

# Gun Lawyer -- Episode 123 Transcript

## SUMMARY KEYWORDS

firearm, gun rights, person, new jersey, gun, fight, rights, expungement, state, prohibited, association, assault weapons, felony, disabilities, deny, domestic violence, lawyer, joni mitchell, discover, guns

## SPEAKERS

Evan Nappen, Speaker 3

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

Hi. I'm Evan Nappen, and welcome to Gun Lawyer. I have some interesting things for you, a couple news bits here. Before I get to them, I want to thank our sponsor, the Association of New Jersey Rifle & Pistol Clubs, the number one defender of gun rights in New Jersey, and the official NRA affiliate. They are the folks with their feet on the ground in Trenton with full-time paid lobbyists, and they are litigating these major cases that are going to have direct impact, already have, on our gun rights.

### **Evan Nappen** 00:55

So, I was looking at this, and I saw this headline, but actually, it's even funnier. When you read deeper as to what it is, you know, Biden, just recently gave an address to the House Democratic Caucus in Baltimore, Maryland. And it seems that he was snubbed by more than a dozen Democrat lawmakers. Instead of hearing the President give a speech, they decided to go to a Joni Mitchell concert instead. Now I say that's a wise choice actually for them. They were joined by a number of Republicans including the Speaker of the House and Susan Collins of Maine, etc. So, all these legislators decided they're not going to listen to his fraudulency, the senile sock puppet, and see what he has to say. No, instead, they said, Joni Mitchell is the place to be. But what I really love, and this is a part they don't emphasize here, is what President Brandon said at his speech to the Caucus. Do you know what he said there? Guess what, folks? Guess what his whole theme, his whole push at this hearing was? Well, it's to ban assault firearms, of course. Of course. Biden said he's going to ban assault weapons and high-capacity magazines come hell or high water. That's what he's going to do. And guess what? Nobody wants to hear it. Not even the Democrats want to hear it. Nobody wants to hear him. They'd rather go to a Joni Mitchell concert, and I don't blame them because I'd rather do that too. He's just bloviating continuously over this garbage called assault firearms. The assault weapons which are made up because they're just an-anti gun ploy. We don't even use the term assault weapons if anything. All these guns are our modern sporting rifles. That's what they are. Modern sporting rifles.

### **Evan Nappen** 03:31

Because true assault weapons, Sturmgewehrs, as the Germans of the Third Reich created and called them, were fully automatic and semi-automatic. They were select fire. None of the firearms that Biden is talking about banning are select fire. No, in fact, they're just semi-autos, in which this idea when it was put out from the beginning by Josh Sugarman in the book, his manifesto, Assault Weapons and Accessories (in America) (1988). He even said the general public will be fooled by this. We can trick

them. He admitted it. Because they won't know the difference between fully automatic and semi-automatic, and he was right. The media and the politicians go along, and Biden is still harping on this same old saw, but luckily even less people are listening to him.

**Evan Nappen 04:30**

Now another thing here that is important for every gun owner to know is that Discover card, the credit card, Discover is now the first credit card to have gun store tracking. That's right. They will track your gun purchases when you use Discover Card. In an article by Larry Keane of National Shooting Sports Foundation (NSSF), which is also a gun rights group and important group. They focus on manufacturing and dealers and such. Very important to our rights. In his article from February 23, 2023, it says that "Discover Financial Services announced it will begin using the new controversial codes in April. Reuters reported that Discover will become the first credit card company to use the specific code for purchases at a firearm retailer." <https://www.nssf.org/articles/discover-becomes-first-gun-store-tracking-credit-card/> So beware. If you have a Discover Card, I would get rid of it. They're obviously part of the anti-gun, and they, of course, are putting it out like it's to track illegal sales. Yeah, right. Like that has anything to do with credit card purchases. It's just nonsense. I would highly recommend not using your Discover Card in any way, particularly regarding firearms. And for that matter, you should think about just getting rid of it. Because as these companies go woke, which is really what this is, and they just go extreme left in their propaganda and trying to impose gun control schemes on us through the private sector, we cannot tolerate that. Our response, luckily, in the private sector, is we don't have to use them. So, this is something to consider. If you're in the market to buy anything at a sporting goods store, think twice about using your Discover Card.

