

# Gun Lawyer -- Episode 177 Transcript

## SUMMARY KEYWORDS

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## SPEAKERS

Speaker 2, Evan Nappen

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

Hi. I'm Evan Nappen, and welcome to Gun Lawyer. So, we have a bit of news here that I want to share. I don't know if you're aware or not, but New Jersey is part of the Third Circuit under the Federal Circuits, and the Third Circuit Court of Appeals struck down Pennsylvania laws that ban 18 to 20 year olds from carrying firearms in public during a state of emergency. This ruling, of course, is part of the power of the magnificent Bruen decision by St. Thomas, you know, Justice (Clarence) Thomas, and it's having a good effect. This case is actually at the appellate level. So even higher than the circuit court level. Now, the parties to that law, the Government, who's never likes it when one of their laws is struck down and people gain freedom, even in Pennsylvania, they're looking to try to get a rehearing of the full court to hear it. But right now, it is a win both in the trial court and the appellate court.

### **Evan Nappen** 01:40

So, one of the questions is, does this have any effect on New Jersey? And you bet it does. And actually, it only enhances what is already the law that you may find somewhat surprising. You see, New Jersey's carry permit law does not have an age restriction, limiting individuals to having to be 21 years old. Under New Jersey's carry law, an 18 year old or older, can apply for a carry license. And if that person is even attempted to be denied, because they're under 21, well, here we have a federal court decision right in the circuit, our circuit. It says that law, similar to the law that Pennsylvania has, is unconstitutional.

### **Evan Nappen** 02:39

But we don't even have to necessarily reach the constitutionality aspect of it. Because unlike the Permit to Purchase a Handgun, the Permit to Carry a handgun under N.J.S. 2C:58-4 does not have an age restriction. So, if you are under 18, I mean, if you're 18 or over, not under 18, you don't want to go there. But if you're 18 or over, an adult under the law, you can apply for a carry in New Jersey. Frankly, that's how it has been, basically, since Jersey had a carry law. You could simply be 18. There were many folks that I recall, who worked in security that were over 18, and they were able to even get carry permits in the bad ole days. And that didn't change. What can become a question is, well, how do I acquire a gun? I'm going to talk to you about that in a moment. But as far as applying, in order to apply, let's talk about that. You're going to need, of course, your photo, and you're going to need your prints or your SBI number. You can get your Firearms ID Card at 18. So, you can get that, no problem.

**Evan Nappen 04:02**

Then you're going to have to pass CCARE, which is the core competency qualification, and you do not need to own a firearm in order to pass CCARE. You can take CCARE at any of the ranges that have the instructors, particularly WeShoot by the way in Lakewood offers this, as long as you're 18 or over. You can take the course, and you can even rent firearms. You specifically can rent, temporarily possess and rent a firearm, specifically under New Jersey law. You can find that with under N.J.S. 2C:58-3.1, where it says that an individual can be temporarily transferred not only a rifle or shotgun, but it actually specifically says handgun there by that licensed dealer. Under another section right after that, N.J.S. 2C:58 Dash-3.2, you can also be 18 or older and get training and temporarily possess while training. So, the law does not prohibit somebody who is 18 or older from temporarily being transferred a firearm or being trained with a firearm, in this case, specifically a handgun. So, you can pass your CCARE without having to actually own or possess the handgun. In order to get this process going, you can do that, and I would highly recommend that you check out WeShoot and take one of their classes and get your CCARE certification.

**Evan Nappen 05:53**

Now once you have a carry, some of you may say, well, okay, but how do I get a handgun if you're 18 or older? Federal law prohibits, currently, a dealer from selling a handgun to somebody who's under 21. Now I happen to believe that that law is probably going to get tossed because they already have these decisions challenging state laws that have such restrictions. But for now, a dealer is still bound by the Federal law that prohibits a dealer from selling a gun to someone who is under 21, and New Jersey state law prohibits someone who's under 21 from getting a pistol purchase permit. Now, are there any loopholes around that? The answer is yes, there are.

