

Gun Lawyer Episode 26 Transcript

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SPEAKERS

Evan Nappen,

Evan Nappen 00:19

I am Evan Nappen and welcome to Gun Lawyer. In the Gun Lawyer world here, I get calls from potential clients, which is what you do as a lawyer. When they call, you want to hear their situation, explain the issues and what things they might be out there need to be aware of and what you can do to help them. Which is fine, and I love doing that. But today, I get a call from a woman who was the victim at least legally speaking the victim of domestic violence, and she filed a domestic violence complaint and a Temporary Restraining Order (TRO) against her husband. With her being the plaintiff and filing against the husband, well, the police came, and guess what? They took all the guns in the house, and the guns in the house were her guns. So, they disarm the victim, which is always just brilliant to me. Because as soon as you trigger domestic violence anything in New Jersey, immediately, it is take the guns, take the guns, take the guns. It is the number one thing - take the guns. Like the guns themselves are out there committing domestic violence. There is more focus on the guns than even the people. It's just crazy.

Evan Nappen 02:02

All right, so she's the "victim", plaintiff, who files this DV complaint, and she now learns the lesson of "We're here from the government and we're here to help" because she loses her guns. So, what did she call me about? Well, she dropped the restraining order against her husband and realized what a mistake it was to involve the government. And look, there are legitimate cases of domestic violence, for sure, people need the protection. I get it. I totally get it. They need it, and they should have it. But so much of it is not that. It's just these strange occurrences, let's call them, and lo and behold, she wants to get her guns back. She has been reading all kinds of things on the internet, and that's a big problem. Because it's hard to tell what's real and what isn't on the internet.

Evan Nappen 02:57

Well, she has partially good information and partially really, really bad information. I'm talking to her, and she says to me, "Well, it's been over 45 days. They have to give me my guns back." No, it's not really how it works. in 45 days to decide whether to give your guns back or to have a hearing to have your gun returned They are pretty lenient on that deadline, even though they shouldn't be, but anything for the state. We gun owners are tied down to the frickin day, but as far as the deadlines for the government, what, are you kidding me? So, okay, but still, fair enough. She's been out of her guns all this time, and said, "I don't know why they're delaying. The prosecutor said he was going to give me my

guns back." He did. "Yeah, but he's not responding." Well, I don't know what that's all about, but normally, they just try to take everybody's guns. They don't usually tell you that they are going to give your guns back. Because they are going to try to steal every gun, they can get their hands on, which is pretty much the status quo of how things get done. But all right, maybe he is.

Evan Nappen 04:03

"Can you help me?" There were three guns that were taken. Okay, what are the guns taken? Plus, your gun rights are taken because in New Jersey, if you've had guns seized pursuant to domestic violence and they have not been returned to you, you are a prohibited person in the same category as a felon in possession. Isn't that cute? It doesn't matter that you were the victim, because the guns were still taken pursuant to domestic violence. So, you're precluded from even owning guns at the moment until the guns get returned to you. Normally they take your firearms ID card as well. So, there's another plus to it. She's now in this position, and I'm feeling for her. I get it, you know, and I said, we have got to see. What are the guns?

Evan Nappen 04:46

And this is where suddenly it takes a bizarre turn because she says, "Well, I had a couple of handguns. One was a Glock, and another is a 9 mm. I had an AR-15 rifle." I said, "Okay, are these guns all New Jersey compliant?" No, I bought them before the war. Where did you get them? Oh, she lived in another state. She lived in Maryland or somewhere? Maybe? Virginia? I don't know. But she lived in another state. "Did you acquire these outside New Jersey? The handguns and the rifle." Yes. "And then you brought them to New Jersey?" "Yes., but I'm grandfathered." And I said, "No, you're not. There is no grandfathering in New Jersey if you come into Jersey with prohibited arms. "Oh, no. Oh, no, that's not true." I'm like, "What do you mean it's not true?" "I bought them legally, and I own them legally. I brought them here legally. You're allowed to bring them into New Jersey legally."

Evan Nappen 05:42

I said, "Ma'am. I don't know where you're getting this information, but it's not the case. Not the case at all. One of the reasons they may be delaying is that they probably are intending to bring criminal charges against you for possession of your assault firearm. All the mags were over 10 rounds for your handguns and the AR-15. So, there are criminal charges on that." "Oh, no, no, that's all before the law, and I'm legal." "Look, again, Jersey does not recognize any grandfathering. If you brought them in from another place, they absolutely can criminally charge you and that's not a defense to your possession. I agree it should be, but it's not a defense to this. I think you need to recognize that you have some potentially very serious charges that may be coming your way.

