

# Gun Lawyer S2 E79

## SUMMARY KEYWORDS

expungement, gun, commitment, mental health, state, involuntary commitment, firearms, registration, guns, second amendment rights, folks, biden, records, dealer, new jersey, police, involuntary, voluntary, gun rights, law

## SPEAKERS

Evan Nappen, Speaker 3

### **Evan Nappen** 00:00

Hi. I'm Evan Nappen, and welcome to Gun Lawyer. Today I want to talk about mental health and guns. It is an important subject that ends up targeting your Second Amendment rights, and it is widely misunderstood. A lot of folks don't even realize just how easily this can end up becoming a problem. I've been dealing with these types of cases now for over 35 years, and I want to explain some dynamics here so that you can have this knowledge and try to protect yourself from becoming a victim. A victim of a gun disqualifier, a victim of what happens in the world of mental health. The problem is, of course, that people who have mental health issues and mental health problems, basically need to get help. And we get that. I get that I can't say to anybody, nor would I, don't get help if you need help. So, we got to just get that straight out there.

### **Evan Nappen** 01:36

But there's needing help, and then there are other times where individuals absolutely did not need help. And it created a nightmare for them. I have had to work many clients through these nightmares. A lot of folks just have no clue what can happen to you when you get sucked into this thing. So, let me let me start with, first of all, you need to understand that if you see a shrink, you are now risking losing your guns. It's that simple. Now, I am not saying don't see one. Maybe you need to. But you better know that as soon as you embark on that, you have immediately triggered anti-gun laws that are going to focus on you. Just by seeing a psychiatrist in New Jersey.

### **Evan Nappen** 02:37

One of the questions right on the application they ask if you've ever been treated or observed by a doctor or psychiatrists. So, as soon as you do that, now you're answering the question on the application as "yes". And if you don't answer truthfully, you are committing a felony level offense. You are falsifying the application, and you're looking at up to five years in state prison. So now, just by seeing and getting that visit, you have put yourself in a position, particularly in New Jersey, just from that visit, where you are going to have to show that you are safe for the handling of firearms. A lot of people don't know that will happen, and you better put that into your considerations.

**Evan Nappen 03:29**

But you see, it goes beyond that, and the beyond that has to do with getting mental health commitments. Because if you start at the top, the Federal law, there is a prohibitor for gun possession under Federal law. If you've had an involuntary commitment, under federal law, or if you've been adjudicated mentally defective or had a mental health, involuntary commitment, then you are disqualified from firearm possession and ammunition possession anywhere in the United States under federal law. You have become the equivalent of a convicted felon because it's the same law that bans felons from having guns. It bans individuals that have had involuntary mental health commitments. And this is very widespread.

**Evan Nappen 04:33**

But you see what New Jersey does and other states as well, but what New Jersey does, is they too prohibit individuals who have had mental health commitments. But not just involuntary commitment, any commitment. Even a voluntary commitment is a disqualifier under New Jersey law and under New Jersey law if you had a voluntary commitment, there's a separate law that prohibits your possession of firearms. That's right. You signed yourself in for a voluntary commitment, voluntary treatment, and you've now put a New Jersey gun disqualifier on you, that is a license disqualifier and a criminal possessory disqualifier. A lot of folks don't realize that, and the question that comes up is, how do you relieve yourself of this disqualifier? How does someone restore their rights, their Second Amendment rights if they have been treated by a psychiatrist, or medical doctor for a psychiatric condition or mental condition? Or if they've been voluntarily committed? Or if they've been involuntarily committed? How do the rights get restored when an individual faces these things in their life?

