



REPORTER

THE RIGHT TO SELF-DEFENSE DEBATE BROUGHT TO U.N.

It took a hurricane to prevent it, but remarks originally scheduled to be delivered at the United Nations by the Second Amendment Foundation carry more clout than a storm said Second Amendment Foundation founder and Executive Vice President Alan Gottlieb.

SAF's Director of Operations, Julianne Versnel was in New York Sunday, October 28, 2012 when the oncoming hurricane, Sandy, caused the United Nations to shut down. Versnel was scheduled to speak to the First Committee of the General Assembly the next day.

But her message will resonate with armed and unarmed citizens, and especially female gun owners, who understand that attempts to push global gun control and minimize the right of self-defense are a threat to liberty and human rights.

Her scheduled remarks are underscored by stories about looting by thugs who are taking advantage of the storm. Versnel said this situation is reminiscent of the aftermath of Hurricane Katrina, when people were deliberately disarmed amid widespread looting and chaos.

Mr. Chairman, I am Julianne Versnel of the Second Amendment Foundation. Thank you for this opportunity to speak Mr. Chairman in late August I spoke to the Programme of Action Review Conference about an issue intimately connected with the topic of small arms and light weapons. I would like to repeat that message.

The issue I spoke of was the right of self-defense and particularly as it applied to women. Mr. Chairman, human rights are an essential part of international dialog. The UN Declaration of Human Rights, the EU Convention on Human Rights, and traditional common law all speak to a right to life. Mr. Chairman that right to life must be given real meaning. If there is a right to life there must also fundamental right to defend that life. We categorically reject the interpretation of Ms. Barbara Frey, UN Human Rights Commission Rapporteur who questioned such a right.

Mr. Chairman the right of self-defense is right that is particularly important to women. We have a right to protect our bodies, to protect ourselves against assault

and rape. No one questions that violence against women is endemic. Mr. Chairman there are those who say women should rely on the police, the authorities, or even the UN for protection. Mr. Chairman, I reject this idea. In fact Mr. Chairman, this concept is part of the outmoded and disproved idea that women are somehow weaker and must rely on men for their protection.

Mr. Chairman, most of the delegates here know that in the US there is extensive firearms ownership. What they do not know is that almost half of the handguns in the US are owned by women. They are used for self-defense by women. I fully endorse, as should every person in this room, the idea that women must have the means to defend themselves. Nothing that is before this Committee, in an ATT or part of the POA should affect a woman's right to defend herself.

Mr. Chairman let me close with a historical anecdote. Eleanor Roosevelt was the United States first ambassador to the UN. She also was essentially the mother of the UN's Declaration of Human rights. She was known and revered for her beliefs in woman's rights. Including the right to defend herself with firearm if necessary. And Mrs. Roosevelt practiced what she preached. In 1958 Mrs. Roosevelt drove through the American South by herself. The Klu Klux Klan had put a \$25,000 bounty on her head and the Secret Service told her not to go. She went anyway and on the seat of the car was her own .38 caliber revolver.

Mr. Chairman we can learn from Mrs. Roosevelt, no one supported the UN more than she did, but at the same time she insisted on her right, as a woman and as a person to have the means to defend herself. Thank you.

In 2012, Ms. Versnel attended the Prep Comm for the Second Programme of Action (POA) Review Conference, in March, the ATT Negotiations conference in July and the POA in August at the United Nations Headquarters in New York, as well as the Conference of Parties to the United Nations Convention against Transnational Organized Crime in Vienna in October. Another negotiating conference for the Arms Trade Treaty is anticipated for March 2013.

SECOND AMENDMENT FOUNDATION MONITOR UN COP

The program of civilian disarmament proposed by the "Firearms Protocol" and the "Programme of Action on Small Arms and Light Weapons" (POA) for more than a decade continues to expand despite the failure to reach agreement on the ATT this last July.

