

Gun Lawyer -- Episode 160 Transcript

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SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:00

Hi. I'm Evan Nappen, and welcome to Gun Lawyer, the number one gun rights rated podcast in the world, per Feedspot. Hey, we have some interesting things to discuss. And, of course, at the end of the show, we will have the ever popular gun owner fuckup of the week. Actually, what I'm going to be talking about here are some other items that could even possibly qualify as a gun owner fuckup of the week, but it's not going to be the official ones. But it's still things that we, as gun owners, need to learn from what happens to others and not repeat what is arguably, their mistakes, or at least recognize that if you do behave the way they behave, it ends up enhancing problems instead of taking away problems.

Evan Nappen 01:13

So, let me explain here by starting off with a case that I'm very sympathetic to. But let me tell you what happened here, and you can think about this. Now, believe it or not, it's not a New Jersey case. Yeah, I know, shock of all shocks. It's a California case. So, of course, it's just as atrocious as any New Jersey case. This case involves a Los Angeles father, who's a wealthy guy, and he lives in a \$2 million house. He was attacked on his own property, at his house, by two masked intruders as they tried to break into his luxury home. I am reading this, by the way, getting some of these facts just for all fairness, from the Daily Mail article. (<https://www.dailymail.co.uk/news/article-12762001/LA-father-gun-firearm-permit.html>) It was written by Aneeta Bhole for the Daily Mail.com. In this piece, it is written that after he defended himself, got into a gunfight, folks, with these masked intruders, defending his five-month-old baby in the house, with a shootout, he is being stripped of his firearm permit by the California authorities. They stripped him of his firearm permit, and do you know why? Why after successfully defending his home and his family and his five-month-old child has California suspended his Second Amendment rights? Ready for that? Because he yelled at the police. That's right. He blasted, he "blasted the LAPD for 'sloppy police work', including their alleged negligence in picking up casings scattered near his home as evidence." Oh, my god, how dare he criticize the police. I'm sure he was charged with obstruction. How dare he tell them how to do their job. He has no place whatsoever to do such a thing. And of course, that's contempt of cop.

Evan Nappen 03:48

And you know, cops are very sensitive about those things. You can't tell them or advise them or explain. No, no, no. You've got to let them do their job. Period. If you speak up and say nasty things like, hey, you're missing evidence over there. Or how about the following? Well, then they move to take

your gun license. Now this is, of course, outrageous. It is a First Amendment right even. It is his ability to communicate after this high stress situation. Oh, well, that is of course, time to take away his gun. Time to take away his gun in this area that has seen an incredible rise in crime. In California itself, which is seeing this ridiculous rise in crime. All this happened, by the way, at his front door. It's all on camera. And it happens time and time again, as he said, all over the country. The defender. The defender is making this point.

Evan Nappen 05:04

Here's what it says. Listen to this. This was on November 4 (2023), just after Ricci, his name is Vince Ricci, returned to his gated LA home. Two armed men jumped the fence and tried to force their way into his house. Armed men trying to force their way into his house, folks. Footage of the incident reveals the moment in which he is approached by one of the masked assailants at about 7:30 pm. In a swift attempt to defend himself, his wife and his five-month-old and the nanny inside his house, Ricci reached for his gun and started a shootout with the intruders. But he complained about sloppy police work, uh oh. So, even though this is about as righteous as righteous could get for a shoot, even though he saved his family's life, his baby's life, his wife's life, his nanny's life, his own life and ended up thwarting armed attackers trying to do a hot robbery break-in and who knows what else, kidnapping, who knows. This is what this man is going through.