**Evan Nappen 06:54**

One such loophole would be if you inherited the handgun. With inheritance, there's no paperwork, registration or anything like that. If you've inherited a handgun and you are over 18, you are 18 or older, and you've inherited that handgun, lawfully by way of inheritance, then you can utilize that handgun to carry. You can put that firearm on your application where it asks to list the gun that you intend to carry. You also could possess a handgun, if you lawfully resided in a state outside of New Jersey, in which there was no prohibition on individuals from making a private sale to you in that state when you were 18 or older. So, if you lawfully acquired that handgun in another jurisdiction and then you came to New Jersey with it, that handgun is still lawfully yours to possess. You do not need to be 21 to possess a handgun. So, that's another way to have a handgun that you could carry.

**Evan Nappen 08:05**

The other way is very interesting. You could go outside of New Jersey. You have to physically go there, let's say to Pennsylvania, and you can buy a black powder revolver, like a Remington 1858 revolver, for example. If you buy these specific models, there are conversion cylinders that convert a black powder firearm to a cartridge firing firearm. So, let's say you drive to Pennsylvania, and you buy the Remington 1858. It is a Cap and Ball black powder revolver that you're buying. Now on that purchase outside of New Jersey, you do not need a pistol purchase permit to make that acquisition because the law of New Jersey no longer applies to you. You're now in the other jurisdiction, in this case, Pennsylvania. You can buy a black powder cap and ball revolver with no problem. You're an adult. The end.

**Evan Nappen 09:10**

Federal law does not consider those to be modern firearms, and Pennsylvania State law doesn't consider those to be modern firearms. If you make that acquisition outside of New Jersey, you're lawfully making that acquisition, and then you can bring that handgun back to New Jersey because New Jersey has an exemption that lets you travel from your place of purchase to your home in New Jersey. So, you're transporting it lawfully. You've acquired it legally.

**Evan Nappen 09:42**

Once you get to New Jersey, you can simply get one of the conversion cylinders. There are various companies. Taylor's makes a conversion. (<https://www.taylorsfirearms.com/shop/firearm-parts-enhancements/conversion-cylinders/1858-remington-parts.html>) Kirst makes an excellent conversion. (<https://kirstkonverter.com/1858-remington.html>) Basically, if it's a .44 black powder, they have a conversion to .45 Long Colt. If it's a .36 caliber, they have conversions to .38 caliber. The conversions will let you fire modern cartridge ammunition.

**Evan Nappen 10:13**

Now, if you're in New Jersey and you have a percussion Cap and Ball revolver, well, New Jersey views that as a handgun, and a firearm. New Jersey laws are so strict that they don't exempt from their definition of firearm, antique firearms, Cap and Ball firearms, reproduction of black powder firearms. Under New Jersey law, they are the same. So, if you have a Cap and Ball Civil War revolver, it's the same as having a Smith and Wesson .500 Magnum in terms of how that firearm is regarded. It is simply a handgun and a firearm. By putting a conversion cylinder in it, you do not change this gun in any way under New Jersey law. Because once it's a handgun, it's always a handgun. You're not manufacturing a handgun. It already was a handgun. All you're doing is allowing it to accept modern ammunition instead of black powder Cap and Ball ammunition. And that's fine. You can possess that handgun and use and shoot as you would any other handgun. You do not need a pistol purchase permit for it because it was acquired outside New Jersey. And that is the workaround.

