

Gun Lawyer Transcript – Episode 133

SUMMARY KEYWORDS

slingshot, new jersey, law, gun, weapons, montalvo, defense, second amendment, gun rights, large capacity magazine, lawyer, prohibited, shoot, case, slung, carry, anti, heller, guns, freedom

SPEAKERS

Speaker 3, Evan Nappen

Evan Nappen 00:00

Hi I'm Evan Nappen, and welcome to Gun Lawyer. So, there's now an effort underway in New Jersey to make Bart Simpson and Dennis the Menace no longer felons. That's right! A bill was just put forward, not too long ago, right in May. I think it was May 8. To legalize slingshots in New Jersey. That's right. Now, I have to be honest. I have mixed feelings about this. You know, I love seeing anything that makes freedom increase, that makes liberty increase, that gives us greater rights, and I don't belittle anything that shoots. I want to have the freedom when it comes to that, and I'm sure you do, too. The only thing about legalizing slingshots in New Jersey that would bother me a little bit, but, of course, I'm for this bill, so don't misconstrue it, is that when it comes to having to address the absurdity of New Jersey's laws, if I'm in a state or if I'm talking to people that don't understand guns, all I need to tell them is that New Jersey makes possession of a slingshot a felony. And they basically fall off their chair. What? That's right. That's how extreme. That's the starting point.

Evan Nappen 01:47

To demonstrate just how stupid New Jersey is to have slingshots, what is a felony level offense, a fourth-degree crime, currently, to unlawfully possess a slingshot in New Jersey. It bans them by name, and if you are charged with unlawful possession of a slingshot, you're facing up to 18 months in State Prison. If you become convicted of possession of a slingshot, you lose your gun rights for the entire country because you're now a convicted felon and are a prohibited person because you had a slingshot. How embarrassing would that be to lose your gun rights because you possessed a slingshot. So, New Jersey, by this law, has made Bart Simpson and Dennis the Menace, if they were real people, they've made them into Nappen 01:47 felons by their possession of a slingshot.

Evan Nappen 02:51

You can watch many shows where, children's shows, there's even shows where they substitute in some of the kids movies, the Cowboys had slingshots instead of guns. They're against guns, and they don't want to show a gun. So, they have the character have a slingshot because it's essentially something associated with children. Now, I understand slingshots can be dangerous. Many things can be dangerous. The back of my shoe, if I'm hitting you on the head, can be dangerous. All right.

Evan Nappen 03:27

The absurdity of slingshots is that bows and arrows are lawful. There's no prohibition per se on a bow and arrow. Now, if you use it unlawfully, sure that's a problem. If you possess it and use it as a weapon, as a deadly weapon, yeah, that's a problem. But there's no ban on bows and arrows. Yet, you can get compound bows or even crossbows, and they can fire pretty lethal arrows, broadheads, etc., and that's fine because it's not an issue. People aren't robbing 7-11s with bows and arrows or slingshots, so they can't rationalize it to a ban the way they would like to do it. So, there you are. You have a slingshot, but you can have a crossbow that fires a razor broadhead. And not that that should be prohibited. It shouldn't be.

Evan Nappen 04:27

The crossbow is fine, but not a slingshot. Come on, why is that? Why is that even prohibited? It honestly became prohibited by mistake, and that is what I was able to trace. There was an article years ago in the Star Ledger that I had worked with one of the reporters on demonstrating this. You see in the original law, what it banned, was slung shots. If you look at the statute, you'll see it makes sense. Because the whole list of weapons that are in that prohibited category are what are known as impact weapons. There's billy, blackjack, metal knuckle, sand club, and then slingshot. What does the slingshot have to do with these other weapons that are designed to be impact weapons, that you hold in your hand and whack somebody with?

Evan Nappen 05:32

So, what it actually said was slung shot, slung shot, a slung shot, but the dummies at the Office of Legislative Services or whoever, thought slung shot was a typo and changed the "u" to an "i", and slingshots became prohibited in New Jersey instead of slung shots. A slung shot is essentially a weight at the end of a chord. Some people call it a monkey's fist. A slung shot was used as an impact weapon and that's what it said, originally. When they redid the law, it became slingshot. So, slingshots became prohibited, but the good news is slung shots became legal. So, isn't that sweet?

