



REPORTER

THE SUPREME COURT JUST TOOK A 2A CASE WHAT DOES IT MEAN MOVING FORWARD?

Adapted from The Washington Free Beacon by Stephen Gutowski with permission.

The Washington Free Beacon sat down with the Second Amendment Foundation's Alan Gottlieb during this year's SHOT Show, the firearms industry's annual trade show, to get his perspective on the significance of the Supreme Court agreeing to hear a new gun rights case and some of the litigation that his group is pushing.

Gottlieb first discussed the history of the Foundation, saying that it used to focus on education but then got into the legal field regarding Second Amendment rights. He then said the outlook for gun rights would have been very different if Donald Trump had lost the 2016 presidential election.

"If Hillary Clinton would have gotten elected president, the Supreme Court would have had a totally different complexion than it does right now," he said. "There were a record number of vacancies on the appeals courts and federal court benches. They would have been stacked with anti-gun rights judges. We were looking at having to shut down our legal action program for a while because we couldn't risk setting bad precedents."

The Free Beacon then asked Gottlieb about the Supreme Court agreeing to hear a case on whether lawmakers can restrict the right to carry guns outside the home. The case centers on New York City regulations, which place strict limits on the ability of gun owners to transport guns.

"New York City has this crazy law," Gottlieb said. "It made the transport of legally owned guns outside of the city impossible, placing a heavy burden on New Yorkers who want to use their gun anywhere else."

"The Supreme Court is back in the business of hearing gun cases," Gottlieb added. "This is really important. It signals to judges on the lower courts now [that] you have to pay more attention to the Second Amendment and respect it more."

The Free Beacon pointed out that justices such as Clarence Thomas and Neil Gorsuch have written dissents calling on the high court to take firearms cases.

"It shows why Donald Trump's election was very important for gun rights," Gottlieb said. "Now we have a court that's tipping more in favor of looking at gun rights."

WILL SCOTUS REVIEW CA GUN ROSTER?

The Second Amendment Foundation has petitioned the U.S. Supreme Court for a review of the challenge to California's "Unsafe Handgun Act," (UHA) a part of that state's penal code that violates the Second Amendment by banning handguns of the kind in common use for traditional lawful purposes. The case is known as *Pena v. Horan*.

"Our challenge of the California Unsafe Handgun Act, if the high court accepts it, could be a critical wake-up call to lower federal courts that continue to employ what they call an 'interest-balancing approach' to deciding gun control cases," noted SAF founder and Executive Vice President Alan M. Gottlieb. "It is time to bring a halt to what is essentially a revolt by the lower courts against the landmark *Heller* opinion, and the *Pena* case could provide that vehicle."

California's UHA prohibits the manufacture, import or distribution of handguns that do not meet the state's extremely restrictive design requirements under the state penal code. The result, as the plaintiffs contend in their petition for high court review, is that the state is gradually achieving a handgun ban because they cannot meet the impossible requirements, which include microstamping, a technology is not offered by any handgun manufacturer.

"The landmark *Heller* ruling cannot become just a footnote in history," Gottlieb observed, "but that appears to be the ultimate goal if such laws as California's are allowed to stand. We are hopeful that the Supreme Court, with the benefit of fresh perspectives from two recently-seated associate justices, agrees that it is time to once again visit the Second Amendment and further restore its rightful place as a cornerstone of the Bill of Rights."

SAF ASKS FOR INJUNCTION AGAINST MISSOURI GUN REGS FOR FOSTER PARENTS

The Second Amendment Foundation has filed a lawsuit in federal district court asking for injunctive relief in a challenge of Missouri's firearms prohibition on state residents who are or wish to be foster parents.

The legal action was filed in U.S. District Court for the Western District of Missouri's Western Division. SAF is joined by James R. and Julie M. Attaway, a couple who are foster parents to one child. James has a concealed carry permit and the Attaways are allowed to possess firearms in Missouri. However, they are prohibited by Missouri Department of Social Services (MDSS) policy from a possessing loaded, functional

firearm in their home while they are foster parents.

"This is familiar ground for us," SAF founder and Executive Vice President Alan M. Gottlieb acknowledged. "We have successfully challenged similar regulations in other states when we find them, because there is a significant question about the constitutionality of such prohibitions."

SAF is alleging that the Missouri regulations amount to deprivation of civil rights under color of law. The lawsuit challenges the restrictions because they essentially prohibit the exercise of rights and privileges of possessing and carrying firearms for personal and family protection based

solely on the Attaways' status as foster parents.

