



Supreme Court Will Have To Decide California Gun Law

Description

USA: ***"We are filing to stay the issue, to get cert with the Supreme Court,"*** Rich Travis told me. He's the director of development at the [California](#) Pistol and Rifle Association, based in Fullerton.

I had asked about the association's case *Duncan v. Bonta*, which an en banc panel of the Ninth Circuit Court of Appeal recently held in favor of California's ban on magazines containing more than 10 bullets.

"Get cert" means "certiorari," in which at least four justices of the U.S. Supreme Court agree to hear a case.

In August 2020, a three-judge panel of the Ninth Circuit had held against the restrictive state laws, from 2000, 2013 and 2016. The panel held the limit violated the "strict scrutiny" of any gun law mandated by the U.S. Supreme Court's 2008 *Heller* decision, which upheld the Second Amendment's "right to keep and bear arms" was not just for militias, but for persons.

That decision by the panel then was appealed by Attorney General Rob Bonta to the en banc panel of 11 judges. Travis said the vote to uphold the ban was 7-4. All seven of those on the Ninth Circuit voting for the law were appointed by Democratic presidents, and all four voting to uphold the Second Amendment were appointed by Republicans.

The case was decided against the association "only when strict scrutiny was lowered by the seven democratic judges," Travis said.

Potentially, the Tuesday ruling could have been appealed to the full Ninth Circuit, with 29 judges. On it, 16 are Democrat and 13 Republican, thanks to 10 appointments by President Trump. But Travis said neither his association nor Bonta wanted to take that detour. Instead both wanted to go straight to the U.S. Supreme Court in Washington, D.C.

Another factor here is the Supreme Court already has a gun case on its docket this fall—New York State Rifle & Pistol Association v. Bruen. It could overturn that state’s strict conceal-carry laws. That likely would mean California’s similar laws also would become unconstitutional.

AP reported Nov. 3, “During two hours of arguments conservative members of the court, where they have a 6-3 majority, suggested New York’s law and perhaps others like it in half a dozen other states go too far. Why, Chief Justice John Roberts asked, does a person seeking a license to carry a gun in public for self defense have to show a special need to do so.”

Roberts said, ***“The idea that you need a license to exercise the right, I think, is unusual in the context of the Bill of Rights.”***

However, Travis said the New York law’s outcome, whatever it is, would not directly affect whatever happens at the court to the California law.

California Anti-Gun Laws

The magazine limits are three of many anti-gun rights laws [passed](#) in California in recent years. But magazine limit is especially silly because there’s almost no difference in using a 10-round magazine and, say, a 20-round magazine. It only takes a fraction of a second to pop out one magazine, then pop in another.

The main difference is you save a few ounces by carrying the same number of bullets in larger magazines. And if you’re humping a backpack and rifle 30 miles in the military, every ounce counts.

Neither Gov. Newsom nor Attorney General Bonta ever served in the military. So they don’t know such things.

Moreover, large magazines are more likely to jam because the spring inside can get weak. That’s what happened in the movie theater in Aurora, Colo. back in 2012, in which James Holmes killed 12 people and injured 70. His 100-round barrel magazine jammed, ending the mayhem.

Gun expert John Lott wrote, “A magazine, which is basically a metal box with a spring, is trivially easy to make and virtually impossible to stop criminals from obtaining.” He noted California Sen. Dianne Feinstein’s 1994 federal law banning magazines holding more than 10 bullets, which expired a decade later, “had no effect on crime rates.”

Anyone intent on causing mayhem in California also would not be concerned about following the magazine ban and could easily buy larger magazines in Arizona or other pro-gun states, then bring them back illegally across the border. Mass murder is a lot more serious charge than the \$100 fine the magazine ban brings for a first offense.

Finally, there's the old saying, "The Supreme Court justices also read the newspapers." They know what's going on in the country with the crime increases in cities that have reduced police funding. They know the murder rates in many cities have soared during the past two years.

Washington, D.C., where the Supreme Court is located, has suffered 205 murders so far in 2021, up 10 percent in one year. It's the highest rate in 16 years.

The court also has read about the acquittal of Kyle Rittenhouse in Kenosha, Wisc., after he defended himself using an AR-15-style rifle by killing two attackers and wounding a third.

It's difficult to predict what the Supreme Court will do, even if comments by the justices seem to indicate how a case will be decided. So we don't know what will happen with the New York or California gun cases.

But what we do know is California's continued grandstanding on the gun issue is yet another restriction on citizens' constitutional rights. And appealing decisions like this one is another expense, when the money could be used by Bonta's department to, say, prosecute the flash mobs robbing California stores.

Authored by John Seiler

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