

Gun Lawyer -- Episode 105 Transcript

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SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:00

Hi. I'm Evan Nappen, and welcome to Gun Lawyer. I have been getting some interesting cases, and these cases have raised an important point of what I want to make sure my listeners are aware of. What I've seen is a pattern of mistakes by individuals who fall into what I call the "give up your guns trap". It's a trap in law that occurs when individuals are put into the system, and the system persuades them to give up their guns. Because when this happens, they don't advise as to all the ramifications, and it is a sucker bet. Literally, the gun owner is played as a sucker. I don't want to see any of you played as a sucker. I want you to know your rights, and I want you to know what to do if you ever end up in this situation. Don't say or think that it can't happen to you. Because just about every client I've ever talked to tells me I can't believe this is happening to me. So, it happens.

Evan Nappen 01:54

Let me tell you about the recent incident issue and what happened so we can learn from these other folks' mistakes. What happened was this fella calls me who had a TERPO against him. TERPO is what we commonly call Red Flag. TERPO stands for Temporary Extreme Risk Protection Order. When the TERPO, which in New Jersey can be done at the drop of a hat, I mean, it's easier to get a TERPO against somebody than getting your sandwich made correctly at Wawa. Okay, this is how it goes. It's made to be quick and easy to get the person's guns taken. Then they get to have due process afterwards. We've talked about TERPOs and the mechanics of TERPOs and how outrageous the red flag TERPO is in New Jersey. So, here's an individual who gets slammed with a TERPO. The TERPO was not justified, and this person, unfortunately, went to court without an attorney. Now, here's the thing. I know a lot of folks, they know they're righteous, they feel truth is on their side. They feel that their trust in the system is going to pull them through, and therefore, they don't need an attorney. They don't need a counselor to advise them about the nuances of New Jersey's gun laws and how they work.

Evan Nappen 03:43

So, he went there without an attorney and here's the thing, he won. Yep. The judge agreed. The judge agreed that the TERPO was unjustified. The judge dismissed the TERPO so that it did not become a FERPO, which is a Final Extreme Risk Protection Order. And that's good. It's great that he was able to achieve that result. But here's the problem. Even though the judge dismissed the TERPO is a victory, the judge in the order dismissing never made a finding or a statement or any type of order as to the disposition of the winner's firearms. So, the judge says yeah, the TERPOs no good. You're not in

immediate danger to yourself or others and I'm dismissing it. That's great. But this fellow didn't know to insist that while you're there in court getting a court order that the judge also speak to, in the order, the disposition of the property itself. The disposition of the firearms. In other words, ordering that he get his firearms returned. So, that didn't happen. And lo and behold, he won the TERPO, but now he wants to get his guns back.

Evan Nappen 05:25

He's contacting the prosecutor's office and trying to get a hold of somebody there and trying to get someone to return guns. And guess what? He's got no leverage to return guns. There's no court order to return the guns. He wants to get his guns back. He did it himself. He won the TERPO, but oh, well. Finally, he gets a hold of someone from the prosecutor's office. I don't know exactly who. But they said, look, I'll tell you what's a lot easier. Sell your guns. If you consent and give up your guns and sell your guns, you can go get guns or something instead of getting your guns returned to you. You can take a loss of \$1000s of dollars in that because, you're only going to get wholesale from a dealer. But so what? That's your option. Agree to have them sold, and we'll make arrangements. So, give up your guns. This fellow signed a consent to have his guns sold to a dealer with him getting the money. Of course, there's a lot of fine print in that consent, and it says that if you fail to get a dealer to do it within a certain amount of time, usually 60 or 90 days, all the guns are forfeited to the state. They all go to the state because you didn't move on them, or you couldn't get a dealer willing to pick them up. By giving up your guns, you now have a situation where guns have been seized from you. They haven't been returned, and even though you won your TERPO, you lose \$1000s of dollars in your firearms, and by the way, to get your Firearms ID Card back. That wasn't ordered, either, because that was also taken.