The Conference of the Parties to the United Nations Convention against Transnational Organized Crime was held in Vienna, Austria October 15-19, 2012. IAPCAR's Julianne Versnel and Alan Gottlieb attended the meeting with other members of the World Forum on Shooting Sports as the Second Amendment Foundation representatives. In the past, the UN's Conference of Parties has served as a bureaucratic and educational platform supporting the Firearms Protocol, the Programme of Action, and the ATT.

At this meeting the trade in small arms used for sport and/or self-defense was lumped in with various forms of crime such as human trafficking, drug trafficking, terrorism, counterfeiting, and organized crime.

In a last minute negotiating success, a resolution was passed to continue the working group's study and, for the first time ever, recognizing the legitimacy of firearms with sporting uses. Mexico was vehemently opposed to the legitimization of the ownership and possession of firearms by civilians. Rather, their preferred method of mentioning firearms replaced "civilian possession" with "lawful use." This

proposed verbiage would presumably give governments and the UN more authority to limit civilian use of firearms.

The Mexican delegation also hosted a side event titled "Arms Trade Treaty, Firearms Protocol and Small Arms Programme of Action: Three essential components of effective firearms control. What options for synergies?" The main stated goal of the meeting was to "establish synergies" between the UN Programme of Action on Small Arms, the Firearms Protocol, and the UN Arms Trade Treaty. During that meeting it was advised that changing terms and contexts that had already been negotiated would be very detrimental.

Another side event launched the "Small Arms Survey" (SAS), a yearly publication distributed by the Graduate Institute of International and Development Studies (GIIDS) and Cambridge Press. The 2012 issue is a 366 page work focusing on "illicit trafficking of small arms." However, the SAS frequently veers far off track highlighting domestic laws and issues unrelated to international affairs or the UN. The publication serves as a clear blueprint and source of skewed data for a political agenda against the civilian use, possession and ownership of firearms. In fact, at the meeting an official representative from the Russian government questioned the motives, funding sources, and accuracy of the "Small Arms Survey."



Julianne Versnel at COP

In addition to the "Small Arms Survey," GIIDS also frequently produces "Research Notes" and "Issue Briefs" for dissemination at UN meetings. These smaller, more succinct handouts are distributed at meetings to reinforce the themes of the yearly SAS and reiterate their request for increased regulation on civilian arms.

The ATT is expected to be the focus of a special meeting at the UN New York headquarters for two weeks in March 2013.

In the defense of the human right of self-defense, SAF and IAPCAR will continue to monitor these events closely.

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LEGAL BRIEFS

Richards v. Prieto

The United States Court of Appeals for the Ninth Circuit issued an order scheduling oral arguments in Richards v. Prieto. Arguments will take place at the San Francisco Ninth Circuit location on December 6, 2012. The Second Amendment Foundation is joined by the CalGuns Foundation in a lawsuit that seeks judgment against the arbitrary denial of concealed carry permits.

Richards v. Prieto, originally titled Sykes v. McGinness, began as a challenge to the concealed carry licensing policies and procedures of Sacramento and Yolo counties in California. Though the case,

brought by Second Amendment Foundation and the Calguns Foundation, led to Sheriff John McGinness and Sacramento County settling out of court and going "shall-issue," Yolo County and Sheriff Edward Prieto held steadfast (hence the change in case caption).

This lawsuit seeks to block practices and laws used by state officials that arbitrarily take away constitutional rights to keep and bear arms. Officials in the State of California regularly practice arbitrary discretion when issuing handgun carry permits citing "good cause," frequently denying the right of self-defense. The practice of

(Continues on pages 6-7)

WHERE WE ARE ON THE LEGAL ROAD

SAF Lead Attorney Alan Gura was unable to attend the 27th Annual Gun Rights Policy Conference due to family commitments (congratulations on the birth of your son); however, he did deliver a prerecorded speech to the audience which can be found in its entirety at <http://goo.gl/KD8We>

Known for his success in *McDonald v. Chicago* and *Heller v. District of Columbia* Supreme Court cases, Gura's speech focused on the importance of litigating Second Amendment civil rights cases highlighting SAF's current carry or "bear" litigation.