"We believe this is an unconstitutional provision in Missouri's Code of State Regulations," Gottlieb explained. "It is important for the court to take action to protect the rights of residents who open their homes and hearts to foster children for whom they wish to provide a stable environment."

"Without an injunction," he stated, "the MDSS regulations would remain in effect, and other foster parents or would-be foster parents who own firearms will face the same dilemma as Mr. and Mrs. Attaway, no matter how highly qualified they would be to serve as foster parents."

CHICAGO INCIDENT ANOTHER CASE OF GUNS SAVING LIVES THANKS TO LAWSUITS

A young Chicago woman was able to defend herself against a would-be armed robber with a legally-carried pistol, thanks to two Second Amendment Foundation court victories that first nullified the city's handgun ban and then forced the Illinois Legislature to adopt a concealed carry law, SAF noted.

The incident is still under investigation, but it is certain that the 19-year-old suspect, who was fatally wounded, would have been facing an unarmed victim had not SAF legal actions paved the way for Illinois citizens to legally have handguns in

Chicago, and to be able to legally carry them.

"Our legal actions have always been about putting law-abiding citizens on an equal footing against violent criminals," said SAF founder and Executive Vice President Alan M. Gottlieb. "We eliminated Chicago's handgun ban with our 2010 Supreme Court victory in the McDonald case, and then forced Illinois lawmakers to allow citizens to legally carry with our Moore v. Madigan lawsuit."

"A legally-armed 25-year-old woman is alive today because she could fight back," he observed.

"Not surprisingly," Gottlieb said, "the gun control crowd invariably loses its voice when a bad guy is shot while committing a crime. Groups such as Everytown for Gun Safety and Moms Demand Action scream loudly when they push restrictive gun laws to disarm honest citizens, but when an intended victim is able to win in a deadly confrontation, they quickly stick their heads in the sand and pretend nothing happened."

"Their silence," he stated, "is not only deafening, it is deadly."

"SAF's motto for more than a decade has been 'Winning Firearms Freedom, One Lawsuit at a Time,'" Gottlieb concluded. "That freedom includes the ability to defend one's self, and there's no other way to define an attempted armed robbery on a Chicago street. Anyone who thinks a young woman should not be able to defend herself with a legally-carried handgun needs to readjust their moral compass."



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SAF 2019

SAF, FOUR OTHER GROUPS SUE CALIFORNIA OVER RIGHTS RESTORATION REFUSAL

The Second Amendment Foundation and four other rights groups have joined in a lawsuit against the State of California for preventing individuals from exercising their Second Amendment rights.

Joining SAF are the Firearms Policy Foundation, Firearms Policy Coalition, the Madison Society Foundation and the Calguns Foundation. They are supporting individual plaintiffs Paul McKinley Stewart and Chad Linton, who contend that non-violent felony convictions years ago have been set aside or vacated, yet the State of California refuses to allow them to purchase firearms.

The complaint was filed in U.S. District Court for the Northern District

of California. Named as defendants are California Attorney General Xavier Becerra; Martin Horan, the chief of the state Department of Justice, Bureau of Firearms; and Deputy Attorney General Robert Wilson. The case is known as Linton v. Becerra.

"SAF took an interest in this case for the specific reason that California once again is trying to prevent as many citizens as possible from exercising their Second Amendment rights," said SAF founder and Executive Vice President Alan M. Gottlieb. "There doesn't appear to be any other reason for the state to not recognize rights restorations of either Linton or Stewart as they have been restored by courts in Arizona and Washington."

Attorney George M. Lee, who represents the plaintiffs, observed, "The State (California) doesn't get to pick and choose which judgments of other states it will honor, and which it will ignore, because it doesn't approve of firearms ownership. Granting full faith and credit to other court judgments is part of the bargain of being one of these United States."

The cases involving both individual plaintiffs happened decades ago, and have been cleared by courts the states in which they occurred. Both plaintiffs have been good citizens in their respective California communities.

"This is just another example of California's animosity toward the Second Amendment," Gottlieb said.

SAF JOINS IN AMICUS SUPPORTING CHALLENGE TO NEW JERSEY CARRY LAW

The Second Amendment Foundation has joined several other parties in filing an amicus brief with the U.S. Supreme Court, asking the court to accept for review a case that challenges the "justifiable need" standard that is at the heart of New Jersey's restrictive carry law.

The case is Rogers v. Grewal. Attorneys general from 22 states have also asked the high court for review in a separate brief.