**Evan Nappen 11:33**

These are three possibilities for someone who is under 21, but over 18, to lawfully have a handgun. You can apply and get your carry permit. It is not only not prohibited under the statute by age, but even if there was such a prohibition, it has been declared unconstitutional in the Third Circuit, in the Pennsylvania case, and it is an appellate case. Now the Government is looking to get that reconsideration so to speak, done. If that's even granted, then they, of course, have to win. Then this is probably heading to the U.S. Supreme Court as we speak anyway. But having two wins on this, in both the lower court and the appellate court, bodes very well for this issue on the Constitutional side. But like I said, there's no statutory prohibition. You can of course look at these laws that I've pointed out to you in your pursuit of getting a carry permit in New Jersey. Boy, I know that when I was 18, if I had an opportunity to get a carry, then I sure would have, and you can do it now. So, lucky you. That is an avenue that you may very well want to pursue.

**Evan Nappen 13:03**

If you choose to pursue it, make sure you give WeShoot a call. They are an indoor range in Lakewood. They have a fantastic facility and have excellent trainers. That's where I got my CCARE certificate, so did my brother, and so did my son. They're just great there. You can get that CCARE, which is required to demonstrate your core competency so that you can get your carry license. They have a range, and they also rent firearms, as well. So, you can go there and practice. It is a great facility. It's really easy to get to. Right off of the parkway there in Lakewood. So easy to get to if you're in Monmouth County, Ocean County, etc. It's a great resource. We need our ranges. It's really important that you give them your business so that we keep these ranges going. Because without a place to shoot, we can't shoot. So, take advantage of this. Check out WeShoot. Go to their website at [weshootusa.com](http://weshootusa.com) for more information about the great WeShoot range in Lakewood.

**Evan Nappen 14:17**

As we're fighting these legal battles, left and right, of course, your guardian standing at your side in New Jersey is the Association of New Jersey Rifle & Pistol Clubs. They are the number one gun rights group that is protecting your rights in New Jersey. They're the folks that are litigating in Federal court over these issues from assault firearm, so called, which are of course modern sporting rifles, to large capacity magazines, which are really just standard capacity magazines. Also, on the Carry Killer bill that Governor Murphy passed in his hissy fit over the ability to now get carry licenses. All these things are being challenged by the Association. They have a full time paid lobbyist on guard defending us and alerting us to the shenanigans taking place in Trenton. So, by belonging, you'll get those email alerts, and you'll get the best gun newsletter in New Jersey that they put out. You'll be proud to know that you're a member, and you are part of the solution. Check out [anjrpc.org](http://anjrpc.org). That's where you can join and learn all about your state Association, which is the umbrella organization of the gun clubs in New Jersey. And that's what gives us the force and power to fight these intrusions into our Second Amendment rights.

**Evan Nappen 15:51**

And to better understand the laws of course, here's when I shamelessly plug my book, which is New Jersey Gun Law, the Bible of New Jersey gun law. It's over 500 pages with over 120 topics all in a question and answer format. It is made to be user friendly. It's a labor of love. We put hundreds and hundreds and hundreds of man hours into this, and it's now the 25th Anniversary Edition. So, you want to get a copy of this. It's what's used by law enforcement and attorneys and judges and, of course, the person who I wrote it for, which is you, the gun owner. It is the key to helping you to navigate the insane matrix of gun laws that New Jersey has erected so that you don't become a victim of New Jersey gun laws. On the front cover of the book, you'll see a QR code that you should scan. It is free, for free, and you get to subscribe to the database, the subscriber archive. You will be alerted for any new law changes, usually within 24 hours I get that out. You can get any of the archived updates, so your book stays current. That's the beauty of it. So, order a book today and keep it current. Subscribe for free to the Subscriber Portal, and you'll get all the updates so you can stay on top of the laws and not fall into any of Jersey's traps that they lay for law-abiding citizens. If you want to buy a copy, you can find it at [EvanNappen.com](http://EvanNappen.com). That's right. That's my website. It's easy to remember. [EvanNappen.com](http://EvanNappen.com).

