

Gun Lawyer - Episode 31 Transcript

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SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:19

I am Evan Nappen, and welcome to Gun Lawyer. On today's show, I want to tell you about one of my early cases. I had been practicing gun law for about five years, which is kind of still early. This goes back to believe it or not 1992, 29 years ago. The reason I want to talk about this case is that nothing has changed. It has gotten worse in New Jersey. It really illustrates the problem when you have an anti-gun state that is hell bent to turn law-abiding citizens into criminals. This was one of my early ones, and it really is interesting. It was written up in the American Rifleman magazine and it was on the cover in 1992. The headline was "New Jersey Assaults Desert War Hero". In fact, that is what New Jersey did, and the title of the article is still appropriate today. "Welcome Home, Go to Jail."

Evan Nappen 01:43

Let me tell you what this case was about. This case was about a fellow whose name was John Rogers. Now, we called him Rick, and John Rogers was a hero. Still is a hero. Let me tell you a little about his background. He was in Desert Shield, and he was a member of the 101 Airborne. He was part of the elite Pathfinder Detachment. He is qualified sniper. He took Top Honors at jump school, and ranked number one among 1500 NCOs at Fort Rucker in Alabama. He had a training mishap that could have ended his deployment in the Middle East. He got hung up on concertina wire, and he required 57 stitches. They thought about shipping him out. But no, not Rick Rogers. He stayed in. He insisted on staying the course.

Evan Nappen 02:56

Desert Shield, as you may remember, became Desert Storm. Hours prior to the main air assault in Iraq, small groups of Pathfinders were sent in. They were the recon eyes and ears for this assault force. They penetrated behind enemy lines, and Rogers was one of those folks. He was one of the first soldiers of the 101st Airborne to touch down on Iraqi soil. His job was to bring the anti-Iraqi forces in to support the attack and set up a forward base of operations about 98 nautical miles behind enemy lines. This is the kind of guy we are talking about here. He was discharged in '91, and he received the Bronze Star. He was rewarded for exceptionally meritorious achievement while engaged in combat operations against the enemy of the United States.

Evan Nappen 04:21

Little did he know that when he came to New Jersey, he would again face an enemy of liberty. What happened was he had to come to Jersey. So, in advance, he called the New Jersey State Police. He listed guns that he owned, and the police told him what to get rid of and what guns to alter. Remember, this was early under the Jim Florio assault firing ban of '91. He was forced to part with his Colt AR-15 that he had used to maintain his incredible marksmanship skills with. He said at the time that he conformed to every dictate. He asked if he had to register anything, and they said no. He could transport his firearms from one residence to another and that is what he was doing.

Evan Nappen 05:16

Mr. Rogers left from Florida. He had his motorhome, which was registered to Florida. He loaded his belongings and went to move in this manner. This was in 1992. He and his brother who was in another car. The brother got pulled over for a traffic violation. Rogers also pulled over because his brother was stopped. Next thing he knew, they walked back to the motor home. The State Police ended up searching the vehicle and arresting Rogers for firearms that were lawfully his. He had made every effort to conform to Jersey law, and it did not matter. They arrested this war hero and put him in prison, actually jail. At the time, it was a \$5,000 no 10% bail to get out, and he eventually did.

Evan Nappen 06:28

I want you to think about how a genuine war hero, who served this country and put his life on the line, was treated by New Jersey. What was done to him those many years back, and the fact that this is a continuing problem. Yet, you do not hear about this in the lamestream media. They do not talk about how gun laws turn law-abiding citizens into criminals. They don't talk about it. In fact, since 1992, they have increased the penalties. They not only were felonies back then, but they went from the Third Degree (where you face five years in State Prison) to Second Degree where you face 10 years in State Prison, with minimum mandatory penalties of up to three and a half years required, minimum, the judge has no discretion.

Evan Nappen 06:28

We fought these charges against Rogers, who had his guns cased and unloaded, following every dictate. Eventually we were able to succeed in winning for him. But keep in mind, folks, this was 29 years ago, and New Jersey is still up to the same game of taking law-abiding citizens and turning them into criminals. This has got to stop. It has got to stop. As I think through the past 30 years, just how many cases I have had, case after case after case of law-abiding citizens that New Jersey puts through the shredder of the judiciary. Threatens and in fact, destroys, these folks in terms of their finances, their freedom, and their hopes and dreams. All done in the name of gun control. All done in this narrative and agenda that is flatly and frankly, at best misguided, but I think patently evil, considering the harm that occurs to so many individuals. It has been going on and on.

Evan Nappen 08:01

At the time I remember what individuals called New Jersey, and it still fits. They called New Jersey, "A Gun Owners Hell." And it is a gun owners hell. Even if you are not from New Jersey, or never even plan on going through New Jersey, we do not want this to spread to the rest of free America. So, that is where the fight is. We have got to contain it and destroy it. We have to get rid of these laws that do this to good people. It can get accomplished by your awareness of it. This is how New Jersey acts. Know

the problem, so we can then address it. Keep in mind. Why did Rogers get pulled over? Well, it was never proven. But I'll tell you why - a Florida plate.