Evan Nappen 06:25

Now, this stupid slingshot law has been on the books and no one has changed it. It puts New Jersey in this ridiculous category of making it a felony to possess a slingshot. I always like having that in my pocket as an instant criticism, instant snapshot, and instant demonstration as just how stupid New Jersey gun laws are. So, in that regard, I will be saddened if the slingshot ban is repealed. However, I would still be in favor of it being repealed, of course. I want freedom. I want liberty, I want slingshots to be legal.

Evan Nappen 07:12

Interestingly, these three sponsors are all Republicans, not a surprise. The folks that are normally trying to create more freedom are Republicans, especially when it comes to the Second Amendment, and anything associated with it. Of course, in a Democrat-controlled legislature and executive branch, are they going to actually ever succeed in legalizing slingshots? Probably not. Probably not, because the politics just aren't there. But if the Democrats were actually smart, and of course they're not, they would support this, because it removes the mocking element that is just so great, just so useful anytime you want to point out just how stupid New Jersey is and how their gun control scheme is just poorly thought

out and how absurd and ridiculous it is. So, it would probably be in the Democrats political best interest to actually get rid of slingshots. It wouldn't be the first time that they actually did do something, arguably, pro-gun just because it was a source of intense embarrassment.

Evan Nappen 08:23

Here's a couple of examples. Why do you think the smart gun law that Loretta Weinberg had put forward, it was so bad, it was the best, as we've talked about, in other shows, the best anti-gun / pro-gun law ever passed? Because it killed the development of smart guns. It was wonderful, and it exposed their hand. So, they had to reform that one and not make it mandatory, so that they could at least try to get some of these things on the market. How about tube fed .22s? I used to talk about just how absurd New Jersey's Assault Firearm law was, and it still is. But one of the greatest things was to show a Marlin Model 60-22, a tube fed 22 rifle and say, New Jersey calls that an assault firearm and embarrass the hell out of New Jersey, which it deserves. Showing just how extreme and stupid and guess what? Murphy in his magazine ban, when he lowered mags to 10, he signed the law that removed tube fed .22s from the list. It removed them from being assault firearms. Why do you think he did that? Because he suddenly became pro-gun? No, because of this source of embarrassment when they go so far and so extreme in their stupid laws, that it actually causes them harm. It lets voices like me point it out.

Evan Nappen 09:52

Well, that's what the slingshot law is. I hope they can succeed here, and I do wish them well. The reason, on the pro Second Amendment side, that you should actually be concerned about sling shots is that sling shots are a gateway to enjoying the shooting sports. It's an introductory weapon of fun. It is something that allows you to shoot a projectile, use it at a young age responsibly and to develop from there a love of shooting. That's what is the greatest thing about slingshots. I know of Cub Scout camps in other states where they have slingshot shooting competitions, and they actually have a slingshot course there. A slingshot ranges. It teaches young people how to shoot. You can go from a slingshot to bow and arrow into .22s and shooting sports. It's that gateway and that introduction which makes the slingshot have a special place in terms of getting young people interested and learning the enjoyment of shooting. So, it's important.

Evan Nappen 11:23

Additionally, it's a pleasurable sport, and there are some pretty good slingshot competitions out there. Actual clubs, matches, and groups that will have some of the most high tech, fanciest slingshots you've ever seen. They do slingshot competitions just like you have archery competitions. It's very similar to archery. So, if you have a slingshot that shoots an arrow, is that a slingshot? Or is it a bow? It's a good question. I don't know. I haven't had that case yet. But it's so similar anyway, to archery in that regard. There's no logical reason for slingshots to be a felon need to possess. There's no logical reason for them to be a felony to sell or make in New Jersey. It is the symbol of stupidity. That's why I like it. But, if it can go and if this bill, Assembly Bill 5405, can be passed, then I would welcome it, and I'm sure you would as well. So that another freedom, another potential for enjoyment of shooting sports can exist in New Jersey.