Evan Nappen 06:32

He's an NRA member and proud of it. As a matter of fact, NRA said that they're proud to have Vince, his first name is Vince and last name is Ricci, as a fellow NRA member, and called his permit being revoked, reprehensible. And, you know, folks, it is reprehensible. It's the kind of thing that if it happened in New Jersey, I wouldn't be the least bit surprised, and I'm sure you wouldn't be either. Between the anti-gun policies of California and New Jersey, their anti-Second Amendment or victim disarmament policies, where they don't want you to be defenders, they don't want us to defend ourselves, our family, our loved ones, they do not want it. They hate that we can do that. They want us to be defenseless. They want us to be helpless. And you see it over and over again, when law abiding defenders exercise their right, particularly in these anti-gun bastions of hatred for gun owners, self-defense, and the Second Amendment. You see the defender being prosecuted. The defenders are being stripped of their Constitutional rights. You see the defender having an abuse of the licensing system take place. That's exactly what's going on here. It's outrageous. And it is something that we need to fight and address and change and put safeguards in.

Evan Nappen 08:09

Look, the battle lines on our gun rights, the key war zones where the battlefield for our rights are these anti-gun states like New Jersey, California, etc. That's where they pass these extreme laws. That's where they are doing evil by trying to disarm us and take away our rights. You can see here exactly what kind of an upside down world this is. This man shouldn't be having his permit revoked. He should be at least thanked by the Government. You know, this is sad, and we're seeing it over and over again. Now with the threat level even higher, where these threats are part of a war where there are terrorists that want to destroy us. They have already demonstrated what they will do in Israel. There's no question. They're already here. It's not me saying it. This is our own Government admitting it. They know it. And so, it's going to be left up to us to defend ourselves.

Evan Nappen 09:35

Yet, look what happens. So, you know what? He did a good thing. He defended himself. He did what was right. But unfortunately, you know, criticizing the police, oh, well, you can lose your gun rights for that, you know, so watch out. That's not the first time I've seen this. I've seen it before, and I've seen it in New Jersey, too. Any kind of attempt to, in any way, tell the police what to do, what you think might be necessary in this situation because you're the one in this situation and realize everything that's going on. They're just getting there. You might actually know something. Oh, wait a minute, wait a minute. Don't be telling anybody what to do now. Because I had other cases where that was also the inflammatory reason to focus on the gun owner.

Evan Nappen 10:36

I had a case, a while ago, but it was a case where an individual and his significant other, who had restraining orders against a bad bunch of folks. She was a dancer in Union County and that's where this took place. By the way, she was not a prostitute or anything. She was just a legal dancer, lawful, and he was there with her. These folks had come all the way from Camden, and these bad guys followed them there to this place in Union. There were restraining orders out on them. So, my client called the police. The right thing to do. Called the cops and said, hey, these people are here violating a restraining order, and they shouldn't even be here, coming from Camden. He was pointing them out to the cops. Oh, don't tell us what to do. Don't tell us. That guy was scared and afraid for his significant other. These people are dangerous, and they're right there. Oh, no. So, now the focus becomes on him.

Evan Nappen 11:50

Well, it so happens that one of the people that knew the bad guys and knew the dancer, also knew that my client was a gun owner. They didn't know that he had a gun on him or anything like that. But knew he was the owner and just took a shot, a chance, he didn't fire a gun, but just took a chance and said hey, he's got a gun on him. Now this person didn't know that he had a gun on him. He didn't know that at all. Just said it as a guess because he's a gun owner. Now the funny thing is, he did have a gun on him because he was afraid of these guys. And guess what? That's a problem in Jersey if you don't have a carry permit. This was before the Bruen decision and all that. So, he ends up jammed up on the whole thing.

Evan Nappen 12:35

We ended up bringing a suppression motion and asserting that the search and seizure had Fourth Amendment issues. There were problems in this case, and the evidence should be suppressed. Now prior to that, he had applied into PTI (Pre-Trial Intervention), and he got denied PTI on the gun case. You have to fight to get into PTI and gun cases are not routinely put into PTI even though we do that. PTI can be a good solution where somebody technically has violated the law, and they're a first time offender. They end up where they get into this program where as long as you don't get into any more trouble, there's no jail and there's no felony conviction. There's no conviction at all. It's like one free bite at the apple. So, we tried to get him in, and they denied it.