**Evan Nappen 07:09**

Well, what I want to talk about today is very important. I want to review the disqualifying disabilities to getting a gun license. In other words, I want you to know how to lose your gun rights in New Jersey. Because if you know how you can lose your gun rights, how you can become a person who is ineligible to have a Firearms ID Card, a pistol purchase permit or a carry license a so-called Permit to Carry a Handgun. They all rely on the same criteria. The criteria are in NJS 2C:58-3c. and that's where the, what are called the disabilities, are for having guns. If you fall into any of these, you lose your gun rights. You cannot have an ID card, pistol purchase permit or permit to carry a handgun. They all rely on this. If you're not familiar with what the prohibitors are, you might inadvertently end up being trapped by one of these or more, simply out of ignorance because some of these things you may not realize are firearm disqualifiers in New Jersey. And so, knowledge is key.

**Evan Nappen 08:38**

So, let's talk about what they are. And let me tell you, under the Carry Killer bill, the anti-Civil Rights bill that Murphy passed, he made changes to the disqualifiers and added a number of disqualifiers and other conditions that you need to be aware of as well. Listen to the first disqualifier and look at what the changes are. A person shall not be denied a permit, shall not be denied a permit. How about a person who shall be granted? But no, got to put the negative. Unless a person is known in the community in which the person lives as someone who is engaged in acts or made statements suggesting that the person is likely to engage in conduct other than justified self-defense that would pose a danger to self or others. What the hell does that even mean?

**Evan Nappen** 09:42

Well, I'll tell you what they're going out with that, folks. They are going at your social media. They want to see and look at what you've posted, what you've tweeted. All those kinds of things and see if there's anything in acts or statements. Statements are freedom of speech, right? Oh, we're going to use that against you see here. Statements that suggest, the statements don't actually have to say it. They just have to suggest it. What the hell does that mean? Suggest it. Whatever the judge decides it is going to mean. Right? Suggest that you're likely to engage in conduct that would pose a danger to yourself or others. And what is that danger? Is a danger, a serious danger? Or is it just a minor danger? Is it a potential danger? What? They don't say. So, here's this broad disqualifier out there to try to focus on anything where you've engaged in acts or made statements, where there's a suggestion based on these things, that you might pose a danger to yourself or others.

**Evan Nappen** 11:06

So, think about that, folks. You better be careful. Granted, it is something that chokes off free speech. If you care about your Second Amendment rights, it seems that you need to limit your First Amendment rights. I understand. We love all our rights, but New Jersey will attempt to use that against you. Use it to stop you from having a firearm. Now, this is being challenged. This broad, vague, garbage of a disqualifier. But until it gets knocked out as unconstitutional, you need to be aware of it, so you don't fall into its trap.

**Evan Nappen** 11:45

Now, the next disqualifier says to any person who's been convicted of any crime in this state, or its felony counterpart in any other state or federal jurisdiction, or any disorderly persons offense in the state, involving an act of domestic violence. So, if you've been convicted of a felony, or in New Jersey, they're called crimes. Or if you had a disorderly person, which is often thought of as a misdemeanor, for domestic violence. So, conviction of felony anywhere in the U.S., you're prohibited. Conviction of disorderly person for domestic violence, you're prohibited, and that also mirrors the federal prohibition of a domestic violence, misdemeanor crime, which is also a prohibitor.

**Evan Nappen** 12:38

Next, any person who is presently confined for a mental disorder as a voluntary admission or who is presently involuntary committed to inpatient or outpatient treatment. So, if you are in a mental health facility, you can't have a gun. Big surprise. Be aware that if you're being held in a mental facility, and you apply to get a gun, you will be denied. Okay? There's a really tricky one there. All right. Now, this is where they get into more Jersey special. Any person who suffers from a physical defect or disease which would make it unsafe for that person to handle firearms, to any person with a substance abuse disorder involving drugs, or to any alcoholic unless any of the foregoing persons produces a certificate of a medical doctor, treatment provider, or psychiatrist licensed in New Jersey, or other satisfactory proof, that the person is no longer suffering from that particular disability in a manner that would interfere with or handicap that person in the handling of firearms.

