



## GUN OWNERS of California

### THE COURTS

By Sam Paredes, GOC Executive Director

GOC has a long history of employing a strong, three-pronged approach to beating back the assault on the Constitutionally protected right to keep and bear arms: Fighting full-time in the legislative halls, in the elections, and taking our battle direct to the courts across the nation, having filed amicus briefs here in California and other states, as well as before the U.S. Supreme Court.

Recent developments in the courts are encouraging, and may provide us with opportunities to actually overturn a number of gun control laws currently on the books in California. We are actively involved in three critical cases, and although the plaintiffs are from other states, the decisions - if positive - could open the door and set legal precedents for us in the west.

#### **New York State Rifle & Pistol Association V. City of New York – Transportation of firearms outside the home.**

**STATUS:** On January 22, 2019, the United States Supreme Court agreed to hear this case which challenges the City of New York's restrictions on the transportation of legally owned and registered firearms anywhere outside the home or business. Gun owners are prohibited from transporting their firearms outside of the city for training, recreation or any other purpose.

This is a clear violation of the right to “bear arms” outside the home.

The Second Court of Appeals ruled that the 2nd Amendment only protects the right to keep arms in the home according to their very narrow interpretation of the *Heller v. DC* and *McDonald v. Chicago* decisions. The appellate court came to its decision by using a “judicial balancing” test that was specifically warned against by Justice Scalia in *Heller*. Courts nationwide have chosen to ignore or defy the high court and this case will give the Supreme Court the opportunity to correct this situation once and for all.

**IMPACT ON CALIFORNIA** The legal transportation of firearms outside the home is not a big issue in California, however, if the court rules it's unconstitutional for a government to control the transportation of firearms outside the home AND the Supreme Court prohibits lower courts from defying their prohibition from using “judicial balancing” tests, we will have the legal ammunition to challenge many of the gun laws in California.

#### **New Jersey State Rifle & Pistol Association V. Grewal – Requirement for a justifiable need to carry a firearm outside the home.**

**STATUS:** On February 19, 2019, the United States Supreme Court requested a response from the State of New Jersey who did not submit a brief on this case, an unusual but very encouraging request which shows interest in the issue by the high court. This case

argues that the right to keep and bear arms extends outside of the home and that the State of New Jersey unconstitutionally denies that right by requiring law abiding citizens to show a special need before they can be permitted to carry a firearm. This case also argues that the Third Circuit Court of Appeal's use of “intermediate scrutiny” to come to their conclusion that the State of New Jersey was justified, was a direct violation of Justice Antonin Scalia's admonition that lower courts refrain from using “judicial balancing” tests and instead use the textual, historical and traditional meaning of the words in the 2nd Amendment.

**IMPACT ON CALIFORNIA** This case very directly affects California. If the Supreme Court rules that it is unconstitutional for the government to require that law abiding citizens show a special need before they can be issued a concealed weapons permit, this will, in affect, require all states to be “shall issue” thereby removing the arbitrary nature in which concealed weapons permits are issued in “may issue” states like California. This case will also give the Supreme Court another opportunity to bar lower courts from using “judicial balancing” tests to decide 2nd Amendment cases.

#### **Kettler V. United States – Whether the National Firearms Act of 1934 continues to be constitutional.**

**STATUS:** On January 18, 2019, the United States Supreme Court

**OVER PLEASE . . .**

**COURTS...CONT.**

docketed the case, meaning they established an official file, and were open to receiving associated briefs. This is the first step in gaining a grant of certiorari (agreement to hear the case).

Jeremy Kettler was convicted of possessing an unregistered firearm sound suppressor in violation of the National Firearms Act of 1934. He challenged whether the NFA continues to be a proper exercise of Congress's taxing power due to changed circumstances, and if so, whether it imposes an impermissible tax on the exercise of a constitutional right. The Tenth Circuit concluded that it was bound by the Supreme Court's decision in *United States v. Sonzinsky* (1937), upholding the NFA, and that only SCOTUS could overturn its own decisions. The Tenth Circuit also concluded that the 2nd Amendment protects only "bearable arms," not including firearm accessories such as sound suppressors.