Evan Nappen 13:22

Now we're in the normal course of fighting it, and I bring a suppression motion. Now, here's the key to suppression. When there's a search without a warrant, the burden of proof is on the Government to prove that the search was lawful. So, what defense counsel does is file a Notice of Motion for summary judgment, and then the State is supposed to file their brief first and then we respond as to whether this was proper. Well, lo and behold, the judge in this case, a Union County Judge even sent a scheduling letter ordering when the briefing was to be done by the State and when the briefing was to be done by the defense. So, that's all good. We're waiting and waiting. Guess what we never get? We never did get a brief from the State. So, I sent a letter to the State, hey, where's your brief? You know, we need it so that we can reply. Then guess what? The State says we're not going to submit a brief. Like what do you mean? You were ordered to. You have to. It's the rules. Not only is it the rules, it's the letter from the judge ordering it. No, we don't have to.

Evan Nappen 14:33

I'm kind of shocked about it, but I said alright. So, I wrote a brief anyway, saying how absolutely unbelievably outrageous it was for the State to not do a brief, to disobey the Court's order, to disobey the rules, to not follow Constitutional law here, and to put counsel at a disadvantage. I really went at the State hard, as well they should have been. Then I argued what I think would be the issues on the suppression and tried to reserve and preserve a right to further reply if the State ever does write a brief. Okay. So, that's what I filed. Now, you would think if you were the State and you got my brief where I am complaining about your inability, your failure to follow the rules, follow the letter and do a brief. That maybe you might just decide, hey, you know what, let's just do a brief. Hey, it's pretty simple. Do your job. Do the brief right now.

Evan Nappen 15:35

Instead, the State does an entire brief on why they don't have to do a brief. I'm not kidding. A brief on why they don't do a brief, which was ridiculous. So, I get to court on this day, and I'm ready to argue in front of the judge on the motion. The judge immediately says to me, extremely sternly by the way, he says, Mr. Nappen, sit down. I'm like, yes, Your Honor. I sat down. He turned to the Prosecutor, the Assistant Prosecutor, who was filling in that day on this motion, and he proceeds to tear him a new one over how dare he ignore the rules, ignore his order, and ignore his letter. He was chewing him into little bits. So much so, no exaggeration, the prosecutor was crying from the scolding that the judge was pouring on. It was absolutely silent other than the Prosecutor whimpering, and the judge letting him have it over this entire episode.

Evan Nappen 16:54

At that point, someone upstairs heard about it in the Prosecutor's Office, like said, you've got to see what's going on down there. One of the top prosecutors comes down and sees his attorney whimpering in front of the judge. At that time, the judge is turning to me, and he says, well, Mr. Nappen, I know in your motion that you asked for sanctions and for the motion to suppress to be granted because of the State's failure to file briefs under the rules. I cannot do that. But I can grant you sanctions against the Union County Prosecutor's Office. What sanctions would you like? At that point, other than a little bit of whimper from the prosecutor, it was dead silent. It was like the air was weighing 10 tons. Everybody's waiting for my answer. This will date it a little bit. But at that point, I turned to the judge and said, Judge, I would like a caning. Everybody burst into laughs. Because at that time, there was a case in Malaysia

where the guy had done graffiti, and he'd received a caning from the Malaysian authorities. I thought that was pretty good, and even the judge laughed. It cut the tension. At which time I said, Your Honor, I'd like a week to think about it, and he said very well, you have a week to tell me what sanctions you'd like.