**Evan Nappen** 13:58

So, the bottom line here is if you have a physical defect or disease that would make it unsafe for you to handle firearms, or if you have a substance abuse problem, including alcohol or drugs, then the way to overcome these things is with medical proofs, that you're no longer suffering from them in a way that makes you essentially a danger in the handling of firearms. So, that is a state disqualifier. Something that's not found in the federal law. You can see how broad and vague it is so they can get into all kinds of things about you. It's used again to deny and create the system in New Jersey that becomes treacherous for folks honestly.

**Evan Nappen 14:52**

Next is any person who knowingly falsifies any information on the application form for a handgun purchase primitive or firearms ID card. So, falsification, which means if you do not give the right answer on the form that itself is a basis to deny, even if the answer that you gave, if it had been correct, wouldn't necessarily mean you were disqualified. For example, on the form it asks, have you ever been convicted of a disorderly persons offense, any type of offense. They just want to know anything you've been convicted of, even though that wouldn't necessarily bar you, if it wasn't domestic violence. But if you say no, and you actually had such conviction, now they can say you falsified and then deny your license. And then not only can they deny you, but falsification itself is a crime, a felony level offense, which you can also be criminally prosecuted for. So, it can be very treacherous.

**Evan Nappen 15:53**

You have to make sure that you answer these questions correctly. Because your failure to answer the questions correctly can not only lead to your gun rights being denied, but you are facing criminal prosecution. And we see that all the time. So be aware of this. We've been seeing some agencies that don't even bother to deny the person when they put the wrong answer. They just immediately criminally charge the person. They don't even deny the license. Just please come, you're arrested, and you're charged for putting the wrong answer. They let the courts sort it out later. So, be very much aware of false information. You don't want to have any problems. If you have questions about how to answer something, talk to an attorney that understands these firearm applications and questions so that you can be confident in giving the right answer. When we come back, I'm going to continue explaining how to lose your gun rights in New Jersey.

**Speaker 3 16:59**

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

**Speaker 3 18:13**

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**Evan Nappen 18:28**

Hey, welcome back, folks, Evan Nappen here. You're listening to Gun Lawyer, a podcast that is free for you to listen to, free for you to decide to subscribe to. So you can get top gun information, gun rights information, etc. To protect yourself and your rights. And also in that same vein, I want to thank our sponsor, who is the Association of New Jersey Rifle & Pistol Clubs, [anjrpc.org](http://anjrpc.org). You need to belong to the Association. You've heard me tell you this, but it's no joke. And it's not just because they're a sponsor. I've been an active participant in the Association for decades, decades, folks, because that is a key group in New Jersey to defending your rights. I know there's other groups as well. I'm not saying anything to put them down. I'm just saying no matter what, you better belong to your State Association. That is mandatory if you believe in your gun rights and protecting them and fighting for them in the toughest battleground state in America, which is New Jersey. You see the State Association has full-time paid lobbyists in Trenton standing guard and letting us know right away about the developments so we can fight and alert members.

**Evan Nappen 20:04**

They are at the forefront of the litigation, challenging the Carry Killer, anti-Civil Rights bill with an enormous, fantastic comprehensive lawsuit brought by my friend and colleague, Dan Schmutter. Great attorney. They're fighting right now on the assault firearm ban which got consolidated with the magazine ban in federal court. And remember, the magazine ban all went up to the Supreme Court and the Supreme Court GVR (Grant, Vacate, Remand). That's the Association's case. They sent it back to the lower court to rule in accordance with Bruen. That is a fantastic development, folks. So, we're looking really, I'm really cautiously optimistic on the litigation. Plus, the State Association is backing our case where we are challenging the very things we're talking about today. We're challenging the public health, safety, and welfare disqualifier, which we're going to get to in a minute. It is unconstitutional, vague and overbroad, and the Association joined it with an amicus brief in that important case. When you join the Association, you're going to get a number of benefits. Not only knowing that you're defending gun rights, but you're going to get email alerts, the instant alerts as to what's going on. On top of that, you're going to get a fantastic newsletter. The best gun rights newsletter printed in the state. So, this is something that you will get a lot out of, and you'll be on top of what is going on, and on the frontlines of the fight. So, please join ANJRPC. Go to [www.anjrpc.org](http://www.anjrpc.org).