Evan Nappen 07:18

So, how do you get that back? Well, now you are going to have to fight that. You put yourself on a time limit under the guns. You consented, foolishly, to having your gun sold instead of fighting to get them back, and you never did what should have been done at the beginning. Because if you had counsel, if there was an attorney that knew what they were doing, they would have got the judge's order on the TERPO, ordering a disposition back to you. Then if the prosecutor's office didn't want to obey or abide by that, you can easily bring a motion to enforce litigants rights and make them pay for their failure and explain to the judge why they shouldn't be held in contempt. Of course, if it's in the order, they're going to do it because now you have leverage, and you have the ability to get it back. It would have been a whole different story here. But he was never told that, and no one in the TERPO hearing on the other side is going to tell them what needs to get done. They're going to take advantage of you.

Evan Nappen 08:25

Now it isn't just on TERPOs. No, no. Guns get seized all the time, in different venues and by different statutes. One of the most common is on the domestic violence seizure. There was a Domestic Violence Temporary Restraining Order and guns were seized. Then the Temporary Restraining Order gets dropped, and a weapon forfeiture hearing is held. And here's the scam that happens there. So, you are successful in your defense on a TRO, a Temporary Restraining Order arising out of the domestic violence laws. It was unjustified, and it got dismissed or dropped or you won it at the hearing. But it's gone. But they're still holding your guns. So, what do you do? You're going to have this weapon forfeiture hearing where you are going to have to go there and argue why your gun should be returned,

and this has been dropped. The state is still going to raise the underlying issues because they're allowed to. But, of course, you're going to battle that out, and it's going to be another day in court. It's going to be another stressor of having to fight for your gun rights and your guns.

Evan Nappen 09:45

Instead, you get a call from the prosecutor's office, and they say, hey, listen, we're such nice folks. We are going to let you sell your guns, and you get the money for it. Isn't that nice of us? You don't even have to go to court. We'll get that order right into the court saying that you consent to have your gun sold and go to a dealer. We're going to do this same deal for you. Isn't that great? You don't have to waste your time, and you're like, oh, okay, sounds good, you do that. And you've just disenfranchised yourself of your Second Amendment rights because New Jersey has a law that they didn't tell you about. They have no obligation to tell you about that. The judge doesn't have to tell you about even. That says if you've had guns seized pursuant to domestic violence and have not had them returned, then you become a disqualified person for gun ownership. That's right. You become essentially the equivalent of a convicted felon. When it comes to guns, you can't possess them anymore, period. Of course, it's a licensing disqualifier as well. Because you had guns seized pursuant to domestic violence, and they were not returned. So, by consenting to that and not fighting for your gun rights and the return of your guns, but by consenting to the sale of your guns, you now have removed your Second Amendment rights from your life in New Jersey. Again, beware of the consent to giving up your guns or your gun rights.

Evan Nappen 11:30

I've seen it in other forums. I've seen it where someone has a criminal charge, and it's a charge that is probably winnable. Okay. It's a criminal charge that I have good defenses. It was a bad search. It was whatever. It's winnable, but you know what? They offer you PTI, PreTrial Intervention. Now, let me say pretrial intervention can at times be an excellent solution. Absolutely great. Because it's like a period of probation that they call supervisory treatment. And as long as you don't get in trouble during the pendency, PTI, normally about a year, can be as long as three years, but usually it's about a year. As long as there's no other trouble, the charges get dismissed. So, there's no conviction and you get no jail time at all. It can be a good deal. Can be a good deal if it's managed and done correctly. The details have been approved and reviewed by your attorney. But I've seen PTI agreements and PTI conditions where the individual consents to giving up their guns and their gun rights. They do it because they want to get into PTI, and they don't realize that by giving up their guns and their gun rights, they've now permanently disenfranchised themselves of their gun rights.