Evan Nappen 18:21

So, I walked out of the court and the other prosecutor comes after me, and he said, you're not going to actually get sanctions again. You're not actually going to? I said stop, stop stop. I said, are you putting my guy into PTI or not? He said, well, what do you mean a quid pro quo? I just said no. Just tell me, are you putting my guy in PTI or not? Yes, we're putting him in PTI. I said, good. I don't want sanctions. And that's how we save that client from becoming a convicted felon and doing mandatory state prison time. So, there is a true story. Keep in mind that it's difficult in these emotional situations to keep your cool, but you have got to do that. Police are very sensitive when you try to tell them how to do their job. So, don't bother. Wait for them to ask you. Don't be yelling at them, getting them all upset. Because then you're going to have a licensing fight. But maybe you want to have a licensing fight. I'm happy to fight for you, and I'll fight for that. I'd fight for this guy in a minute. Come on, it's crap. He needs his license back. So, what if you yelled at the police over this because he was upset, and they weren't finding evidence? Sounds like a legitimate point to make.

Evan Nappen 19:44

But anyway, when it comes to fighting for our rights, we, of course, are blessed in New Jersey to have the Association of New Jersey Rifle & Pistol Clubs. They are the number one gun rights defender in the state. They are the state affiliate of the NRA. and they are on our side like nobody else. They're in Trenton with a full-time paid lobbyist. They're in the courts, litigating and fighting for our Constitutional rights against the Murphy Carry Killer bill, the assault firearm ban and mag ban. We're starting to see a lot of good progress there. I'm very excited about it. Things are going to change, and the Association is helping to make that happen. So, look, you need to be a member of the Association. You need to be part of the solution. Please join the Association. Let your vice, that's pretty good. Let your voice be heard. Keep your vices to yourself, but let your voice be heard through them. Because with unity, there is power. So, join anjrpc.org. Go right there and get a membership.

Evan Nappen 21:04

Also, of course, I want to mention our great friends at WeShoot. WeShoot is an indoor pistol range in Lakewood. It's a great range. I truly do love WeShoot, and I'm not just saying that. I go there and I shoot there. I got my qualifications there. So does my family. It's super fun. They're like family, and they're great people. You will love the range. It is right there in Lakewood, Central Jersey, located so conveniently to the parkway. You know, it's always what exit, kind of a deal, as to where you live. Well, they're right there, right off the parkway and easy to get to. You've got a great resource where you can shoot. You need to check out WeShoot. We need to keep our ranges strong so that we have a place to shoot. If you need to get your certification for your carry, go there. That's the place. They're just doing yeoman's work, getting people certified, and helping people to shoot and having a lot of fun at the same time. Go to weshootusa.com and check out their website.

Evan Nappen 22:25

Now is the time when I will shamelessly plug my book. That is the New Jersey Gun Law Book. New Jersey Gun Law - 25th Anniversary Edition. I know many of my listeners have this book, and I appreciate it because that's what keeps you on top of the law. On the front cover is that QR code, and I know you've all scanned it. But for those who don't have the book, you need to know about it. You scan it, and it's free. You get in my subscriber base, 100% free, and you're alerted within 24 hours of any law change in Jersey that affects our rights. Or if it's a court case or legal decision or a new law or threats of laws. So, you want to stay on it. And that's how the book stays current. So, go to EvanNappen.com and pick up a copy of New Jersey Gun Law. It's the Bible of Jersey gun laws, ask anybody who has it. When you get your copy, never loan it to a friend because you'll never get it back. I hear that all the time. When I come back, I have some really interesting letters from our wonderful listeners and of course, the gun owner fuckup of the week.

Speaker 3 23:40

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, 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 24:55

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Evan Nappen 25:01

I really appreciate your joining me here. This is a chance for me to help protect what I care about most. That's my brothers and sisters in arms. We've got to protect our Constitutional rights, and we've got to stay legal. We got to get through this transition period as we go from horrific gun law to firearm freedom. And we will get there. I know we will eventually have Constitutional carry in New Jersey and 75% of New Jersey gun laws will be gone, erased from the books. We are getting there. And we're doing a great job of it. But until then, you need to be safe. You need to be able to protect yourself, and you need to stay legal. I don't want to see you make any mistakes and end up being victims of New Jersey gun law.