**Evan Nappen 06:19**

I will tell you, and it's important to understand, the difference because all the time I get confusion. And I don't blame folks for being confused, but I need to clear this up. So, let's start with the Federal law. Federal law, as I said, prohibits the possession of firearms by a person who has had an involuntary commitment. There are also other disqualifiers out there too, when there's been adjudications, etc, for a mental deficiency. But how do you clear that if you've been involuntarily committed? Well under the NICS Improvement Act of 2007 that occurred after the Virginia Tech atrocity. I do not call them tragedies because they are atrocities were the individual committed a mass shooting. In response to that the NICS Improvement Act was passed. Interestingly, part of that was to get the records of mental health commitments into the NICS database, and the government put up big bribes, millions of dollars, millions and millions of dollars, in grants for states to put the records into the database. But the NRA and other pro-gun forces were able to get put into this NICS Improvement Act, the express recognition of a state mental health expungement as curing and doing a rights restoration of the disqualifier created by having an involuntary mental health commitment. In addition, they were able to tie into getting the money with a state having also being required to have a mental health expungement program.

**Evan Nappen 08:31**

A number of states jumped on this wanting the federal money and of course, New Jersey I don't think has ever rejected trying to get federal money. In so doing, they had to create a mental health expungement procedure for the restoration of Second Amendment rights. So, that is in place and many other states have it. Now there are other states that have completely rejected the federal bribes to put

mental health commitments in a database. At the same time, they do not have a mental health expungement procedure. For example, New Hampshire does not have such a thing. New Hampshire does not report or require to report the mental health commitments, but also there is no way if you've had a mental health commitment involuntary in New Hampshire, to get an expungement.

**Evan Nappen 09:31**

So, although the record isn't put in the database, if you are buying a gun, and you've had a mental health, involuntary commitment, and the 4473 asks about it and you lie on that form, hey, it may not come up on the NICS check. But if somebody does know about it, now you're facing Federal charges for falsifying that form. Whereas, if you could have the ability to get a mental health expungement, you can actually clear your record and be good to go, but it's not offered there. So, oddly and interestingly, New Jersey does offer an ability to get relief. But it also fills that NICS database with mental health commitments.

**Evan Nappen 10:12**

And let me tell you further, it isn't just adult commitments. It also includes juvenile commitments, folks. When you were kids and your parents, their parents, put them into the facility. Those count as involuntary commitments whether you had no say, but guess what? Your parents, by doing that, made you disqualified for gun possession. And the only way to cure it, the only way to get your rights back even though you had no choice in the matter, is to get a mental health expungement. So, expungement cures the federal disqualifier. But getting a mental health expungement is not always available in every state. And even when you do want to get it, it is a costly path. It's not cheap to get mental health expungements. You got to do an entire litigation, and it's something that has to really be argued and put forward. It's not simply filling out a one-page application and having it rubber stamped approved. You also need to get a doctor's evaluation as part of it and that's not cheap. But it can be done, and we have done many of them in my firm as well. This is the only way though on an involuntary mental health commitment to get your rights back under the Federal jurisdiction.

**Evan Nappen 11:42**

Now under state commitments disqualifier, it is actually a different approach, and it's kind of interesting. Because on the state side, they don't mandate an expungement. Now, expungement can help because you can remove the commitment, that's true. And then you're legally able to say "no" as to having had a prior commitment. But even a voluntary commitment is still a disqualifier, and New Jersey will not allow a mental health expungement on a voluntary commitment. Only when it's a federal gun disqualifier. New Jersey requires you to have a doctor's letter or other sufficient medical proof that you're no longer suffering from this in such a way that make you a danger to yourself or others. So, you now have to spend and get the psychological, the doctor's letter, the doctor's report, in the same way that if you had simply seen a psychiatrist or medical doctor, and again, you had to write "yes", so the police are going to want to see this doctor's report. In order to get your rights back in Jersey, even for a voluntary commitment, or you are voluntarily seeing a psychiatrist or psychologist, medical doctor MD, that is seeing this and getting the treatment in that way.

**Evan Nappen 13:14**

They're going to want to see a doctor's report, and let me tell you, getting the doctor's report is not cheap. You know, it's pricey to get it. And what's even worse, is many doctors do not want to write such a report. They are chicken shits, frankly. They're afraid to say somebody's good for guns. They're afraid of the liability, and they don't want to do it. Even though they know, in their professional judgment, that you're fine. They're not going to put that in writing. So, you need to find a doctor willing to actually write such a report to get your rights back. This whole area is fraught with peril if you care about your Second Amendment rights, and you need to be aware of it.