"The Second Amendment Foundation stands at the forefront of the effort to protect your right to keep and bear arms in the courts," Gura stated. "The Supreme Court handed down major Second Amendment cases in 2008 and again in 2010. I would not be surprised if the Supreme Court handed down another major Second Amendment decision next year, in 2013," he observed.

However, the seasoned litigator cautioned pro-Second Amendment activists to be patient and let the current lawsuits play out in court, "The law is complex and moves slowly, we could not do everything at once, nor would that be a good idea. Good results take time and a great deal of resources."

Gura is the Second Amendment Foundation's lead attorney in five major carry cases currently winding through federal court: *Palmer v. D.C.*, *Moore v. Madigan* in Illinois, *Woollard v. Sheridan* in Maryland, *Piszczatoski v. Maenza* in New Jersey and *Kachalsky v. Cacace* in New York. Mr. Gura also outlined the meaning of the "bear" cases, "Securing the right to carry (outside the home) is vital to making the Second Amendment meaningful for many Americans. Of these (rights) that are most pressing, is the right to carry."

"In *Heller* the Supreme Court defined "Bear" as "Carry" and devoted several pages to explaining how the

right to carry functions outside the home." Gura asserted.

He added to his thoughts on the current court cases, "Some great cases are winding their way up the food chain and producing splits of authority in the lower federal court that the Supreme Court will have to address. Moreover, in some cases the opinions appear to be outright defiant of the Supreme Court opinions in *Heller* and *McDonald* and I believe this will eventually attract the high court's attention as well."

Mr. Gura also outlined the very important judicial precedent set by the case of *Ezell v. Chicago*. *Ezell*, a case brought by SAF and argued by Gura, won a decision that Second Amendment violations outside the home constitute irreparable harm.

To finish, his thoughts on elections and the political process focused on the impact on Second Amendment rights, "Forget about 1791, the Second Amendment is on the ballot, if you're not active, you cannot complain about what's going on," Gura opined.

GUN RIGHTS POLICY CONFERENCE

Several individuals and organizations were honored by the Second Amendment Foundation at the 27th annual Gun Rights Policy Conference (GRPC) held Sept. 28-30. Award recipients were announced during the annual awards luncheon, which is a highlight of the conference, this year held at the Hyatt Regency Orlando Airport Hotel.

Retired Ambassador Donald A. Mahley, US negotiator and advisor at the United Nations when the US declined to accept the proposed drafted Arms Trade Treaty in July, was presented with a Defender of the Constitution award by SAF Executive VP Alan M. Gottlieb.

Ambassador Mahley received SAF's Defender of the Constitution award. He spoke on the UN Arms Trade Treaty as the head of the US delegation to the ATT negotiation and highlighted the political agenda behind placing small arms and ammunition in the UN treaty. The Ambassador relayed that many at the UN view the US Constitution as a politically flexible, a feeling not held by the 58 Senators that signed a letter to the State Department opposing the treaty. Mahley minced no words when he spoke about the draft version of the ATT submitted last July "It is a violation of the US Constitution."

Expanding on the negotiations at ATT, Ambassador Mahley also covered the procedural tricks some other countries attempted in adding amendments to the ATT in order to weaken civilian ownership or trade of firearms. These procedural tricks also made it easier for the opposition to slip future amendments in the treaty and were cited as another reason Mahley pulled out of the negotiation. "No group of United States Senators is going to surrender this (the Second Amendment) Constitutional right," stated Mahley at the conference.

In addition to the speech given by Ambassador Mahley, a panel on Global

Gun Control alerted the audience that the effort may be "down but not out." Gary Burris, founder of the Lone Star Shooting Association (LSSA), reported on how Europeans conduct competitions, and he detailed current gun rights activities in Europe. He said the situation is "not bad," and that gun laws are governed by the "EU Directives." Gun registration is almost universally mandatory, and no full-auto firearms are allowed. It is allowed to buy, sell and even trade firearms provided a special license is obtained. LSSA is a Texas-based foundation that helps raise money for various groups, and he has helped gun organizations in Italy and elsewhere.