Evan Nappen 13:01

When we come back, I have a great letter that we're going to get into. This listener has questions that are very good, about knives. I have a passion for knives, as you may know, as well as guns. As a matter of fact, I collect guns and knives. People asked me what areas do you collect? What are the parameters? What are the limits? I say, it's very simple. It has to cut or shoot for me to like it. I limit myself very narrowly to that. It has to cut or shoot, and if so, I like it. We'll be talking about knives and this great question from this letter to Gun Lawyer. Feel free to send me a letter if you want. I always love to read the emails, and I read every one of them. See in a few.

Speaker 3 13:58

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 bestselling books on gun rights including Nappen on Gun Law, a bright orange gun law Bible that sits atop the desk of virtually every lawyer, police chief, firearms dealer, and savvy gun owner. That's what made Evan Nappen America's Gun Lawyer. Gun laws are designed to make you a criminal. Don't become the innocent victim of a vicious anti-gun legal system. This is the guy you want on your side. Keep his name and number in your wallet and hope you never have to use it. But if you live, work, or travel with a firearm, the deck is already stacked against you. You can find him on the web at EvanNappen.com or follow the link on the Gun Lawyer resource page. Evan Nappen - America's Gun Lawyer.

Speaker 3 15:12

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

Evan Nappen 15:28

Welcome back to Gun Lawyer. I'm Evan Nappen, and you are the folks that I am speaking to. It's why I do this show. It's why I'm so proud to be able to do this show. I particularly want to thank the sponsors of our show. I'm sure you've heard me talk about our sponsors, but it's really important that you support them as they support this show and make it possible so I can talk to all my great friends and listeners out there.

Evan Nappen 15:58

We have, of course, the Association of New Jersey Rifle & Pistol Clubs. They are the state affiliate of the NRA, but they are more than that. They are the premier gun rights group in New Jersey. They are the group that is on the front lines litigating in the federal courts as we speak, going after the Murphy Carry Killer, anti-Civil Rights bill, going after the so-called assault firearm law and the large capacity magazine, instead of standard capacity, but its large capacity magazine. These are the actual terms in law by the way. If you ever hear me say assault firearm or large capacity magazine, some of you, being activists, might say, why is he using those terms? They are the anti-gun terms. I have to use them because they're the actual terms in the law. New Jersey law specifically says assault firearm and specifically calls them large capacity magazine. So, we're kind of stuck as they put their words or pejorative words into actual law.

Evan Nappen 17:07

But it's the Association on the frontlines fighting that. They have a full-time paid lobbyist in Trenton, defending and keeping watch and making a difference. When you join the Association, you'll get those email alerts, and you can take action. It's made the difference many times, many, many times. You can make a difference now, and your membership stands for the strength of the Second Amendment movement in New Jersey. New Jersey needs you to stand up for the Second Amendment. The ANJRPC. www.anjrpc.org ANJRPC.org . Join them and be part of the solution, folks. Join the number one gun rights advocate group in New Jersey. Please make sure you're a member.

Evan Nappen 18:09

Our other great sponsor is WeShoot, and WeShoot is a fantastic target range in Lakewood, New Jersey. WeShoot is geographically located in just a fantastic area of Monmouth County, Ocean County and the surrounding areas in Lakewood. You have access to a fine range, and a magnificent facility that really is blessing for us to have. Because it's harder and harder to have a place to shoot, and WeShoot is such a place right there. Geographically located in an area that is surrounded by places where it is very hard to find any place to shoot. But there you have a great place, a fantastically well run and friendly place, and state-of-the art facilities right there.

Evan Nappen 19:08

They are extremely welcoming and extremely friendly. If you've never owned a gun before, go to WeShoot, and they'll introduce you. There's nothing to be shy about. If you're a trained, experienced shooter, they can accommodate your needs, and they're glad to have you there. They welcome everyone, and they have a fantastic array of instructors that are all extremely qualified, extremely experienced. They have great working relationships with all their members. If you need training, if you need training because you're a smart person and you want to make sure you know how to use that firearm properly, go to WeShoot. They'll help you out. If you need to get your certifications for carry, they'll do that there. If you want to know a source, you got it. www.weshootusa.com If you go there, they'll get you the certification courses and training that you need so you can get your New Jersey carry permit. When you apply, you have to provide these credentials, and if those credentials don't cut it, if they don't make the grade, you're not getting your carry license. WeShoot has never had anybody that they've certified and trained, not one person, ever get denied their carry license because they did not have the adequate and complete training that New Jersey requires. So, if you want that to be solid on your application, go to WeShoot. Check them out. It's important that we use our ranges. It's extremely important we go to these ranges. We have to support them so that we will always have them. We need them to stay in business. Go to weshootusa.com That's weshootusa.com . They have a great website, beautiful photography, professional photography, and you'll really enjoy your experience with WeShoot. I guarantee it.