Evan Nappen 06:35

With the possession of the so called "assault firearm" by itself, you are looking at 10 years in State Prison with a minimum mandatory three and a half years, no chance of parole. This unlawful possession is extremely serious in New Jersey. It doesn't matter that you lawfully acquired them in another state. If you have it in New Jersey and it's proven in New Jersey, they can convict you of unlawful possession." "Oh, no, they can't." What are you talking about? "No, I read that it is grandfathered in. I'm okay, and you're giving me misinformation." I said, "Let me make something really clear. I have only been practicing New Jersey gun law for over 30 years. I've only written over six books

on the subject, and I only teach other lawyers it. But what do I know? What do I know? Because you obviously read something on the internet that you'd rather believe is true, rather than actually listening to somebody who knows what they're talking about."

Evan Nappen 07:36

"Well, I am legal." "I tell you what. I want to wish you luck, and that's really all there is to it. I'm not interested in taking your case." I cannot take somebody's case like that. Somebody who won't listen, somebody who is just absolutely in denial and wants to believe something that's not true. And doesn't understand. Just even trying to get the guns back could trigger some serious further problems, and I think they are just going to come down on her anyway. There is even case law in Jersey that if your guns are illegal, you can't even get guns returned. Even that creates a bar and problems, and this is just a world of issues. It is just a bomb waiting to go off in her face, and it's a shame that she doesn't want to listen, because there are things preemptively, we could try to do. There are things I could try to do to help and try to defuse it. And try to make it so that these other ramifications don't take place. But that's not going to happen, and I have a feeling reality is going to be knocking on her door pretty soon.

Evan Nappen 08:45

You can fool yourself for a long time, but reality is not going to get fooled. This is what it is. So, folks, when dealing with New Jersey and New Jersey gun law, you really have to be careful. The importance here is not to ever let this happen in your state. If you don't live in New Jersey, use New Jersey as a shining example of what you never, ever want to happen in your state. Just point to New Jersey and say no, no, we can't do that. Because in New Jersey, look what happened. We should stand for that at least. Make the suffering of New Jersey gun owners be worth something; to be a beacon and a warning to all the other states. By knowing this, you help yourself.

Evan Nappen 09:36

If you are going to call an attorney who's got a focused interest, whose whole career is dedicated to this subject, and then not want to listen to them, don't waste that attorney's time. Don't bother calling them. Why? Why are you doing that? You're not going to listen to what he says. It is crazy. What a waste and a shame. Yet even with her attitude, I still utterly and completely sympathize. I understand the frustration, and what she went through is ridiculously unfair. But the point is, it's going to get even more unfair. So much more unfair that her entire life is now jeopardized in terms of her freedom, her liberty, her ability to see family members ever again and to loss of her career. All these things - her hopes and dreams - get destroyed by New Jersey's insane gun laws. Yet do we see the legislature doing anything to fix this? Oh, no, absolutely not. It's fine and dandy. You never hear about Jersey doing anything to fix this, to fix these laws that destroy good people. It is sick, and I don't want to see any of you ever become a victim of any gun law. No less New Jersey's outrageous gun laws.

Evan Nappen 10:51

This brings me to another case that I had a number of years ago but not that long ago. We represented Mia Higginbotham, and this was a public case. Let me tell you what happened with her because this could happen to any one of you. She was leaving New Jersey to go to her home in Florida, and she had her four-year-old daughter with her. She was transporting her gun that she lawfully owned in New Jersey and was bringing it back to her home in Florida. The gun was a little Beretta in the factory box,

and it was unloaded. She looked on the internet to see "how do you bring a gun on a plane", and it says right on the TSA that the gun has to be unloaded. She had no ammunition at all. And it has to be in a hard-sided locked case. She says :Oh, good. My luggage is a hard- sided luggage and it locks. Everything is good. I put the empty gun, no ammo in in its original box, put it in my checked baggage," which it also said to do. She did her homework to do this, and she goes to New Jersey.