Evan Nappen 13:01

I actually had cases where individuals in getting PTI, agreed to PTI, where they could have fought and even won their criminal case, but agreed to PTI where they gave up their gun rights. The craziest thing about it is with the PTI agreement to give up gun rights, there's no mechanism to getting your gun rights back. You just permanently gave away your gun rights, permanently disenfranchised yourself under the terms of that PTI agreement. We've actually had a case on this. Yet, if the person had actually been found guilty, pled guilty to the felony level offense that was placed against them, they would be eligible to get an expungement and have the felony conviction expunged and regain their gun rights. But by agreeing to it with this condition, a condition to outlast the initial conditions of PTI, they put themselves

in a worse position in terms of their gun rights than if they had become a convicted felon under the original charges. Was any of that explained to them by their attorney? No. Did the State make that clear? No. Did the judge? No, no one did. You just got to know. You better have someone telling you about what happens when you consent to giving up your guns or giving up your gun rights.

Evan Nappen 14:46

The entire legal system is loaded with these traps. These traps to disenfranchise us of our Second Amendment rights, and every day I see the trap sprung on unsuspecting individuals. So, the bottom line, folks, if you're in a situation where your gun rights are in any way in jeopardy or being questioned or have a potential to be affected, you need counsel. You need counsel that knows what they're doing. When it comes to guns, if you care about your gun rights, because through my practice, we have seen it over and over again. And all I can say is, I wish that guy or gal had called me first. I wish that I had been there. Because they come after the fact, after they've been screwed, and figure it out. Then it's like, what can you do to help me? Unfortunately, once you've given away your rights, once you've consented your constitutional rights away, it's very, very difficult to regain them because you foolishly took those actions. So, be careful. It's a deal with the devil when you make those agreements, and if you're making a deal with the devil, you better have quite the angel on your side. Watch out. I've seen it over and over.

Evan Nappen 16:27

At least my listeners here are warned. I don't want to see you become a victim of New Jersey gun laws. The victimization occurs by both being possibly turned into a felon criminal, having your life destroyed your freedom taken away, but also, you're victimized by having a disenfranchisement of what we treasure, our constitutional rights, including the Second Amendment. You also can be victimized by the very fact you've been disarmed and disfranchised. So, now you're vulnerable to violent criminal attack and can no longer have the means, the effective means, of self-defense. This is the wrongdoing that is done all the time, and it's done with vigor in the state of New Jersey. You can see their evil ways. It really is basically the only thing to call it. Coming to light now in the carry bill that's pending, where it is admitted, admittedly, to go at law-abiding citizens. They admit isn't about criminals or trying to stop crime. They no longer have any shame. They are open in their attack on law-abiding citizens' rights. So, folks, beware and be careful. When I come back, I have some really interesting things to talk to you about.

Speaker 3 18:25

For over 30 years, Attorney Evan Nappen has seen what rotten laws due 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 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. 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 19:37

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Evan Nappen 19:55

Hey everybody, welcome back to Gun Lawyer. We were talking about how they're out in the open now. They're just attacking us and law-abiding citizens and that it's no longer about crime. They're admitting to it. Well, I'm going to give you the proof of my statement. Here is Assemblyman Joe Danielson, who is the Assembly sponsor of the atrocity that we're calling the carry bill. It is essentially a bill to eliminate carry, but still allow to have a permit issued. This is their new game to just gut the utility of having a carry permit. Their basis for doing it is unabashedly and admittedly, to screw the law-abiding citizen. Let's listen. In their own words, Mr. Producer, play the clip of Mr. Danielson.

21:11

"The last thing I want to say to people and some of my own Democrats have committed to me, commented to me, this does nothing to stop the illegal gun trade or the illegal criminal, illegal possessions or criminal content. You're right. This doesn't. It was never supposed to address that. This is addressing the legal, law-abiding, responsible citizens. That's what it's designed to do."