Evan Nappen 08:54

It was common knowledge that individuals were profiled not just by race, but also by their license plate. So, if you are coming from a southern state, or another state that has respect for the Second Amendment, you can be pretty sure that there is a good chance you might get profiled for a stop looking for guns. So, how do you move with guns? Well, you move with guns under the Gun Owners Protection Act which will provide the protection as your last resort. We are going to get into more detail so that you will know what to do to protect yourself when we get back from the break.

Evan Nappen 10:56

So, instead of trying to improve it, they made it worse. They focused on eliminating ways to save people by getting rid of the ability to get into PTI (Pre-Trial Intervention) and other things for certain offenses where you get diverted if you made an honest mistake. Now it is going the exact opposite direction of what you would believe would be fairness and justice. What would be rational and correct in America, the opposite direction. I cannot emphasize it enough. Every time I get a call about somebody who somehow did not know any of this, and they end up getting jammed up in New Jersey. It just surprises me in a way because it has been going on this long. How do they not know? Well, the reason they do not know is that it is not generally out there.

Evan Nappen 11:51

You are smart enough to be listening to this podcast. You are smart enough to be knowledgeable and know what is really going on. But so many law-abiding gun owners do not. So, part of the mission here is to change that. To get folks understanding as we progress through these laws. As we see court cases such as the United States Supreme Court taking a case where hopefully, finally, the Second Amendment is going to straighten these horrible laws out. But until then, you are vulnerable. You need to know what to do to protect yourself. We are going to get into more details of what you need to know when moving with guns.

Evan Nappen 12:45

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, that 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 14:00

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

Evan Nappen 14:16

Hey, glad you are back, and I want to tell you about my good friend, Mitch Rosen. Mitch Rosen makes holsters, and they are my favorite. He does not pay me to talk about it, but I love talking about it because my EDC rig is from Mitch Rosen. When you try out one of his holsters, you will see what I am talking about. Each one is custom fit to the gun, and it is great. So, check out Mitch Rosen's holsters at MitchRosen.com.

Evan Nappen 14:44

I also want to mention that we are on a mission here. We are on a mission to protect gun owners from becoming law-abiding criminals. So, I need you to tell your friends to listen to Gun Lawyer radio. Visit our website at Gun.Lawyer (instead of a .com. It is a .lawyer) It is www.gun.lawyer. What I would really love you to do is take a look at our Inner Circle. It is on our website, gun.lawyer. Sign up for the Inner Circle. You are going to get the insight from me, Evan Nappen. I will be giving you tricks, tips, and insights. Sign up. It is free.

Evan Nappen 15:24

The other thing that is really, really important to me, is for you to subscribe to the podcast. Please subscribe. When you do that, it helps me get exposure of the show. It gets it out there, and it gets more people listening and being protected. As the distribution of the show increases, it is really, really important. Just hit subscribe and subscribe to it. You will not miss a single episode that way, and you will gain information that may save your life and protect you from becoming the next law-abiding criminal.

Evan Nappen 16:03

We are going to have big issues coming up. It has already started with these executive orders. All kinds of nasty things. You are going to want to know what to do to protect yourself. You are going to know what loopholes are out there. I am going to fill you in on all that, and you are going to want to know. So, please subscribe and join the Inner Circle.

Evan Nappen 16:23

Let's talk about moving with guns. I get questions about moving with guns a lot. People want to know, how do I do it? What do I do? Maybe some of you are aware of it, but it is still worth repeating. The ability to transport your firearms interstate is accomplished by a law that, there are not too many laws like it, is called preemptive. The Federal gun laws do not normally preempt state laws. What does that mean? It means that the Federal law is the supreme law, but states can pass any other laws they wish to. What that means is the Federal law becomes the minimum gun law, and the states are essentially told, go wild, do whatever you want. Until someone challenges it, and it is found unconstitutional, the sky is the limit. So, the states can then enact whatever gun laws they want to become the maximum gun laws. A number of states have taken this very approach, not the least of which is the state of New Jersey.

Evan Nappen 17:39

So, how can we have any type of power over states that have gone hog wild and created these extreme, absurd gun laws that turn law-abiding citizens into criminals? Well, one of the ways is by Federal preemptive laws. There are certain Federal laws that are selectively preemptive, meaning override the state law. Preemptive laws are empowered through the supremacy clause. Those laws make it so that, regardless of the state law, the Federal law supersedes it, and allows you to do certain things that you otherwise might not be able to do in any given state. One of the key, most useful of the preemptive Federal gun laws is for Interstate Transport of Firearms, and it falls under U.S.C. Title 18 926A.

Evan Nappen 18:45

The requirements are as follows. You have to go from one place where you legally can possess and carry a firearm to another place you legally can possess and carry the firearm. Those places mean two different states across interstate lines. As long as your beginning destination and your ending destination are places where it is legal for you to possess, carry those firearms, then every state in between, you get preempted from their gun laws. Now the mode of transport is also important. The guns have to be completely unloaded. Guns need to be in a separate container, and I would highly advise locked. They cannot be readily accessible from the passenger compartment. Ammunition must be separate, and nothing loaded.