Evan Nappen 12:19

So, now fly home with her checked bag, and she declares the firearm. She's doing everything right folks. Except she didn't know the way the TSA wrote the website. When it talked about a closed hard sided container, they meant a separate, closed, hard-sided container that the gun has to go in. Not the closed, hard-sided luggage, you see. So, she declared it, and the TSA check it out. Then they have to put the tag on it that you fill out that identifies whose gun it is inside the luggage. They said, "Wait a minute this isn't in a hard-sided box in the luggage. Oh, you can't transport this." She's like what do you mean? I thought it's hard. No, no, that's not how it works. She said, "Well, can I buy a hard-sided gun case anywhere? No, they have kiosks all through the airport, everywhere. They sell every bizarre thing you can imagine. But they don't have a lockbox for a firearm when you are flying with guns.

Evan Nappen 13:22

I mean, what a business idea. A kiosk at every airport on flying safely with guns and having the proper equipment to do that and selling it. That'd be a good idea. Well, of course, you cannot buy any of that there. So, she is out of luck, and she's going to miss her flight. She has her four-year-old daughter. What can I do? Can I just surrender it to you then? I'll just surrender it. She says "Look, I hate to lose a gun, but I'll turn it over to you. I just want to make it to my flight." Oh, too bad because they called the Port Authority police there in Newark. They called the police. The Newark police actually on that side it was. They come and say, Oh, well you had this and you declared it. But well, guess what? They arrest her at the airport for unlawful possession of a handgun. They actually arrested this woman with her four-year-old daughter for lawfully trying to transport her legally possessed handgun, doing her best to follow the instructions on the TSA website. She declared it and did everything, but it didn't matter. She was arrested and brought to the Newark Police Department.

Evan Nappen 14:33

Seven hours under arrest in a cell for doing nothing wrong. We had to fight this charge and what's the charge? Unlawful possession of a handgun in New Jersey. Guess what the penalty for that is? Up to 10 years in State Prison. Minimum mandatory three and a half years, no chance of parole. So, if she was convicted of this, the judge would have no discretion and must at least give her three and a half years in State Prison for this, and there's no exemption. Guess what they set her bond at? Her bond was \$50,000. And she said, why is it \$50,000? The severity of the offense. Oh, my God.

Evan Nappen 15:32

Well, yeah, it is a second degree, but it's an absurd second degree. And you look at all the circumstances. Fifty thousand dollars for this woman who is a professional, a chiropractor, with her daughter, tried to legally transport a firearm which she declared. She did everything right. The only thing that wasn't. By the way, here's the interesting thing. She was even legal under Jersey law. Because under the exemptions in New Jersey, there's even an exemption that says you can transport

your gun between residences while moving, as long as the gun is unloaded and in a gun box. Well, guess what she was doing, folks? Going from a residence in New Jersey to a residence in Florida with an unloaded gun in a gun box.

Evan Nappen 16:20

But that doesn't stop New Jersey from arresting you and charging you because that's just a defense, the exemptions. You have the burden to prove you are innocent in New Jersey, which means you can be forced to a jury trial that to convince them that you fell under this exemption. You are guilty in New Jersey until proven innocent. It is actually how it works. So, she meant to break no law. She tried to do everything right. She was actually within Jersey exemption and trying to obey the ambiguity of the TSA explanation as to how you are supposed to do it. This is how she ended up under New Jersey's gun laws. When we come back, I'm going to tell you about how to protect yourself and how to fly with guns and some important things you're going to need to know so you don't end up in a sorry situation like that.

Evan Nappen 17:31

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.

Speaker 3 18:45

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Evan Nappen 19:01

Hey, okay, here we are, and you know this airport travel has always been an issue. But before I get into things you need to know so you can travel safely with a firearm. Let's talk about a couple quick things. One is my good friend Mitch Rosen. I love my EDC 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 it. 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 gun leather. It is extraordinary. There's no other rig I want to carry because every holster he makes is made to the gun. It holds the gun without even a keeper strap. You can draw it, , and you can put it back. It's wonderful. When you get a holster, it's important to have a belt made also because these are strong, sturdy belts. The belt/holster combo is the rig, man, it just carries like a dream. It's top notch. I cannot say enough good things about it. I love talking about it because it really means a lot to me, and I use this product every day. So, my personal recommendation is to check out Mitch Rosen Gun Leather at

MitchRosen.com. You won't be disappointed, and you'll see why myself and so many others rave about this product.