(Assemblyman Joseph Danielson, Deputy Whip, District 17)

(<https://twitter.com/avsternator/status/1585776402796023808?s=46&t=hWq6cYz4nuL-kELVvSiDuA>)

Evan Nappen 21:43

So, there you go, folks. Admitted, admitted. It's not about crime or criminals, it's about you and me. It's about screwing us out of our rights and stopping us from becoming defenders instead of victims. It's to force us to remain victims of violent crime. It is a "do nothing about crime bill" but do everything to harm the rights and liberty of law-abiding individuals. When the Supreme Court has spoken, finally, and said, that we have a right to carry our firearms, to defend ourselves. This guy sponsors the bill to take away those rights, by some other means that they can somehow figure out and that's what they're trying to do. They're not even trying to hide it. It is about you and me and getting us and stopping us. It is in line 100% with their defund the police, with their release the criminals onto the streets. With the very reason crime is exploding and rampant. And of course, we need to disarm the law-abiding citizen while we're at it.

Evan Nappen 23:15

On top of all that, the Democrat Party is the pro-criminal party. There's just no other way to put it. This bill makes criminals safer. It is exactly what this is doing. For those of you who have been loyal listeners, how do I end my show about gun laws? That gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens. Well, that is exactly what Danielson is doing - protecting criminals from honest citizens, and he admits it. So, folks, it's hard to believe the times that we live in, but you heard it for yourself, and you can see the truth yourself. This is outrageous. This is New Jersey's approach to its citizens and how they view us. They view us lower than the dirt on their

shoes, and we must be stopped in their playbook. We, the law-abiding. Instead of faced as our society is more and more out of control with criminal violence. This is what they're doing. It is outrageous and intolerable.

Evan Nappen 24:49

So, folks, make sure you make them pay at the ballot box in November. Make sure you vote Republican. It's not even about the person anymore. You can see what the Democrats are doing. This guy is the Whip, the Deputy Whip, for the Democrats in the assembly. This is the Democrat Party. And if I'm wrong, show me the Democrats standing up in New Jersey against this. Show me the one speaking out, and I'll praise them. I'll be happy to, but I don't see it. Instead, this is being jammed down our throat. It is disgusting. It is unbelievable. Except we know what New Jersey is all about. We knew they would never want law-abiding citizens to be able to carry and that they wouldn't accept it without kicking and screaming. It's so offensive to them that they have to take out the citizens' rights. They just can't stand it. Yet, in 95% of the rest of America, it's fine. They recognize that citizens should carry, and many don't even require a permit to carry. Its constitutional carry. Half the country has constitutional carry.

Evan Nappen 26:25

But in Jersey they can't even have this extreme licensing. I mean, to get a carry license in Jersey still isn't easy. Sure, justifiable need is gone, but you still have to go through all those hoops and loops of training and background and printing and on and on. I mean, you know double tier - approved by the chief and then approved by the judge. All that wait time, everything combined. It's quite an ordeal to get your carry, and even with that, they don't want you able to defend yourself. No, no, we protect criminals, that's what the Democrats do. We coddle them, protect them, rerelease them. We defund police, we D rights, we D eliminate as Justice Thomas. The D limits. They want to have ultimate delimits on our Second Amendment rights. This is what you just heard and saw. It is incredible. So, beware. Keep up the fight. Make sure you make them pay at the ballot box. We can't give up. This is going to the courts, of course, and we're going to again have to rely upon the judiciary to defend our Constitutional rights in the face of an out-of-control government that is just giving the finger to the Second Amendment.

Evan Nappen 28:04

I would like to just change gears here for a minute and tell you about a couple other interesting newsworthy items. One has to do with Pennsylvania. In Pennsylvania, both houses have passed the repeal of the switchblade ban. Yeah, they are repealing the switchblade ban, and it is now on the governor's desk, Governor Wolf. It's gone to the governor. So, let's hope that the governor signs the repeal of Pennsylvania's switchblade ban. It's so stupid. Switchblades are no more intrinsically dangerous than any other knife. People say, oh, I can open it with one hand. Well, there's plenty of ways you can open the knife with one hand. The difference with a switchblade it is actually safer. Because it's one of the few folding knives that locks closed and even has a safety, most of them. So, it locks closed. It's even a safer knife to have, and one-hand access is incredibly utilitarian.

