, but none of the other fun stuff. It is all cosmetic, but whatever - bayonet lug, flash hider, threaded muzzle, folding stock, or telescoping stock. Those are all offending features, and the guns were only allowed one. Okay, the new bill that she puts out, allows none, zero, offending features.

Evan Nappen 27:15

So, if you have a semi-automatic rifle that has a pistol grip, it becomes defined as an Assault Weapon under Federal law. Those guns will not be able to be manufactured. Tell me. How many of you out there have an AR that does not at least have a pistol grip? Well, it is an Assault Firearm then, and it includes 1000s more guns, not just the list of banned guns. But the matrix part where it is also feature specific of all kinds of guns that get banned. Anything with a pistol brace, and they just threw in everything but the kitchen sink here. Basically, every semi-auto, mag fed gun is getting banned under this with some narrow exemptions in place for certain firearms. So, what is the effect of this on you and me if this were to pass? Well, the market ends up exploding. Right now, the bill most likely will pass in the House, and the real battle is going to be in the Senate.

Evan Nappen 28:39

When it passes in the House, which I am sure it will, then what we are going to see as the news media puts out that it passed, and what this all is, we are going to see a major run on these guns and magazines in the short term. Now, of course, in this environment, it is hard to get any gun at all. They are going to pour gas on the fire with this anti-gun bill, and it is going to make people want to buy them even more. This bill is out there, and then what happens in the Senate? Well, we have the filibuster, and it cannot pass. They do not have 60 votes and blah blah, blah. Guess what? I agree if we have the filibuster. I do not believe this bill can become law because it can be killed in the Senate, but that is where the problem lies. Because now there is a major full court press to get rid of the filibuster.

Evan Nappen 29:48

Now the filibuster, the way it works in the Senate, is you need 60 votes for cloture. If you get 60 votes, you can shut down the filibuster and then you can have a majority vote. All it takes is a majority vote on whether the bill should pass. But to get past the filibuster is the hard part. It is highly unlikely that they could ever get past the filibuster, but if they remove the filibuster, that is remove the need for 60 senators, and it only needs a majority, then we are in serious danger. Because the Senate is 50/50, Republican to Democrat, and the tie vote goes to Kamala Harris, who is the President of the Senate. She casts a tie 51st vote. When it comes to gun control, they owe Michael Bloomberg a lot of money, and they must pay him back. They have an agenda that is incredibly anti-gun, and they hate us. They hate the NRA, and they hate what we stand for. They are going to come after us, and they want to jam this gun control down our throats. If they get rid of the filibuster, the odds of them being successful are good.

Evan Nappen 31:15

You have got to plan here because after this bill passes, all these guns and magazines will skyrocket in value. Probably go up 10 times in value if this law passes. Now there is a limited market to just what was grandfathered in there. Let me tell you, folks, if you have guns you wanted to get, a semi-auto, mag fed, you may want to consider getting those guns now, if you can. If there are magazines you need, consider buying those magazines now. Because if you have a handgun that uses a 12-round mag, a 13-round mag, or a 15-round mag, you are not going to be able to get those. You are going to be stuck with a 10-round mag in your gun that is designed to fit the standard capacity magazine that holds more rounds. How many bullets is your life worth? Because that is what they are determining for you. They are saying your life's only worth 10 bullets. I think if your handgun or rifle holds more than 10, your life's probably worth what that magazine can hold.

Evan Nappen 32:24

So, think about it, you need to stock up now. Because if you wait, the prices will go through the roof, and you will not even be able to get them. These are some tips to think about. I hope it does not come to be. I hope that the filibuster stays strong, but they are not fooling around. I will tell you what, anytime the Democrats can grab power, they usually do not hesitate to do so. That is what we have at stake now. Major power grab by filibuster elimination, and we as gun owners are going to pay the price. So, beware and be prepared. This is Evan Nappen. Reminding you that gun laws do not protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 33:12

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