"New Jersey's carry scheme is ideal for review by the Supreme Court," said SAF founder and Executive Vice President Alan M. Gottlieb. "It is long past time for the court to provide guidance to lower courts on right-to-carry outside the home, because it is ridiculous to accept the notion that the Second Amendment right to bear

arms only exists inside one's home or place of business. Such a limitation would essentially demote the Second Amendment to the rank of a highly-regulated privilege."

The case involves New Jersey resident Thomas R. Rogers, who applied for a handgun permit some two years ago because he carries large amounts of cash in order to service ATM machines. His application was denied because his local police chief felt Rogers did not have a justifiable need to be armed under state law.

"No citizen should have to demonstrate a 'justifiable need' in order to exercise an enumerated right," Gottlieb stated. "New Jersey and the lower federal court have evidently forgotten that in 2010, under SAF's Supreme Court victory in McDonald

v. City of Chicago, the Second Amendment was incorporated to the states via the 14th Amendment. The courts, and state governments, can no longer be allowed to treat the Second Amendment as a second-class right, and we think this case could provide a starting point to restoring the right to bear arms to its proper place within the Bill of Rights, for all citizens, not just a privileged few.

"New Jersey's 'justifiable need' standard is an abomination because it relegates an important fundamental right to a lonely back seat on the civil liberties bus," he observed. "No constitutionally protected right should be so shamefully treated as the Second Amendment has been, and that's why we are pleased to be part of this amicus brief."

This section of The Reporter is usually reserved for a list of our legal cases but in this issue we want to address something that is going to be important for gun rights supporters to focus on in 2019. The Second Amendment is under attack. This is not "fear mongering" this is the truth. What we have been seeing are new tactics designed to not just restrict your rights but to discourage the American people from exercising their constitutional right to keep and bear arms.

- **What is it?** A culture war on gun owners. The idea is to make it a chore to own a firearm and to chastise you if you support the Second Amendment.

- **When did it start?** After the tragedy in Florida in February of 2018 Walmart and Dick's Sporting Goods decided to stop selling to anyone under the age of 21. From there businesses decided to distance themselves from anything "gun" related.

- **What you can do to fight back**
We need gun owners to stand up and be heard now more than ever. Law abiding gun owners should not be punished for a problem that we have nothing to do with. Let your voices be heard. Support companies that support your rights. Support organizations that are actually doing something when it comes to protecting your rights. Get out and vote for people who will solidify your rights. We need to show how many people actually support the Second Amendment so that it is not taken away from us.

The list that follows describes just a select few of the lawsuits that YOUR Second Amendment Foundation is currently participating in.

- **(SCOTUS WATCH) SAF Sues over California Handgun Statute . . .**
The Second Amendment Foundation and Calguns Foundation have petitioned the U.S. Supreme Court for a review of their challenge to California's "Unsafe Handgun Act," a part of that state's penal code that violates the Second Amendment by banning handguns of the kind in common use for traditional lawful purposes. California's Unsafe Handgun Act generally prohibits the manufacture, import or distribution of handguns that do not meet the state's extremely restrictive design requirements under the state penal code. The result, as the plaintiffs contend in their petition for high court review, is that the state is gradually achieving a handgun ban because they cannot meet the impossible requirements, which include microstamping. That technology is not offered by any handgun manufacturer because it cannot be practically implemented, the petition notes.

This case could have interesting repercussions for future laws that try to reach and restrict what type of firearm you are allowed to own as well as how it is made.

- **SAF and NRA Join Forces to Sue over I-1639 . . .**
This Washington State initiative is aimed at making it harder to own a gun if you want

MEMBER UPDATE

to do so legally. Safe storage, mandatory training, age limits, and a few other details are the highlight of what it aims to do.

Watch for this particular situation to have an impact on what the anti-gun groups try to do in other states that allow ballot initiatives. This was funded by a select few with deep pockets including some out of state interests that found that they could buy an election.

SAF Joins Defense Distributed in Lawsuit regarding censorship of 3D Printed objects and sharing files

This case involves passage in New Jersey last November of legislation that criminalizes constitutionally protected speech. Attorney General Grewal has promised to jail anyone who violates this new statute by publishing or otherwise making available "digital instructions" that "may be used" to "produce a firearm" with a "three-dimensional printer," the lawsuit says. While this case seems to be about firearms at first glance it really is more about free speech. This should have impacts across other issues and has already seen some support from people who understand the tech side more than the Second Amendment side.