Sheldon Clare, president of the National Firearms Association of Canada, said elections make a big difference in civil rights, noting that

the last national election in Canada gave the conservatives a majority in Parliament. The goal is to erase the old Trudeau liberal vision of Canada and roll back gun control laws. Canada ended its long gun registry and reversed other gun regulations, but he noted "there is so much more to do to repair our badly damaged firearms system in Canada."

Retired Maj. Gen. Allen Youngman, executive director of the Defense Small Arms Advisory Council (DSAAC), gave an overview of the gun control activities in Africa and other regions around the globe. His group involves most of the US-based military small arms manufacturers. Youngman said the arms trade treaty is being negotiated in the UN General Assembly, where this country does not have a veto. It is not a "small arms treaty" in concept,



Shown at the Orlando GRPC awards ceremony are: Ambassador Donald A. Mahley, left, US negotiator at the United Nations who withdrew the US from the proposed drafted Arms Trade Treaty in July, who was presented with a Defender of the Constitution award by Alan M. Gottlieb (second from right), and with a special Colt 1911 by Maj. Gen. Allen Youngman (ret.), executive director of the Defense Small Arms Advisory Council (DSAAC), far right, who himself received a SAF Defender of Liberty award. Second from left is Rep. Joe Barton (R-TX), who was presented with a CCRKBA Lifetime Achievement Award.

ERNECE: A HUGE SUCCESS

but in reality, instead of focusing on conventional weapons, it is focused on small arms.

Gen. Youngman also stated the US Senate's importance as "the last line of defense" where treaties must be ratified. There is going to be some kind of treaty, he insisted, but with US involvement, it could be acceptable. "We may not like what comes out of the UN process," he cautioned, "but you're going to like it a whole lot less if we're not involved." He explained what happened to the treaty earlier this year, noting that the US delegation stood up and said this country would not participate. "It's not over and probably never will be," he said.

Washington Times Senior Editor Emily Miller was recognized as SAF's 'Journalist of the Year' for her continuing reportage about confusing and deliberately discouraging District of Columbia gun regulations. Miller's series, "Emily Gets Her Gun," drew a huge following in the newspaper and on-line for its revealing look at how the District of Columbia government deliberately crafted gun regulations that are designed to discourage law-abiding citizens from exercising their Second Amendment rights inside the city. The District's 30-year handgun ban was struck down in 2008 by the US Supreme Court in the landmark Heller ruling, but city officials have made it confusing and costly for citizens to exercise their rights.

Attorney Bobbie K. Ross, chair of the Second Amendment Civil Rights Litigation Subcommittee of the American Bar Association was the recipient of a the Defender of Liberty award. She spoke about her committee's work to bring civil rights to inform people about the Second Amendment. Members of the committee are planning to visit events, including regional events, and she encouraged the audience to bring such opportunities to her

attention. "We want more people to write about the Second Amendment," she said. Articles can be posted on the Bar Association's website. This is important, she explained, because the ABA has a large membership and information that addresses the Second Amendment from a civil right perspective is important. She is also looking for opportunities to co-sponsor events with other organizations, thus bringing the legal community closer to the Second Amendment community.

Second Amendment scholar and attorney David Kopel also received a Defender of Liberty award and reported on his work with cases involving concealed carry on college campuses in Colorado, and the public's role in litigation. He did an amicus brief on behalf of the Independence Institute and County Sheriffs of Colorado in the court challenge to a campus carry ban in Colorado. The court found in favor of the sheriffs and armed students.

Kopel also did an *amicus* brief in SAF's Woollard case challenging Maryland law that declines qualified applications for concealed carry. Kopel noted, though, that the way gun rights litigation is successful is by identifying good cases and good clients. The goal is to win those cases, not simply to file a case. Trouble begins when some self-styled activist files a case for "emotional self-validation." Losses in these cases can seriously hurt the gun rights effort, and he cautioned against filing such cases, either pro se or with inexperienced counsel.