The questions presented are whether: 1) the National Firearms Act of 1934, upheld in *Sonzinsky*, continues to be a constitutional exercise of Congress's taxing power when the justifications for that decision have significantly eroded over the last 82 years. 2) the 2nd Amendment protects firearm accessories such as sound suppressors. 3) the tax imposed by the National Firearms Act, targeting the exercise of a 2nd Amendment right, violates the rule of *Murdock v. Pennsylvania* (1943) and *Cox v. New Hampshire* (1941). If the court finds that the NFA is no longer constitutional based on the court's own more recent decisions, then the firearms and accessories controlled by the act will most probably be protected arms under the 2nd Amendment.

**IMPACT ON CALIFORNIA** A positive ruling in this case will mean that the firearms and accessories taxed and therefore controlled by the NFA of 1934, will become protected firearms under the 2nd Amendment. The court will also have the opportunity rule that this applies to the federal government as well as state and local governments.

**LEGISLATIVE UPDATE**

The 2019-2020 legislative session has begun in earnest, and it's abundantly clear that the election of Gavin Newsom has emboldened the Hefty-Leftys under the dome in Sacramento. A whopping 2,576 bills have been introduced, GOC is tracking over 40, and the most significant are highlighted below. Others we are watching closely as they move through the legislative process; for a complete list of 2019 GOC tracked bills and text, go to [www.gunownersca.com](http://www.gunownersca.com) and click on "Legislation".

**GOC OPPOSES/WATCH:****AB 12 / Irwin (D) | WATCH**

Expands duration and renewal of the Gun Violence Restraining Order. Removes, for the purpose of search warrants, the requirements that a person has been lawfully served with the gun violence restraining order and has failed to relinquish the firearm prior to a search warrant being issued.

**AB 18 / Levine (D) | OPPOSE**

Seeks to impose an excise tax on the sales of handguns and semiautomatic rifles and requires the revenue collected from that tax to be used to fund grants through the CalVIP program.

**AB 61 / Ting (D) | OPPOSE**

Expands Gun Violence Restraining Order; authorizes filing by an employer,

a coworker, or an employee of a secondary or postsecondary school that the person has attended in the last 6 months.

**AB 276 / Friedman (D) | OPPOSE**

Requires occupants of a residence, while that person is outside that residence, to ensure that any firearm that person owns or controls is securely stored against theft or unauthorized access.

**AB 645 / Irwin (D) | WATCH**

Requires the firearms warning statement or firearms safety warning message issued or posted by a licensed manufacturer or licensed dealer to contain a specified statement regarding suicide prevention. Requires the written test for the issuance of a firearm safety certificate to also cover the topic of suicide prevention.

**AB 688 / Chu (D) | OPPOSE**

Increases requirements for proper storage of a firearm in a vehicle; makes it applicable to all firearms and requires the use of a steel cable lock or chain and padlock or in a locked container that is secured or that is permanently affixed to the vehicle.

**AB 879 / Gipson (D) | OPPOSE**

Requires the sale of firearm precursor parts to be conducted by or processed through a licensed firearm precursor part vendor.

**AB 893 / Gloria (D) | OPPOSE**

Prohibits the sale of firearms and ammunition at Del Mar Fairgrounds property located in the 22nd District Agricultural Association.

**AB 1064 / Muratsuchi (D) | OPPOSE**

Imposes significant fines on firearms dealers, plus requires video and audio recording of all firearm and ammo transactions, requires video surveillance of all storage/displayed firearms

and exterior and mandates \$1 million in liability insurance.

**AB 1292 / Bauer-Kahan (D) | OPPOSE**

Highly technical bill that requires the administrator of a will or trust to have an unexpired handgun safety certificate (which doesn't exist) if the estate or trust includes a handgun.

**AB 1297 / McCarty (D) | OPPOSE**

Mandates local law enforcement to charge CCW fees. This is nothing more than a personal vendetta that Assemblyman McCarty against Sacramento Sheriff Scott Jones.

**AB 1602 / Low (D) | OPPOSE**

Prohibits an insurer from either selling or advertising liability coverage for bodily injury or property damage resulting from the insured's discharge of a personal firearm.