SAF has a record of winning cases that set incredible precedent for the future of expanding our rights. Some of those are:

McDonald v. Chicago

Ezell v. Chicago
Moore v. Madigan
Palmer v. D.C.
Bateman v. Perdue
Binderup v. Sessions

We now have cases in multiple states that are working to protect foster parent's civil rights so that they do not have to make the decision of choosing whether they can take care of kids or protect their home and family.

Without our supporting members none of these victories would have been possible. Because of our wonderful supporters like you we are constantly trying to build upon that success. All of these cases mean something in the long run but because of how many we take on and how long they can last they end up costing a lot of money.

Our annual conference is reaching more people than ever before thanks to streaming online and making sure to have fantastic speakers. Because of this wonderful event we are able to educate and grow the firearms community faster than ever before.

Thank you again for all of your support. We will continue to work hard so that you can continue to trust us to get results!

**Andrew Gottlieb
Director of Outreach and Development**

SAF JOINS 1ST AMENDMENT CHALLENGE TO NEW JERSEY 3-D CENSORSHIP LAW

The Second Amendment Foundation joined several other organizations in a lawsuit against New Jersey Attorney General Gurbir Grewal, seeking a temporary restraining order and preliminary injunction against enforcement of provisions in a 2018 law that criminalizes constitutionally-protected speech.

SAF is joined by Defense Distributed, the Firearms Policy Coalition, Firearms Policy Foundation, Calguns Foundation, California Association of Federal Firearms Licensees and a private citizen, Brandon Combs. They are represented by attorneys Chad Flores, Daniel Hammond and Hannah Roblyer of Beck Redden LLP in Houston and Daniel L. Schmutter of Hartman & Winnicki, P.C. in N.J.

The lawsuit contends that after New Jersey lawmakers passed the new

statute in November 2018, Attorney General Grewal censored the plaintiffs' free speech rights by threatening to jail them or anyone else that violates a section of the law that criminalizes distribution of digital instructions that may be used to produce a firearm with a three-dimensional printer.

"This isn't about firearms, it's about freedom of speech," said SAF founder and Executive Vice President Alan M. Gottlieb. "If Attorney General Grewal can suppress the sharing of technical information about the production of firearms components using modern technology, what else might he, or another attorney general choose to suppress at some future date if he or she doesn't like it?"

"Section 3(l)(2) of the law doesn't criminalize conduct," he observed, "it criminalizes speech, the mere

act of sharing information. We are hopeful the court will recognize the Orwellian nature of this prohibition and conclude, as we have, that it is an unconstitutional abridgement of protected speech."

The lawsuit notes that all types of digital firearms information are censored, including computer aided design files and other code or instructions stored and displayed in electronic format as a digital model. Under the law, it does not matter whether anyone actually uses the information, only that it is available and "may be used."

"With so much media attention on 3-D technology in recent months, the public has a right to know what the controversy is all about," Gottlieb said. "But Grewal won't allow that so we're taking him to court."

SAF JOINS IN FEDERAL LAWSUIT CHALLENGING GUN SHOW RESTRICTIONS AT DEL MAR FAIRGROUNDS

The Second Amendment Foundation has joined several other plaintiffs in filing a complaint in federal court challenging the decision by the Del Mar Fair Board in San Diego County, Calif., to place overly burdensome requirements on gun shows at the Del Mar Fairgrounds and to impose a moratorium on gun shows while they study the gun show issue.

SAF is joined in the action by B&L Productions, Inc., Crossroads of the West; the California Rifle & Pistol Association, South Bay Rod & Gun Club, Maximum Wholesale/Ammo Brothers and five private citizens. The complaint was filed in U.S. District Court for the Southern District of California. They are represented by

attorneys C.D. Michel, Anna M. Barvir and Tiffany D. Cheuvront with Michel & Associates in Long Beach and attorney Donald Kilmer in San Jose.

The complaint alleges that the Del Mar action purposely violates the free speech rights of the plaintiffs and constitutes prior restraint on speech, along with the equal protection of the plaintiffs.

"For more than 30 years," noted SAF founder and Executive Vice President Alan M. Gottlieb, "Crossroads has operated popular gun shows in California, including at the Del Mar Fairgrounds. These gatherings are more than just an opportunity to exhibit, buy and sell firearms, they are opportunities for

like-minded citizens to meet and discuss gun safety, firearms politics and current or proposed firearms laws and regulations.

"But the Del Mar Fair Board has imposed excessive requirements beyond what show promoters and operators must already comply with under the law," he added. "We believe this was done in an effort to drive out gun shows altogether from the fairgrounds."