**Evan Nappen 22:02**

Let's continue looking at the disqualifiers here. These are the things that you can lose your gun rights over. There is an age restriction in New Jersey. You have to be 18 for a Firearm Purchaser ID Card, and you have to be 21 for a Permit to Purchase a Handgun. So, beware of the age limitations. The next disqualifier says any person where the issuance would not be in the interest of public health, safety or welfare because the person is found to be lacking in the essential character of temperament necessary to be entrusted with a firearm. There's a whole other line of BS right there. You can see how vague and broad and ridiculous such a disqualifier is because, who's to say what is not in the interest of public health, safety or welfare, even mean? And yet they say, because you're found to be lacking the

essential character of temperament. What is the essential character of temperament. Please define that. Necessary to be entrusted with a firearm. Entrusted? It's our right. It's our right. I don't get entrusted with my rights. They're my rights. They're your rights. It's not about being entrusted. That's nonsense. These are the rights, and to say, you're disqualified from your right because you don't have the essential character of temperament. Whatever the hell that means. And it's not in the interest of public health, safety or welfare. Really? Again, undefined, subjective, crapola. Yet, there it is, and that's why we're fighting it. Association is fighting it. We're trying to get rid of this stuff that is there so that you can subjectively be disenfranchised of your God given Second Amendment rights, fundamental rights to be armed. It's outrageous. And yet another example of how far New Jersey will go in trying to destroy a constitutional right.

**Evan Nappen 24:49**

Next, any person who is subject to a temporary or final restraining order under domestic violence. That is correct. That's also a federal disqualifier, having a domestic violence restraining order. Any person who as a juvenile was adjudicated delinquent for an offense which, if committed by an adult, would constitute a crime. So, New Jersey even looks at juvenile records, juvenile convictions. If you've had a juvenile conviction and that juvenile matter would have been, if charged as an adult, a crime, meaning felony level offensive of the adult world, then that counts as a disqualifier for you.

**Evan Nappen 25:41**

Now, if you have a juvenile record or if you have an adult criminal record, there are ways to restore your rights and my firm does a lot of that. It's called expungement. We can expunge your criminal record, juvenile and adult, assuming you're eligible. And with an expungement, your record is cleared. You're given a clean slate, and it's deemed as a matter of law not to have occurred. It is no longer a per se disqualifier under these disabilities. So, it's a way to get your rights restored. If you have a Final Restraining Order that has been upon you, creating a bar under both federal and state law, then, in New Jersey, there's a way to get rid of restraining orders by bringing a certain type of action in court, to get rid of a restraining order and get rid of the disqualifier that a restraining order places upon you. If you've had a mental health commitment, we're going to get to, there is a mental health expungement that you can use to restore your rights. We do all this type of work in our firm, and we call it rights restoration. So, if you have a problem, if any of these disqualifiers that we're talking about apply to you or a loved one, give me a call or another attorney that knows gun law call them. We can talk about how to restore your rights. It's not necessarily the end of your gun rights. There may be a way of salvaging them, of restoring them, of saving them.

**Evan Nappen 27:22**

Here's an interesting disqualifier, and it's something important to know. Because they keep it secret until they want to use it against you, and I'm not kidding about that. And that's the following, any person whose firearm is seized pursuant to the "Prevention of Domestic Violence Act" and whose firearm has not been returned. That's right, if you've had a gun seized pursuant to domestic violence, because it was a restraining order. Even if the restraining order wasn't against you. You are an innocent third party and your gun got seized and that gun has not been returned to you. You're a prohibited person. This is why if you have guns seized, you must fight to get your guns returned. If those guns are not returned, you've just been disenfranchised of your Second Amendment rights. You've just lost your gun rights.

**Evan Nappen 28:15**

Because you were a sucker and allowed those guns to be sold. You were a sucker and agreed not to have them returned to you. They don't tell you about the disability that I just told you about. They don't warn you and say, oh, if you agree to have your gun sold or you agree to have it go to a third party or you agree to let the state keep them, then you become a disqualified person prohibited from firearms. No, they don't tell you that little fact. But I do. And I want you to know it. So, remember to fight for your rights and never give in on a forfeiture. You need to fight it legally and get your property back. Because if you don't, there's a price bigger to pay than the mere property that they're keeping. It costs you your rights.