Evan Nappen 19:37

As long as you have it in the proper mode of transport, and you are going from one place where you can legally possess and carry to the other place. Everything in between gets covered. So, how do you screw this up? Well, I will tell you how. You screw it up by making the end destination in a state where you cannot possess and carry. If your ending destination from Florida is New Jersey, then you are not protected by Title 18 926A. But, if your ending destination is New Hampshire, now you are covered because you fit the law for your travel and all the states in between including New Jersey have the preemption.

Evan Nappen 20:24

Even though we have this preemption available, many states fight it, kicking and screaming, as does New Jersey. They do not like to adhere to it, but I have forced them into it many times. So, what is the point of this? Well, the point is your weapon of last resort. View Title 18 926A. as your fallback position. You do not want to have to invoke that law. You do not want to have to fight over a preemptive Federal laws application in any given jurisdiction. If push comes to shove, things end up going south, and the only thing left is this, well, okay, then it will do the trick. It will save the day, but you do not want to depend on it.

Evan Nappen 21:20

There are other ways to enhance your ability to transport once you are doing so, lawfully, under Title 18 926A. So, what are these techniques? Well, number one, is you need to be discreet, folks. Discretion. Meaning, if you have a trunk, make sure the gun case and everything is in the trunk so that it is not in plain view. In New Jersey, plain view of a gun case, just a gun case, is probable cause for a search. So, even though you cased, unloaded, and locked, and all, it gets seen. Now you are put at the next lower

level, and you are going to have to fight it out. The search is going to take place, and you are going to be arrested. Then we are going to have to raise preemption, and you do not want to go through that.

Evan Nappen 22:22

So, you need to be discreet. If you don't have a trunk, cover the gun cases with a moving blanket. Cover it so that it cannot be seen. Not only do you want to cover it so that you avoid gun cases being seen, but also you do not want anything stolen. If you have to make a pit stop, rest stop, you do not want someone to look in and see gun cases. They will think there are some guns to steal. So, it makes sense, just from that perspective, be discreet. It is an important thing. You have to think this way. Even though it is all right, even though we do not want to hide that we are gun owners, even though we know that the gun laws are BS and all that. I get it. But you know what, I do not want you to become a law-abiding criminal. We have to be discreet, and we have to be smart. That is the key; being smart here.

Evan Nappen 23:16

The other thing you do not want to do is leave anything accessible that we have talked about before in plain view that might be contraband. I mean, that's a big duh, right? But seriously, don't put a magazine or a holster in your glove box. Do not carry anything that is weapon related in your glove box. All they have to see is that and boom. Now it opens it up. I will tell you a shocking thing. Do you know what has led to many searches for many of my clients in New Jersey? Are you ready for this, folks? You know what has led to it? They are licensed to carry a handgun. That's right. The Officer asks for ID and as the driver, you take out your wallet and you start fishing through it. Here is my driver's license, and the Officer sees a license to carry a handgun issued by whatever state. "Excuse me, sir, do you have any firearms in the car? I see you are licensed to carry." Yeah. Oh, yeah. Boom.

Evan Nappen 24:18

Now, you are going to be arrested, and we are going to have to sort it out in Court. And what led to it? As ironic as it is, your license for the gun. So, do not keep your gun license with your other driving documents. You can keep it in your wallet but keep it in a separate spot. It should not be showing itself at any time. You do not want to give away your edge that you may be armed, and you do not want to create "probable cause" for a search. You do not want to have any of that happen to you. From both a law enforcement and non-law enforcement perspective, revealing that you have a carry license is revealing something that is tactically unwise for you to do. It is legally stupid because it leads to searches, which then lead to your having to fight the judicial system and hiring me. I would rather see you safe and not be a law-abiding criminal.

Evan Nappen 25:21

These are tips and tricks, and I've seen it over and over again. These are things that, even if it is repetitive, I do not mind repeating it. The mistakes keep getting made, and I do not want you to make these mistakes. Be aware. Stay within the Federal law. If you are in certain jurisdictions where the Federal law you are not going interstate, then you want to have met the state requirements. Make sure you know specifically what you have to do in the state to be legal.

Evan Nappen 25:58

Confirm it from a valid legal source. I cannot tell you how many times I have had clients tell me they thought they were legal, and they looked it up on the internet. No, not a good idea. As you may recall, Rogers even called the State Police in New Jersey to try to do it right in the first place. It did not matter, not all, because even that advice was faulty. You have got to find out for sure. Talk to a gun attorney. Someone who does this and knows the gun laws.

Evan Nappen 26:35

Listening to this podcast helps you to protect yourself in that way. I am giving you information based on over 30 years of experience. Seeing what is real and what isn't. This is important so that you do not become a law-abiding criminal. This is Evan Nappen, reminding you that gun laws do not protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 27:03

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