Evan Nappen 29:11

Did you ever hold your fishing line with one hand and need to cut it? You can open your knife with one hand. Did you ever need it for all sorts of utilitarian tasks where just being able to have a one-hand opener? Look, how many hands does it take to open a fixed blade knife? None, because it's a fixed blade. So, this is silliness already. This is something where it's archaic, and the original switchblade ban was, again, big surprise, based on emotion. These were primarily passed in the '50s when people watched James Dean, and they watched West Side Story. They all knew that U.S. violence was because of switchblades. If we just ban switchblades, it will end youth violence. Right, same garbage. And, of course, none of that's true. Now, we would probably be thankful if the gangs only had switchblades. It's just foolishness. But the modern switchblade today isn't even called a switchblade. That's how archaic it is. It isn't even what it's known as now. It's known as an automatic knife. Automatic knives are used throughout the country where they've been legal in a majority of states by EMTs, and sportsmen and warehouse workers and contractors, etc. They're incredibly useful and this silly ban needs to go.

Evan Nappen 30:45

Plus, there's a large variety of collectible autos through the years that were super well made, and very collectible and historic. They were even used in World War II by our paratroopers. They were issued Schrade Presto switchblades, because as a paratrooper, you needed to have one-hand access. You could open your switchblade with one hand, and you could cut yourself free while holding on to the rope or tree that you fell into, whatever, and still cut yourself free with one hand. It's all about that incredible safety, utilitarianism, and collectability. So, let's hope that the right thing happens, and that Pennsylvania follows the knife liberty movement that has happened in about 20 other states already. It started in New Hampshire. Yours truly here, spearheaded the effort in New Hampshire and repealed New Hampshire's switchblade laws in 2010. It's been a knife liberty movement throughout America. Now Pennsylvania, can again exercise and have the same liberty. So, that's exciting.

Evan Nappen 32:08

Something else, I'd like to point out that I recently saw. It's just some food for thought, and I thought it was kind of interesting. I learned that there's a group called the Socialist Rifle Association. And I'm like the Socialist Rifle Association? They're the real deal. They are actually socialist, and they are a national group, apparently. They have local chapters where it's socialists that are in favor of the Second Amendment, and I heard that the Socialist Rifle Association, for example, was opposing the horrible gun law that is on the ballot in Oregon. They said the NRA, the National Rifle Association, and the Socialist Rifle Association is opposing it. I said, damn, that's great. Now, let me tell you, I am the furthest thing from a socialist. I am ultra, uber capitalist, totally love capitalism. But I have to say, I also love, as you do, the Second Amendment. Frankly, even though our political positions may be completely different on economic choices in terms of socialism versus capitalism, if we are united on the Second Amendment, then as far as the Second Amendment is concerned, you are my brothers and sisters. And, you know, we have to break out of the tent where the Second Amendment is just looked at as a Republican or right wing or whatever type right. It's not. We need the left to support the Second Amendment and the right to support the Second Amendment because it's a Second Amendment. We can politically deal with our other issues between us. No problem. That's why we have our system. But the Constitutional right protected. And that protection desired by both right and left, by socialist and capitalist, is a good thing.

Evan Nappen 34:16

When you look at New Jersey and how bad it's gotten with the Democrats and the left, I would hope that a local unit of the Socialist Rifle Association would form in New Jersey. I know there's plenty of socialists in New Jersey. Look at how New Jersey flies, but look, if we save the Second Amendment by uniting with them, I'm good with it. Like I said, we can debate the economic policies another day, but stand with us on the Second Amendment and if it takes a Socialist Rifle Association to finally get through the thick heads of the Democrats in New Jersey, then so be it because apparently it has an effect in Oregon. So, good for them.

Evan Nappen 35:06

This is Evan Nappen reminding you that gun laws do not protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 35:21

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