**Evan Nappen 17:33**

I've received some really interesting letters. I always love to get the Ask Evan letters. And of course, at the end of the show, we will have the GOFU, the ever popular GOFU. In response to last week's show, I got a number of folks asking questions and providing more information about the Glock 43x magazine problem. As you know, Glock 43x mags that were made prior to September 2023, actually hold 11 rounds instead of 10. Anyone who has one of those magazines is currently in violation of New Jersey's gun laws. You have a large capacity magazine, and you're looking at a year and a half in State Prison as a maximum penalty, becoming a convicted felon and losing your gun rights. So, it is a serious issue. You want to make sure none of your mags hold over 10 rounds. No matter what the mags say on them.

**Evan Nappen 18:35**

Now here's a letter and this letter is from, let's see, this is from somebody, Eric. And what Eric says is, good afternoon, Evan. After listening to last week's podcast, I checked all of my 43X magazines, and they all had the ability to hold 11 rounds. So, there you go. From there I continued to check other Glock magazines and found my G45 magazine to be doing the same thing. It seems to be only the factory Glock 10 round mags and not ones that were higher capacity and blocked. I've contacted Glock technical support, and they are replacing all my magazines. I would suggest anyone who has a factory 10 round Glock mag to check them regardless of model. So, there's what Eric has to say.

**Evan Nappen 19:27**

Then Keith wrote, regarding the ETS Group, Glock 43X 10 round mags. Evan, not really a question but I wanted to share. Well, that's always good. We like to share information with our listeners. Not sure if anyone has brought this up or not, but since your episode about the Glock 43X factory magazines holding an additional round past 10, I checked and sure enough it held 11 rounds. I ordered two new magazines from a maker called ETS Group. They specifically said their 10 round magazines. It even states it on the package. Come to find out they actually hold 12 rounds. How nice. WTF! Lesson learned. To all the 43X owners out there, don't skimp on mags. Buy factory ones after the fix. Hopefully this helps someone. Thanks. Well, thanks, Keith. That's a good warning. Watch out for the ETS mags that claim to be 10 but hold 12, according to Keith. So, this is a treacherous area and a difficult situation. If you want to hear a fuller explanation of the pitfalls and problems, listen to last week's show. (Gun Lawyer - Episode 176) But it does illustrate that this is widespread.

**Evan Nappen 20:58**

Individuals that have a magazine that's over the amount of rounds, not only could you get charged, but also, if you end up in a justified self-defense shooting and they find out that your magazine was prohibited and you are breaking the law, that's not going to do you any favors in your case. It's going to be a problem. So, you don't want to have that problem. You want to make sure that your magazines do not hold over 10, at this time, until the Association is successful, and I honestly believe they will be in the elimination of New Jersey's standard capacity magazine ban. It currently has one foot in the grave on the Constitutional challenge being brought and litigated by the Association. But until that time, it is the law, and you don't want to have a problem at any time with New Jersey gun law.

**Evan Nappen 22:01**

Now I have a letter from Renee, and Renee says, regarding constitutional carry. First of all, awesome show. I listen to it every week. Thanks. Well, I appreciate that, Renee. In states with Constitutional carry, does it only apply to residents of that state? Now, for the most part, Constitutional carry applies to any person who's not otherwise a prohibited person, per se, like a convicted felon or somebody like that. Now, if there are some states that have resident only restrictions, you need to check before you travel to that specific state that you're going to. Make sure that it doesn't have residency only, but most of them are not resident only. Most are just if you're a law-abiding person, you do not need a permission slip to carry your gun. And that's what Constitutional carry is all about. As a matter of fact, if they did distinguish between residents and non-residents, it sounds to me like that itself is grounds for a separate Constitutional challenge of equal protection.