Evan Nappen 25:55

So, here's a great letter from Jim. Jim says, Love the podcast, always learning something new. Today I'm trying to learn how to avoid becoming the gun owner fuckup of the week. Well, I don't blame you for that and that's exactly why we have it. I got my PTC in September 2022 from a Monmouth County judge, and it listed the Sig P320. I have qualified with that. After several months of back and forth with

the Court, the prosecutor's office and the local PD, I was able to get a Chief issued permit, which allowed me to add more handguns that I qualified with to the permit. A qual per handgun was a requirement to add guns without reapplying. Yesterday I had the opportunity to shoot CCARE qualification, and I submitted the required paperwork to my town, along with the list of additional handguns I intend to carry. The question is, does the submission of additional handguns I intend to carry supersede the handguns listed on my PTC?

Evan Nappen 26:57

Okay. Now, let's be clear here. There are only two kinds of carry permit that Jersey issued. They are either the old judge-issued ones where they could create restrictions and went under the old law where the judges abused that law to create restrictions and mandate qualification for each gun, etc. Then under the new law, even though so much of the new law sucks, there are actually some things about the new law that were actually improvements. One of them was getting rid of judges, thank God. The other is, by being a chief-issued permit, the addition of guns is simply done by doing the form that you can find at the State Police website, where you list other guns that you intend to carry. (<https://www.nj.gov/njsp/firearms/forms.shtml> - S.P.182a - PTC Additional Handguns Intended to be Carried) You simply submit that form to your local chief, and there is no need to separately qualify on each gun. We've talked about this before, and as long as you pass CCARE, you have met core competency. And that's all you need. It's not a per gun qualification. It's not certification per gun with the chief-issued permits. You have proven your qualification by passing CCARE, and you have that certificate that you submitted. Then you can carry any handgun you want as long, as it's a lawful handgun. That's it. You have to provide that list of those guns that you intend to carry, but you do not have to qualify individually.

Evan Nappen 28:33

Now when I'm reading your letter here, it says something that I don't understand. It's a little weird. You said, "a Chief issued permit, which allowed me to add more handguns that I qualified with to the permit." I don't know what kind of arrangement that was with the chief, but that arrangement is not found in the statute, by the way. That arrangement of you having to qualify for each gun. So, I don't really get what that's about. But the fact is a chief-issued permit is a chief-issued permit. As far as New Jersey law is concerned, there's no individual qualification required per gun. No such thing. It's a demonstration of core competency through the CCARE course, that you know how to shoot. You pass that and you certify to that. Then you have the handguns that are on your list that you submit. And it's not about qualifying with any of those handguns per se. Now if you want to qualify with some of those handguns, go right ahead. If you want to certify and qualify with every one of them, if you want to train with every one of them, in fact, you should, no problem. Totally cool. But it's not part of the law itself. So that's the deal in Jim's case.

Evan Nappen 29:48

Then I got another letter here, and this is from Eric. Eric says hi Evan. I'd like to take this opportunity to thank you for your public education, activism, and service to our 2A community. Well, you're welcome, okay, and I love doing that. You are truly one of a kind, and so many of us rely on your knowledge and work in this field. Well, thank you again. My question for your consideration is, if some random street protest/riot blocked a road that I was traveling on, surrounded my car, blocked my exit, and started

attacking my car, what would be my legal recourse in escaping that situation? So, what you're asking there is, what do you do in that situation? Now, the first thing you want to do is use your cell phone and call the police for help. Call 911. Call the police and tell them what's going on. Tell them you need help.