**Evan Nappen 14:10**

Now on top of this, it gets even more complicated because New Jersey has what's called a health care duty to warn gun seizure. It came under the Red Flag Law when that passed. And in that if any professional, medical professional, nurse, therapist, quite a broad list, ever hears or believes that you may want to harm yourself or others, they are mandated to go to the police about it. Mandatory. Shall. This is why I say to folks never use a hyperbolic statement. Never say, oh man, I had such a bad day I could you know I can kill myself. Forget it. You just invoked that. Or if you're so mad, you're like, that guy got me so pissed off, I could kill them. Now you're threatening to harm others. It's the equivalent of saying a bomb joke at the airport. You can't do it. And what happens when that happens? Well, they contact the police.

**Evan Nappen 15:20**

It doesn't even have to be medical professionals, because I've had cases where individuals have just contacted the police. And what occurs here, falls under that Red Flag, the ability to possibly get the TERPO, the Temporary Extreme Risk Protection Order, or under the Health Care Duty to Warn, to just seize your guns based on that. But, folks, it isn't just seizing your guns. It's also going to entail seizing you. That's right, grabbing and taking you away. A lot of folks don't realize that happens. But in many of these gun cases where I've had plenty of experience, that's exactly what happens. They take the person's guns. They bring the action based on the forfeiture of Red Flag of some variation thereof. But they also have taken the person away for an involuntary evaluation.

**Evan Nappen 16:26**

Let me show you and tell you about how this works. So, I have an article here, called Short-Term Emergency Commitment Laws Require Police to Assess Symptoms of Mental Illness. This article is from November 25, 2014, and Temple University Center for Public Health Law Research. I just want to read you some portions of it. And what it says is that they did a 50-state data set analysis of the state law governing the short-term emergency commitment process. These laws give law enforcement officers and others the right to involuntarily admit someone into a mental health care facility, if they're in danger of harming themselves or others because of a mental illness.

**Evan Nappen 17:17**

In 47 states, now that was 47 states by the way in 2014, but in 47 states, police may take a person into custody without a warrant and may initiate an emergency psychiatric hold, essentially committing them to a mental health institution without their consent. That's just what Jersey does. The police have the ability and here's what it says. Police officers serve as a first responders for mental health crisis

treatment by legislation in nearly every state. In most jurisdictions, a police officer has the authority to take a person to a hospital or facility for mental health treatment when the person presents a danger to themselves or others. Police are explicitly assigned the role of initiating the short-term emergency commitment process.

**Evan Nappen 18:14**

So, folks, not only do the guns get seized and your licenses get revoked, but you get seized. You can be taken for that evaluation, and then it can blossom from there into a commitment, either voluntary or involuntary. Lots of times the involuntary commitment is because they threatened to do an involuntary if you don't agree to a voluntary. This is what happens. Once you get in this path, your gun rights are hammered more, you become a prohibited person, and you are forced into all this because of a person making this claim that you're somehow a danger to yourself or others, and the police respond accordingly. So, beware. When we come back, we're going to talk about some great letters that we've received and some other important issues.

**Speaker 3 19:22**

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](http://EvanNappen.com) or follow the link on the Gun Lawyer resource page. Evan Nappen - America's Gun Lawyer.

**Speaker 3 20:34**

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**Evan Nappen 20:53**

Okay. I want to thank you for listening to Gun Lawyer and getting the word out. It really is great to have this platform and to be able to speak freely and tell you the things that you don't hear in the lamestream media and give you the warnings and such that you won't really find anywhere else. Anyway, I got a great letter here, and this is from Mike. Here's what Mike says. Mike says regarding ID requirements to get a gun out of pawn. So, I had to pawn a rifle. Pawnshop says I need to have my middle name added to my state ID to get the rifle back. Other gun dealers in the area say I only need state ID as is. I live in Arkansas. Is this place trying to illegally steal my rifle or is this some new law nobody but the pawn shop knows? Thanks for your time.