**Evan Nappen 23:15**

It is always good to check and make sure that the state(s) that you're traveling to are good to go for either Constitutional carry or for reciprocity with states regarding the licenses that you may have. Now, there are many states that have reciprocity. But there are states, including Pennsylvania, for example, that require that your carry permit be issued to you as a resident of your home state. So, a non-resident carry in Pennsylvania, in which they may recognize it, for example, Florida. If you have a Florida carry permit as a New Jersey resident, you cannot carry in Pennsylvania, even though they recognize Florida's license because they only recognize it for residents of Florida. If you're going to get the protection of reciprocity when dealing with permits, then you had better be a resident permit holder in those states.

**Evan Nappen 24:35**

So, you need to thoroughly check these things out before you travel. Make sure you get this confirmed by an attorney or from an official source. One of the things you can do is you can go online, and you can contact the Attorney General or the State Police of that state. You can ask them or talk to an attorney that practices gun law in those states. Some of you may have access to attorneys like that. You want to make sure that you do that. Because you could become a GOFU if you fail to do your recon. You've got to make sure that the carry you have is accepted in that state. Or if it's a Constitutional carry state, are there any other restrictions? Also keep in mind that when you're in those states, you're restricted by the restrictions of that state. So, if that state restricts you going into a house of worship with your carry gun, you cannot carry your handgun in a house of worship. New Jersey, by the way, does not restrict you from your house of worship with a carry gun. When in Rome, you do as the Romans do. And that's what you must do. You must make sure you abide by the laws of the state that you're in. Again, another possible GOFU that you don't want to commit.

**Evan Nappen 26:07**

Speaking of GOFUs, this week's GOFU is something that I encounter all the time. When it comes up, I'm always shaking my head. Oh, man, why is this, why is this. Our GOFU, in case you didn't know is a Gun Owner Fuck Up, and we call it GOFU because that's what they are. This word has taken root, taken hold. It's known now in our culture that these are mistakes that gun owners make, and I don't want you to make them. These are expensive lessons that you get to learn on the cheap by listening to the show. The one I'm talking about today is this. Do not ask police for gun law advice. Oh, my God.

Don't ask the police for legal advice. I made a deal a while ago with the police, but they don't seem to be sticking to it. And what I said was, if they promised not to give legal advice, I promise not to arrest anybody. How's that for a deal?

**Evan Nappen 27:14**

But instead, I constantly get folks that call and say, well, I asked the local police or the State Police or this guy. I asked this officer or that officer, and they said this or that. You cannot rely on what the police say except under very narrow circumstances. When the State Police in charge of firearms specifically puts out an opinion or the Attorney General's Office specifically puts out an opinion, then you actually have what's called "ignorance or mistake of law defense" because you are relying on an official statement. But short of an official statement, you're not going to get the protection that you think you have by simply asking a cop whether this is legal or not legal. I hear all the time about things that they say are illegal, and in fact, they're not. In fact, they're absolutely not illegal, but for some reason, they think they are. And vice versa. I've heard many times where the officer will say that it's good to go. You're all right. When in fact, you're not. And you get jammed up because you listened to that officer. Do you think that officer is going to be coming to court and say, oh, yeah, I told him this wrong advice? Yeah. Tell me about that. Right? Do you think so? I don't think so. This is why you cannot rely on that response.

**Evan Nappen 28:39**

Whether it's the legality of a certain item, or here's a good one. How to answer a question on a gun application. So many times. Well, I asked the officer, and he said I should write no, even though the answer was yes. Then when you write no, you end up with a problem because there's somebody new doing the licensing or somebody above got a hold of it, and they don't care that you're claiming that this what you supposedly were told to do. You can't rely on that. And whether you can possess certain things or not. Whether this is an assault firearm or not. Whether, you know, the questions just go on and on. Look, the police have a job to do, and I respect it. But giving legal advice unless they are the agency empowered to do so, like the State Police Firearms Unit, they have no business doing it. And you shouldn't put any weight or credibility on what they're saying. They're not bound in the same way as attorneys are, and they're not trained the way attorneys are. And they're sure not Gun Lawyers, so be careful. Beware. This is Evan Nappen reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

**Speaker 2 30:00**

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