Evan Nappen 30:52

Now if, "being attacked", if they're attacking you, particularly with weapons, and if the attack and their actions create justification, based on what? Self-defense law, right? And what is it in Jersey? Justification for the use of deadly force. So, you have to be justified in the use of deadly force. And what's going to make that justification is going to be very fact specific. Not only are you in fear, which I can understand being fearful in that situation, but are you being threatened with serious bodily injury or death? Is your use of force, in this case, deadly force if you're going to use your gun to shoot, is it justified by those facts? I don't know the answer to that, because that's a fact question. You have to make sure that you are, if you're going to use your gun, but your best bet, every time, is first to call the police and try to get them there to rescue you. If they're not in the vehicle, if it's a situation where your life isn't in danger, but granted, you're scared, well do not use your gun. Remember, it's a thing of last resort. Remember, eventually, if you do use it, we're going to have to convince the jury, we're going to have to convince a jury of your justification for the use of deadly force. Remember, that jury is made of 12 people who aren't smart enough to avoid jury duty. That's who we are going to have to convince. So, be very, very cautious and very careful.

Evan Nappen 31:41

But I want to emphasize this idea of calling the police. Do not be a defender unless you are forced into it. But if you're forced into it, then, of course, we don't want anyone to be helpless. But the act of calling the police can be a very significant factor in your assertion of self-defense. I can tell you right now, individuals who defend themselves and had the opportunity to first call the police to get resolution and failed to do so, the prosecutor, the state, they will jam that fact up you're behind on cross examination. How come you didn't call the police? How come you didn't when you had a cell phone right there? How come you didn't try to get help first? I get all the arguments about why you weren't thinking necessarily about that. But you need to train yourself here. The first thing you want to do is call the police in a situation of danger. Do not be the hero. If you can avoid your use of your gun, use of force, then you let the police do their job. Make sure you've called them. This will help you in your own defense. It can help you, so you never need to be on a stand having to defend yourself. It is something that is looked at and questioned about, should this actually get to a situation where it's being tried. So, beware of that. And thank you for a great question.

Evan Nappen 34:42

So, now let's talk about the gunowner fuckup of the week. I'll tell you what I want to talk about because man, I've gotten clients so many times that have made this mistake, and it ends up complicating things. It ends up possibly getting criminal charges leading to licensing revocation. And here's the deal, folks. You cannot store your guns at somebody else's house. You cannot store your guns at your friend's house. You can't store your guns at your mom's house. You can't do that. Your guns need to stay at your residence, secured by you, and under your dominion and control. If you give your guns to somebody else to hold except within narrow, certain narrow exceptions here, and we'll get to them in a minute, you've just done an unlawful transfer of your firearm. If you take your handgun to your buddy's

house, and you say here, hold this for me because you've got a great gun safe that I love. Well, you've just transferred that gun, that gun which is your gun, now it's in your friend's possession, and it's even locked in his safe. So, you've got a problem there. Don't do that.

Evan Nappen 35:38

Now, courts sometimes will order and make arrangements for firearms to be stored somewhere else. If that's been done under a court order, you're protected because the court has ordered it. Whether that's technically correct under Jersey law or not, you're following a court order. Judges have a lot of power, and if a judge has ordered it, you're not going to get in trouble for obeying the judge's order. So, these are certain exemptions. Professional storage places or a court order that structures something like this. But short of that, don't make this mistake. Make sure your gun(s) stay with you in your possession and that unauthorized persons can't access your guns. You have to be this way, particularly in New Jersey, so you can maintain your gun rights. This is Evan Nappen reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

Evan Nappen 36:09

If you keep your gun at your house, you have an exemption under New Jersey law for your possession in your home so that you're exempt to possess it in your home, no less. There's no exemption for you to possess your gun at your friend's house. You're just jamming yourself up to lose your license, to get criminally charged, and to have complications. Don't do it. Now there are certain storage facilities that are approved for gun storage. There are businesses that focus on doing that. There are gun ranges that will do that. FFL dealers that will do that. There's an exemption and provision that allows them to store your guns. So, if you need to store your gun outside your home for whatever reason, get it done by a professional who's authorized to do so. You just don't give it to a friend or give it to a relative or keep it someplace out of exemption where you're jeopardizing yourself and your friend and your gun rights and possible criminal charges and losing your license and the whole bit. So, don't do that. Yet, I see it happen a lot.

Speaker 3 38:40

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