**Evan Nappen 29:13**

Any person named on the consolidated Terrorist Watchlist maintained by the Terrorist Screening Center administered by the Federal Bureau of Investigation. So, if you're on the terrorist watchlist, you're prohibited from firearms. Now, do you know how you get on the terrorist watchlist? Do you know how you get on that? I have no fricking clue how you get on that. Nobody does. They don't tell you. That's part of the problem, but if you get on it, you've lost your gun rights. How nice. What a ridiculous disqualifier that is, and there's no due process. It's really crazy. But there it is.

**Evan Nappen 29:57**

Any person subject to an ERPO, which is an Extreme Risk Protection Order, often called a Red Flag, although it's not an official name. A red flag starts out as a TERPO, that's a Temporary Extreme Risk Protection Order. Then you have a hearing, and it becomes a FERPO, which is a Final Extreme Risk Protection Order. If you're subjected to any type of ERPO, whether it's a TERPO or a FERPO, you are a prohibited person for guns. So, you need to fight any of these red flag actions. If you're ever served with a TERPO, this has to be battled in the hearing. Otherwise, you will be given a FERPO. Then that final order not only takes away your guns and takes away your gun rights, but also, think about this, it puts you in a database. Because these FERPOs are database in which your name is on a list where you are declared an extreme risk. Do you really think being on a list, labeling you as an extreme risk is a good idea, even putting aside guns? That's what happens. Battle it out fight. Demand your due process.

**Evan Nappen 31:28**

Any person who is subject to or has violated a court order that prohibits custody, control, ownership, purchase, possession, or receipt of a firearm or ammunition issued pursuant to a Temporary Protection Order. So, if you have an order and you violate it, then the violation of it. If you're subject to or violated that becomes a disqualifier. Be aware of that. Any person who is subject to or has violated a temporary or final restraining order pursuant to the "Sexual Assault Survivor Protection Act 2015". If there's a rape protection order against you, you're prohibited from guns.

**Evan Nappen 32:07**

To any person who has previously been voluntarily admitted to inpatient treatment or involuntarily committed to inpatient or outpatient treatment unless the court has expunge the person's records. We've talked about this. This was an important change. Because now whether you've been voluntarily

admitted to inpatient or involuntarily admitted to inpatient or outpatient, the only way for you to get your rights back is by way of getting a Mental Health Expungement. And until such time, you are a prohibited person. Beware of that. You need to clean that up and get a mental health expungement so that you're not disenfranchised of your gun rights.

**Evan Nappen 33:01**

Any person who is subject to an outstanding arrest warrant for a felony. So, if you have an arrest warrant out for you, for a felony, you're prohibited from getting a gun license. But get a load of this. New Jersey says this does not apply to a person who has a warrant out for them for a felony for providing receiving assisting or providing or receiving or providing material support for or traveling to obtain reproductive health care services that are permitted in New Jersey. So, if you went and illegally got an abortion in another state or illegally provided an abortion, if you're breaking abortion laws, and have an arrest warrant for a felony, New Jersey wants you to know that you're okay to get a gun. If you're providing anything for taking out fetuses, no problem says New Jersey. Your felony warrant doesn't count. They are exempting folks getting, receiving, traveling, providing for abortions. Yep, that's the exemption.

**Evan Nappen 34:34**

They also say that if you're a fugitive from justice, because you're fleeing a state or federal jurisdiction, to avoid prosecution for a crime other than a crime to avoid giving testimony in a criminal proceeding. Okay. So, if you're fleeing and you're a fugitive from justice, you're prohibited. Except if you're fleeing because you want to avoid giving testimony in a criminal proceeding, it does not. Also, it does not include being a fugitive from justice, you're on the run, you guessed it, for providing, receiving, assisting in providing or receiving, and providing material support for traveling to obtain reproductive health services that are permitted in New Jersey. So, if there's an outstanding warrant for a felony or you're a fugitive from justice, for seeking, getting, providing or helping to get abortions illegally in other jurisdictions, you're good for guns in New Jersey. They exempted you for that. But if it's anybody else, well, you're now disqualified.

**Evan Nappen 35:58**

So, as you can see, the disabilities are wide and varied, and are extremely political in nature as well. And that's the flavor for New Jersey. You need to be aware of these things so that you don't become disenfranchised of your gun rights, you don't get suckered into giving them up, losing them, making mistakes that cost you your rights. Best way to do that is with knowledge. That's what I want to impart to all my wonderful listeners. This is Evan Nappen reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

**Speaker 3 36:49**

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