"What's going on here," Gottlieb said, "is an attempt to marginalize gun owners and exclude them from the public square. We do not intend to allow that and have joined with our partners in this legal action to prevent it from happening."

SAF FILES LAWSUIT CHALLENGING 2A ENFORCEMENT PRACTICES

The Second Amendment Foundation filed suit in federal district court seeking to have federal and state laws preventing persons who, at one time in their lives, were subject to a mental health “hold” on the exercise of their Second Amendment rights overturned on the grounds that the way those laws and regulations are enforced are in violation of the Constitution.

The lawsuit is asking the court to declare that a section of federal law governing this issue, along with all derivative regulations and all laws, policies and procedures violate the Second Amendment, and the plaintiffs’ due process rights under the Fifth and/or Fourteenth amendments. It was filed in U.S. District Court for the Eastern District of California.

SAF is joined by several California residents who are filing either as “Jane

Roe” or “John Doe” to protect their identities. Named as defendants in their official capacity in this case are acting Attorney General Matthew Whitaker, the Department of Justice, FBI and Bureau of Alcohol, Tobacco, Firearms and Explosives, and California Attorney General Xavier Becerra. Plaintiffs are represented by noted California civil rights attorney Donald Kilmer.

“We’re challenging the policies, practices and procedures of either or both the U.S. and California governments, and the way they interpret and implement these laws and regulations,” said SAF founder and Executive Vice President Alan M. Gottlieb. “Specifically, under California law, un-adjudicated mental health holds require that firearm purchases must be denied, even though such holds have no

federal consequences. In California, a prospective gun purchaser must wait for five years after such a hold has occurred, or they may apply for relief under state statute.”

Several of the plaintiffs have actually had full adversarial hearings to restore their rights and Superior Court judges have granted their petitions. Yet they are still being denied when they try to exercise their Second Amendment rights. The lawsuit notes that there are several theories for these constitutional violations, the most being bureaucratic inertia and the most sinister being a hostility to the exercise of Second Amendment rights by “government actors.”

“Our lawsuit is asking for injunctive and declaratory relief,” Gottlieb said. “This is a situation that begs the court’s attention and should not be allowed to continue.”

SAF-NRA AMENDS CHALLENGE TO I-1639 ANTI-GUNNERS WRONG, LAWSUIT REMAINS

Contrary to a declaration from a Seattle-based gun control lobbying group, a federal lawsuit challenging anti-rights Initiative 1639 in Washington State is still very much alive, the Second Amendment Foundation assured.

SAF and the National Rifle Association jointly filed their legal challenge to I-1639 and then filed an amended complaint that released Attorney General Bob Ferguson as a defendant, and instead named the Clark County sheriff, Spokane police chief and the director of the State Department of Licensing.

“All we did,” explained SAF founder and Executive Vice President, “was to let Ferguson off the hook. We definitely have not dropped our lawsuit, despite

a gloating news release from the Alliance for Gun Responsibility that claimed we voluntarily dismissed the lawsuit. We haven’t dismissed anything. It’s sloppy on their part, and seems only designed to discourage our members and supporters.

“Attorney General Ferguson told the court that he shouldn’t be a defendant in the case and defend the law at the same time,” Gottlieb continued. “That may seem a bit contradictory, especially for a man who endorsed I-1639 and has vowed to defend it against any legal challenge. It allows him to be in his favorite spot, in front of a microphone.

“Our challenge to this unjust and

unconstitutional law will proceed,” he added, “despite the grandstanding by the Attorney General.

“Ferguson sent an open letter to county sheriffs, demanding that they enforce the law despite their concerns about its constitutionality,” Gottlieb noted. “In that letter, Ferguson referred to Article 1, Section 1 of the State Constitution, about political power being inherent to the people. He seems to have overlooked Article 1, Section 24, which states that the right to bear arms shall not be impaired, but he endorsed a measure that is loaded with impairments, and that’s why we are, and will remain, in court.”



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The full roster of GRPC 2019 speakers has not yet been set. Past speakers have included: Alan Gottlieb, Joseph Tartaro, Alan Gura, Tom Gresham, Larry Elder, John Lott, David Hardy, Eugene Volokh, Dave Kopel, Massad Ayoob, Mark Walters, David Sigale, Sidney Powell, Rick Patterson, Gene Hoffman, Tim Schmidt, AWR Hawkins, and many others. Check our websites -- www.saf.org or www.ccrkba.org for updates.

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