Evan Nappen 21:18

Now, I also want to announce personally, which I am extremely proud of, my brand-new book. This is the New Jersey Gun Law book The Big Orange Book. The Bible of New Jersey Gun Law. Well guess what? It's in. This edition is the 25th Anniversary edition, 25th anniversary, I can't believe I've been working in, writing and doing this book for 25 years. It is fully and completely updated. All the new carry

laws, all the new Murphy laws, every new law explained. It's all in there in an easy-to-understand FAQ (Frequently Asked Questions_ on 120 topics. If you want to know about inheriting guns, I have a chapter FAQ explaining it. If you want to know about those guns, FAQ chapter explaining it. If you want to understand the assault firearms, FAQ chapter explaining what to do. How to get your carry and all the hoops and loops that you need to go through and what you need to be aware of. I have a whole chapter dedicated to carry permits.

Evan Nappen 22:19

Hundreds and hundreds of man hours went into this book. I do it for you. I want you to have this information in a user-friendly guide so that law-abiding gun owners don't get into a jam in New Jersey. You can get your copy of the 25th anniversary, fully updated edition. When you get this book, there's a QR code right on the front. Scan it, and it takes you right to the Subscriber Portal. It is free. If you subscribe, you are going to get updates sent to you with an alert as soon as I write it. As soon as the case comes out or as soon as the law changes, I am going to have an update, and you're going to get an email alert. Go to the Subscriber Portal, download it, put it in the book and save it to your computer. You're going to have a book that stays current in virtual real time. So, if you want to buy a copy, go to EvanNappen.com. That's my website. Easy to remember. EvanNappen.com You can pick up your copy.

Evan Nappen 23:23

So, I have a great letter here today, and this is from Ryan. Ryan wants to know regarding post-Bruen, N.J.S. 2C:39-3 carrying dirks and daggers in public in New Jersey. What Ryan says is, Dear Mr. Nappen, thank you for all that you do for the cause of liberty. Thank you right and I appreciate that. As you know, NJ law mandates that the carriage of dangerous knives, including dirks, daggers, stilettos in public must be for an explainable lawful purpose. Yes, 2C:39-3. I'm aware that under pre-Bruen NJ Supreme Court case and it cites multiple though, and he's correct.

Evan Nappen 24:07

Under Montalvo, the court holds that Dirks daggers may be possessed inside the home for self-defense in New Jersey but not outside the home under the same rationale used to prohibit PTC issuance to us plebeians. Yes, and it's true. They even cite Heller and McDonald, both acknowledging possession and carrying solely in the home. But now, given SCOTUS is holding in Bruen that carrying any and all usable, bearable arms, i.e., those in "common use" or not "dangerous" for self-defense is the law of the land. The same logic would hold true that self-defense constitutes a lawful reason for carrying a dagger or other weapons under 39-3. in public. Counselor, may NJ PTC holders or even those without permits, carry the aforementioned weapons, knives in public for self-defense? How should one handle an inquiry by New Jersey law enforcement, answering for self-defense or "for self-defense, officer, as affirmed by SCOTUS under Bruen or would one invoke their Fifth Amendment and Sixth Amendment? Thank you in advance. I'm an avid listener of your podcast. In Liberty, Ryan.

Evan Nappen 25:27

Ryan, you are very learned guy, and I appreciate your letter. It is very well written and does lay out the scenario. Let me explain with a little more detail. So, New Jersey, has interpreted the statutes regarding the weapon possession under 39-3 and as well as under 39-5.d, which is "other weapons", by the way.

What they did is in the Montalvo case, they essentially modified a previous case law that was Kelly, and prior to Montalvo, which involved an individual coming to the door with a machete in his hand because he didn't know who was at the door. It ends up that it was the police, and they weren't happy with him coming to the door with a machete. So, they charged him with unlawful possession.