**Evan Nappen 22:01**

So, this is about essentially pawn shops and guns. The deal with pawn shops is pawn shops are regulated federally as well. There's FFLs that are issued to many pawn shops, and they take firearms in for pawn. The problem is once a pawn shop receives the rifle, they have to proceed with the transfer in the same manner as if you were buying it again. In order to do that, they have to get the ID. They need to have the government issued ID, and it needs to be in conformity with Federal law. So, in this case, unfortunately, I don't have more details than what was provided. But if there's a discrepancy in the form of the ID, then they need to show it, and it has to match up. It has to be accurate. It has to meet the qualifications. It needs to be a government issued photo ID.

**Evan Nappen 23:23**

So, it sounds more to me, and again, I don't unfortunately have all the facts, but it sounds more that it's the dealer, the pawnshop being very, very careful. And the reason they have to be so incredibly careful is that the Biden administration is looking to, and in fact are, shutting FFLs down for having even one violation. They're taking virtually a zero-tolerance approach and trying to eliminate dealers. This is part of their specific policies. So, it's hard for me to blame dealers because they're trying to be extra careful. Essentially their license is on the line, and until we get a change in the administration, there's great risk to every licensed firearm dealer of losing their license over minor technicalities.

**Evan Nappen 24:33**

They don't care, and all this is wrapped into the approach of the government in the major backdoor gun registration scheme that's taking place right now. You don't see the big picture talked about or presented. But it's going on. Biden's administration just illegally, unlawfully, created a registration database of almost 1 billion firearms. And they did it by taking the records of the closed dealers when they go out of business and have to send the records to the repository. All those records have been digitized into a database. Biden also has ordered that records that were older than 20 years that used to be able to be destroyed, they're going to prohibit from being destroyed. So, a dealer must maintain every gun record, no matter how old, and therefore, all those records can be added to the registration database when that dealer goes out of business.

**Evan Nappen 26:00**

On top of that, we have the mechanization, the building of the registration machine, that is taking place on the NFA side, the National Firearms Act side. The ability to get NFA registrations can now be done via computer, which at first was celebrated because it would speed up getting NFA approvals. But they're not doing it because they want to provide better service for gun owners. Please don't make me laugh. They have a reason. And the reason is, very shortly, when the pistol brace rule comes out, there's going to be a million to maybe 30 million, who knows, pistol braces that have to be registered and \$200 tax most likely having to be paid. Handling that the old-fashioned way on paper would have been an impossibility. But the machine is up and running, and now they're going to handle the millions of those registrations. This is really going to get the rest of the bugs out. They're going to have this super registration machine already, so that they can mandate on-the-spot registration when you buy the gun from the dealer. So, they can have real time registration and backing it up will be all the records of prior sales. And this is the game folks.

**Evan Nappen** 27:29

They're working to the goal of complete firearm registration for the United States. They're doing it in this backdoor administrative, bureaucratic, abusive agency way, and they're getting it done. It's a fact. They are getting it done, and the threat of registration cannot be underestimated. It is what leads to the next step of confiscation. They want to know who owns a gun, so they know who to take the guns from. This has been shown time after time after time. Biden and his cronies are doing this very thing. in violation by the way of the law, the federal law that says you're not supposed to create a database. But since when does any law stop the Biden administration? I mean, seriously, you know. So, they're not stopping their efforts on gun rights and preservation of the Second Amendment, that's for sure. They have an agenda, and they're not going to let some laws get in the way of pursuing that. This is what we're dealing with, folks, and you need to recognize that threat. It's why they're mandating that serial numbers be present on so-called ghost guns, because they want to register all of them. And you need serial numbers to do it. Why are they pushing? Look at look the big picture, and you can see, plain as day, what they're up to. So, stay vigilant. This is Evan Nappen, reminding you that gun laws don't protect honest citizens. They protect criminals from honest citizens.

**Speaker 3** 29:37

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