George Zimmerman's defense attorney Mark O'Mara was a draw at the conference for local and national media and his discussion about self-defense under that state's law was well-received. He quickly made it clear to the audience that he was not going to discuss the Zimmerman case, however. In Florida, and in many other states, a person is allowed to use

deadly force if they reasonably believe they are in imminent danger of grave bodily harm. O'Mara made it clear, though, that "in Florida, if you used a weapon...and you do so unreasonably, (you) get prosecuted." He reiterated that point a couple of times.

"You are allowed to use force to react to force," he said, "and that makes sense. If somebody punches you in the nose, you are allowed to punch them in the nose." As far as standing one's ground is concerned, O'Mara noted that "The duty not to retreat has been around for hundreds of years." He said the Supreme Court affirmed as recently as 1985 that people have a right to be secure in their homes.

O'Mara acknowledged that he has been criticized for suggesting that Zimmerman's case is not about Stand Your Ground, while maintaining that it is a self-defense case. He said there will be an immunity hearing during which a judge will hear facts of the case and then make a determination whether Zimmerman may be immune from prosecution under Florida's self-defense statute.

Dr. Tim Wheeler of Doctors for Responsible Gun Ownership (DRGO) addressed new laws concerning gun owner privacy in relation to medical care. Dr. Wheeler outlined the current legal fight over patient privacy and the "Docks versus Glocks" law currently playing out in court. He also outlined the potential danger in both privacy and gun owner rights in the new national medical database. DRGO, is now a project of SAF.

Other awardees were: Scholar of the Year: Gary Mauser. Defenders of Liberty: Dave Kopel, Fredy Riehl (Ammoland), John R. Lott, Bobbie K. Ross Esq., Sean Caranna (Florida Carry), Patrick Shomo (Maryland Shall Issue). Global leadership Award: the late Dr. Vito Genco (President, World Forum on Shooting Activities).

CONTINUING

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arbitrary denial of the right to keep and carry a firearm constitutes the intentional denial of Constitutional civil rights by the State of California.

Attorney Alan Gura, representing the plaintiffs in this case, said, "It's a shame that these Sheriffs don't think that self-defense is a 'good cause' to exercise the right to bear arms, but we're confident the Second Amendment reflects a better policy."

Added co-counsel Donald Kilmer, "The California carry licensing system is being abused by some officials who are hostile to self-defense rights. The police can regulate the carrying of guns, and that includes preventing dangerous people from being armed. Complete deprivation of the right to bear arms, however, is not an option under our Constitution."

"The Supreme Court's decision in the Heller and McDonald cases show that there is both a right to keep arms and a right to bear arms," said SAF founder Alan Gottlieb. "In most states, authorities do not deny a license to carry an operable firearm to any law-abiding applicant that passes a background check and completes some form of training. This is also the practice throughout much of California. Government officials must respect the constitutional rights of their citizens to bear arms."

On appeal from the district court's grant of Sacramento County's motion for summary judgment, the case will ask the Ninth Circuit to decide whether or not a licensing authority may "condition the issuance of permits to exercise the fundamental Second Amendment right to bear arms, and classify applicants with respect to the exercise of that right, upon that authority's discretionary assessment of need and moral character."

Lane v. Holder

Oral arguments were made on October 23rd for Lane v. Holder, a Second

Amendment Foundation lawsuit in U.S. District Court seeking to challenge the constitutionality of federal and Virginia laws barring legitimate handgun sales to non-residents. These laws stem from the 1968 "Gun Control Act," barring handgun sales to "non-residents."

Virginia is a close option for many Washington D.C. residents and currently has no licensed handgun dealers. SAF challenges the constitutionality of federal and Virginia provisions barring handgun sales to non-residents.

As a challenge to the Gun Control Act of 1968 ban on the sales of handguns to non-residents of a state, the case was filed in 2011 and challenged the law on behalf of Michelle Lane, a resident of the District of Columbia, who had purchased two handguns in Virginia and was not allowed to pick them up after the purchase. At the time of the original filing, there was no active FFL in DC. The Second Amendment Foundation, Amanda Welling, and Matthew Welling are also plaintiffs in this case.