Evan Nappen 26:32

Originally, our law prior to Montalvo, well prior to that machete case, the court said that a lawful purpose and explainable lawful purpose did not include self-defense. That's kind of shocking, isn't it? What do you mean, self-defense isn't a lawful purpose? Well, in New Jersey, it was not, and what happened was, the court saw the writing on the wall. With Heller and McDonald, the landmark federal cases, the New Jersey court realized, we have a right to self-defense. I mean, it's exactly what Heller says, and McDonald's applies it to the states. Since you have a right to self-defense, New Jersey scrambled to minimize the effect of Heller, of course, because you always have to keep it as anti-gun as possible, as anti 2A as possible. They decided, well, since Heller was about guns in the home, they created this phony distinction.

Evan Nappen 27:43

The phony distinction of the anti-gunners that, oh, yes, you have a right to keep and bear in your home. You have a right to protect and carry in your home. But outside the home, that's a whole other story. Somehow, outside your home, the Second Amendment doesn't apply. You know, because the shot heard around the world at Lexington and Concord must have been fired from a Patriot's bedroom. I mean, what? But it didn't matter, because what did they do? They said, hey, at your threshold, at the door, you can preempt, carry a weapon for self-defense in your home, but not outside the home. So, Montalvo at least gave us an incremental gain, a recognition that you had the right to self-defense even though we've got it limited to the home. That's currently the status of New Jersey case law.

Evan Nappen 28:42

However, Ryan makes an excellent point. His question is now with Bruen, now with Bruen saying that you have a right to self-defense outside your home. That is what Bruen in essence, that's the essence of it. The right to carry in public. Does the Second Amendment protect carrying in public? The Bruen court said unequivocally yes. By the way, here's a test that you can test any gun law as to whether it violates the Second Amendment. The great Justice Thomas put forward the Texas history and tradition test that I've discussed on other shows. Now we're seeing challenges all over, taking down gun laws and challenging them including right here in New Jersey. It's the reason we got the TRO on various sensitive places already in the Murphy Carry Killer, anti-Civil Rights bill.

Evan Nappen 29:47

The effect of Bruen is immense, and it is an ongoing battle that is taking place. So, now, can you carry these other weapons outside of the home? Are they legal to do that now with the Bruen case? Here's the deal. We don't have a case yet in New Jersey that does what Montalvo did when it came to self-defense preemptively arming oneself in the home. We don't have New Jersey Courts saying, yes, you can now have them outside the home. We don't have that case yet. But plainly, we have the nuclear bomb of arguments to make it clear that you do have such a right and that it is an explainable lawful

purpose. Because to say self-defense is not a lawful purpose outside your home would fly directly in the face of Bruen.

Evan Nappen 30:49

However, I cannot tell any of you to be the test case. I don't think you want that. Until somebody by some set of circumstances, becomes the actual test case, where they now have to go beyond Montalvo, and say, yeah, it's officially an explainable lawful purpose. Until that happens, I can't tell you that you're fine and dandy doing that. Because I know, especially in New Jersey, there's a risk that you might be the one charged and test the theory out here. The theory that Ryan and I, and, hopefully now you see so strongly in favor of it. And so strong an indication that yes, should be the answer. But that path hasn't been gone down yet by the court, officially. So, that is the situation.

Evan Nappen 31:53

I know and I'm sure that we will see that question come before the court. That question will come before them. Somebody is going to get arrested and charged for one of these things under 39-3. And if their lawyer is smart, they're going to raise Bruen and the Second Amendment in the defense of that individual. When that happens, it'll be a happy day. When I can say to all of you, and even myself, no problem, carry that dirk, dagger, whatever weapon you choose for self-defense. Carry it, and you will not have a problem.

Evan Nappen 32:38

But at that this moment, as I've explained, I can't say it. But we understand the tremendous potential there, and the reason to be optimistic over this very issue. We're basically running out of time here, but I want to thank Ryan for raising a great issue. This is Evan Nappen, reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 33:09

Gun Lawyer is a CounterThink Media production. The music used in this broadcast was managed by Cosmo Music, New York, New York. Reach us by emailing Evan@gun.lawyer. The information and opinions in this broadcast do not constitute legal advice. Consult a licensed attorney in your state.