Evan Nappen 20:26

I also want to mention that I really appreciate all my listeners. It helps me to communicate about these important issues to protect folks from the evil that is gun laws. So, I want you to help keep a fellow gunowner from becoming a law-abiding criminal. Tell them to listen to Gun Lawyer radio and visit our website at Gun.Lawyer. You know the way we have .com. Well, I have a .Lawyer. So, you go to www.gun.lawyer. That's the website for Gun Lawyer. What I would really love is for you to take a look at our Inner Circle. On the website at gun.lawyer, sign up for the Inner Circle. You are going to get the insight from me, Evan Nappen. I'll be giving you tricks, tips, insights and fun. Sign up. It's free. Yes, it's free. Go to gun.lawyer and join our Inner Circle.

Evan Nappen 21:16

Remember, this helps me communicate with you. To touch base and to let you know what's going on. Because you know big tech, they don't care about our gun rights. They kind of don't like us too much. They want to shut us down. The Inner Circle is a way that we can stay in contact despite their efforts. We are going to have some big issues coming up with these executive orders. They are pushing the gun legislation bad, and they are trying to dump the filibuster. They are trying to jam these things down our throats and take away our gun rights. You need to know what to do, how to protect yourself, what the loopholes are, and what they might be. Also, Things you can do now to take advantage and in advance, so you're not left stuck. I'm going to fill you in on all that you are going to want to know. Please subscribe and join my Inner Circle. Help me get the word out. I am depending on you to help us with our communication here. It's important.

Evan Nappen 22:11

Now back to airport transport. Mia Higginbotham is hardly the only airport case I've ever had. I've had plenty, plenty. People get into a lot of trouble at the airport with guns, and it's always unintentional. I had a case where a fellow was going hunting, and he had his dog in the kennel for flying, the way he is supposed to do. He put his shotgun, broken down in a case, in the dog kennel. He did not realize that the dog and kennel go through the other section for checking. When they saw the gun, he got arrested even though it's all in the dog kennel. What's the dog going to do? Load up the shotgun? He had the dog really trained, man, to be that terrorists dog hijacker. I mean, come on, but it doesn't matter. That went down.

Evan Nappen 23:00

Another guy who was visiting here from another country and somebody thought it was great to give him a gun. He didn't even know. It was a gift and didn't even open it. It was still wrapped in his luggage. When it went through, there was a gun. You have got to know what is in your luggage, folks. Don't put mysterious gifts in your luggage. I had another guy running late for his flight. He comes up to the desk, and he told them I have a gun in here. I need to check it, but I'm running late. The women say oh, "well the flights gonna leave. We gotta go. Give it to me. We could still get you on." She grabs his bag and runs him down to the check. She puts his bag through and in the end, they arrest him. She's the one putting his bag through the section, and he gets popped. These are the things. You have to be super

careful. Never let anyone take your bag. Never ever, ever let your gun go in that safety zone. Don't let it go there. You are guaranteed the arrest. It's really bad.

Evan Nappen 24:00

When you fly with guns, you need to be very aware of what the airport is requiring and what the airline is requiring. You should check online for the TSA what it says you need and confirm with the airline what they might also want. When you come to the airport, your gun needs to be unloaded. Number one - absolutely unloaded. No exceptions. Number two, no ammunition with the gun in the box. You need to have a separate locking container box. The gun needs to be in a separate locked box without ammunition. Okay, keep it completely separate.

Evan Nappen 24:48

Make sure the box locks and has a TSA approved lock. I highly recommend the TSA boxes that have a combo on them and have the ability for TSA to open it. Because I personally had an experience at a major U.S. airport. I properly checked my gun and turned it in. After waiting 25 minutes to see if they needed me for anything after I had checked it in, I went all the way to my gate on the other side of the airport. When I finally get all the way to the gate, guess what? Evan Nappen needs to return to the check-in counter. I had to go all the way back to open the stupid box so they can see what they want. So, that taught me.

Evan Nappen 25:36

Listen have the TSA so they can open it and make sure if they need to. So, they do not have to call you all the way back. Make sure it's unloaded. I highly recommend the boxes that have the cable that you can wrap around the luggage itself. Have the lockbox in the luggage. When you get to your destination, you will have a box you can put in your rental car. You can lock your gun in your car with a cable lock box in that way and store it safely if you're not carrying it at the time in that jurisdiction. So, it is a dual purpose. Then you must declare it. That means when you walk up, you have to say to the person who could check in your luggage, you must say, "I have a firearm. I am declaring a firearm. They will then give you a form to fill out. You fill it out. It has a sticker, and they put it on the box that it's your name, and it's identified to you. And it's vital that you declare it. That's one of the requirements.