SAF Attorney Alan Gura characterized the law as a "needless impediment to the right of law abiding responsible people."

SAF and Lane are represented by attorney Alan Gura, who won both the Heller as well as McDonald v. Chicago Supreme Court victories. Named as defendants are US Attorney General Eric Holder and W. Steven Flaherty, Superintendent of the Virginia State Police.

"This is an important issue in the era of the national instant background check," said SAF Executive Vice President Alan M. Gottlieb. "The NICS check should allow law-abiding citizens like Miss Lane to exercise their Second Amendment rights regardless their place of residence."

"Americans don't check their constitutional rights at the state line," said Gura. "And since Michelle Lane is legally entitled to possess firearms, forcing her to seek a non-existing D.C. dealer to buy a handgun is pointless when perfectly legitimate options exist minutes across the Potomac River."

LEGAL BRIEFS

"The Supreme Court has ruled that District residents have an individual right, protected by the Constitution, to have a handgun in their home," Gottlieb noted. "The high court has also ruled that the Second Amendment applies to the states. Existing state and federal statutes violate both the spirit and letter of recent court rulings and the Constitution, and our lawsuit seeks to remedy that situation."

Woollard v. Gallagher (Woollard v. Sheridan)

On October 24th, Oral arguments were made in the US 4th Circuit Court of Appeals in Woollard v. Sheridan. This lawsuit brought by the Second Amendment Foundation and plaintiff Raymond Woollard challenges Maryland law challenging the arbitrary denial of gun rights made possible under Maryland State law stating a person prove "good and substantial reason" to exercise their constitutional rights.

In addition, this lawsuit also argues against citizens needing to prove "necessary as a reasonable precaution against apprehended danger" in order to exercise their rights. The current Maryland law attempts to restrict carry of handguns for arbitrary reasons.

At issue in Maryland is the state's requirement that applicants provide a "good and substantial reason" to the state police to obtain a permit for carrying a handgun.

Currently under appeal, SAF and Woollard were victorious on the District Court level. U.S. District Court Judge Benson Everett Legg noted, "In addition to self-defense, the (Second Amendment) right was also understood to allow for militia membership and hunting. To secure these rights, the Second Amendment's protections must extend beyond the home: neither hunting nor militia training is a household activity, and 'self-defense has to take place wherever [a] person

happens to be'." Last July, U.S. District Judge Benson Everett Legg lifted the stay for the state to process carry permits without a citizen having to provide a "good and substantial reason" because, in his opinion, the stay "is not warranted.

"If you have a right to do something, you don't need to prove you're entitled to it," said attorney Alan Gura, who argued the case on behalf of Navy veteran, Raymond Woollard, and the Second Amendment Foundation. "The need for self-defense frequently arises outside the home."

Judge Andre M. Davis asked whether the state could permit the open carrying of a handgun but not a semiautomatic weapon. Gura responded, "Probably not."

Judge Robert B. King noted that Maryland's law does not require a permit to carry a shotgun in public and that the General Assembly specifically addressed handguns because they "were used a lot by criminals on the street." Gura responded that "handguns are also indisputably the weapon of choice for law-abiding citizens" and that "nobody carries a shotgun around to defend themselves."

"I suppose if we wanted to do everyone a favor," said Judge Albert Diaz, "we would just send this to the Supreme Court and get a clear answer for a change.

"There is no good reason for the state to continue violating the constitutional rights of its citizens just to maintain this burdensome and arbitrary system," said SAF founder and Executive Vice President Alan M. Gottlieb. "As Judge Legg originally observed, the Second Amendment's protections extend beyond the home.

"No citizen should be required to give a 'good and substantial' reason in order to exercise a constitutionally-protected civil right," Gottlieb observed. "It is time for the State of Maryland to understand that government cannot, and must not, be given blanket discretion in its perceived authority to interfere with the exercise of a constitutional right by law-abiding citizens," Gottlieb said.

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