Evan Nappen 26:32

Interestingly, under the Brady law, it's illegal for the airlines to mark that your luggage contains a firearm. That was actually in the Brady law. So, in the old days it would say "firearm" on the suitcase. But that led to gun thefts. They are not allowed to write that on the luggage. Most of the time when there's a gun in the checked luggage, it's given better protection and better security. As a matter of fact, there are folks who simply fly with a gun, not because they care about guns, but they fly with a gun so that they put it in their luggage with their valuable photographic equipment or their valuable musical instruments. They know that they get better protection because the case has a gun in it. They want the better security by actually going through the gun declaration process. So, it does help.

Evan Nappen 27:29

But I'll tell you what. I once checked in a long arm and flew with it. Followed all the procedures. Kept all the ammo separate and by the way, the ammo cannot be loose in a bag. It either has to be in a factory

box or in one of those like plastic containers where each round is separate, like reloaders like to use. You cannot have loose ammo. It has to be in a factory box or a specific one of those single round ammo holder boxes where they line up so neatly in the rows and you can shut it. So, keep it separate.

Evan Nappen 28:04

I remember one time I was going hunting, and I checked in a long arm. It was in a long arm case, and it's checked in. When I arrived back from my destination, I'm waiting at the luggage carousel. My luggage came out, and I'm like, where's my gun case? I'm waiting and waiting. Everybody's luggage is gone. I have my luggage and still no gun case. I'm standing there staring at the top where the luggage comes out. I'm just waiting and praying, please send my wonderful hunting rifle through. Come on. I'm looking and suddenly, I swear to god, a guy pops out of there. A man pops out. A giant man jumps right out, and he's holding in his hand my gun case. I never before saw a man come up through that black curtain. Boom. Right out. He's like, sir. Yeah, that's my gun. Yeah, well, we got it. Thank you. It was the craziest thing. A guy coming out of there. Thanks. I'm like, I guess that's okay. It was hand delivered through the luggage carousel by a person coming out from the shoot. There are all kinds of fun things at the airport when it comes to transporting guns, that's for sure. But make sure you carefully follow the rules when traveling with a firearm .

Evan Nappen 29:39

I had another very famous case, Greg Revel. Greg was traveling from Utah to Pennsylvania to pick up a car. He had to transfer in Newark, New Jersey, and he was going to Allentown, Pennsylvania. Well, he didn't realize that his flight had been delayed, so he missed his transport, you know, the second leg. He thought that would be a plane, but it isn't. It's a bus. So, you actually come to Newark and then it's a bus to Allentown. He missed the bus going there. So, they gave him his luggage, and he's like, when is the next bus? Oh, it's not till tomorrow. You have to come back.

Evan Nappen 30:20

So, he had declared his firearm in Utah, and he had a carry permit from Utah. He did everything right, and then he left the airport. He came back the next day to continue his journey. Of course, he had to go through the security area, and he did. He declared it as you are supposed to, right there in Newark. That person said, wait a minute, you don't have a New Jersey Carry License and what exemption. Are you just going to Pennsylvania? Even though he had been delayed and was in transit, it didn't matter. They arrested him for possession of a handgun in New Jersey, and he was put in the jail in Newark, New Jersey. He was in there for 15 days - in Newark jail, pending his unlawful possession of a handgun for simply trying to transport it through the airport.

Evan Nappen 31:20

He was in his 60s, I remember at the time, and he's from Utah. Not too many, sixty-year-old guys from Utah are in the jail in Newark, as you can well imagine. And I asked him, how did you survive that? I remember him telling me "Well, you know, it was a little scary, of course, but I told them it was a gun charge. Then I was cool. That was a gun charge. So, I was all okay with that." It was just like Alice's Restaurant. They're on the bench and they move away. But when they found out it was a gun charge, and now you're all right. He goes, yeah, and they called me Pops. Like what, he says, like out of a 50's

James Cagney movie. They called me Pops, and I was okay in there. I said, Yeah, well, God bless you, man. We got you out. Then we had that whole fight.

Evan Nappen 32:13

So, you have to watch out at the airports. Be extra careful. Try to avoid New Jersey at all costs. If you can fly into Pennsylvania or transfer anywhere else, just try to stay away from the so-called "Liberty" International Airport. Yeah, they actually call that airport "Liberty". The ultimate ironic name you can give an airport is the airport in Newark - Liberty. What a joke. So, obey these rules. Be careful. I don't want to see any of you ever have a problem because it can be a real nightmare.

Evan Nappen 32:55

This is Evan Nappen. Reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 33:05

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