**AB 1669 / Bonta (D) | OPPOSE**

Amends the Safety For All Act. Prescribes the rules and regulations for gun shows and events to be consistent with the sale of ammunition at gun shows and events as authorized by the Act.

**AJR 4 / Aguiar-Curry (D) | OPPOSE**

Urges Congress to "swiftly" enact House Resolution 8, the Bipartisan Background Checks Act of 2019, to require background checks for all firearm sales.

**AJR 5 / Jones-Sawyer (D) | OPPOSE**

Urges the federal government to use California as an example of "firearm safety and for stronger firearm laws to protect all citizens."

**SB 55 / Jackson (D) | OPPOSE**

Greatly expands the list of misdemeanors that prohibit someone from owning a firearm within ten years after conviction; applies the prohibition

to a person who has been convicted of multiple specified misdemeanors involving alcohol intoxication or possession of controlled substances for sale.

**SB 61 / Portantino (D) | OPPOSE**

Expands the purchase of one handgun a month to all firearms. This is a re-do of his bill last year that Governor Brown vetoed.

**SB 136 / Wiener (D) | OPPOSE**

Sentence reduction for felony convictions; deletes the provision which imposes, for non-violent felonies, an additional one-year term for each prior or separate prison term or county jail felony term.

**SB 172 / Portantino (D) | OPPOSE**

Similar to AB 276/Friedman. Requires occupants of a residence, while that person is outside that residence, to ensure that any firearm that person owns or controls is securely stored against theft or unauthorized access.

**SB 220 / Hill (D) | OPPOSE**

Requires each of the firearms held by a firearms dealer to be secured by storing the firearm in a secure facility involving a safe or vault. Senator Hill tried this bill last year, but it was vetoed by Governor Brown.

**SB 281 / Wiener (D) | OPPOSE**

Wiener is making another go at it after Governor Brown vetoed similar bill last year. Opens door to banning gun shows at the Cow Palace; transfers property from the 1-A District Agricultural Association to the Cow Palace Joint Powers Authority.

**SB 376 / Portantino (D) | OPPOSE**

Redefines the word "infrequent" to mean less than six firearm transactions per calendar year, regardless of the type of firearm within regulations controlling transfers of firearms.

**GOC SUPPORTS:****AB 503 / Flora (R) | SUPPORT**

Permits a person who holds a valid concealed carry license and has the written permission of school authority to possess a concealed firearm in a school zone.

**AB 1096 / Melendez (R) | SUPPORT**

Requires the sheriff or the chief of a municipal police department, to issue a license to carry a concealed handgun or to carry a loaded and exposed handgun if good cause exists for the issuance and the applicant is of good moral character and satisfies certain other criteria.

**AB 1559 / Melendez (R) | SUPPORT**

Permits an individual who has been victimized and is in immediate and grave danger to apply for a temporary emergency license to carry a concealed firearm.

**SB 701 / Jones (R) | SUPPORT**

Relieves persons who have an outstanding warrant for a felony, or one of several specified misdemeanors to own or possess a firearm or ammunition.

If you feel as if you were just water-boarded with a flood of bad stuff, take heart! GOC is like a dog on a bone, and for those bills that dismantle your rights, we will be steadfast and downright noisy in our opposition because it's the right thing to do. We will fight for the few good ones, too. And while we may be *discouraged* at the stupidity of California's politicians, we are hugely *encouraged* by you – our growing membership – not to mention the incredible opportunities we have in the courts to overturn a lot of these bad boys.

**GUN OWNERS**  
*of California*

## BALLOT HARVESTING: LEGAL VOTER FRAUD

By Laurie Paredes

What do you get when you take same-day voter registration, pre-voter registration for teens and also clear the path for felons and illegal aliens to vote? A big mess.

And what do you get when you go even further and allow any Tom, Dick or Harry to personally collect your ballot and hand deliver it to your polling place? You get a hot mess and it's called "ballot harvesting" – it's a new thing in California and simply put, it's a perfectly legal way to commit voter fraud.

In 2016, Gov. Jerry Brown signed legislation (**SB 1921/2016**) that changed the law allowing a family member to return a ballot to a polling place. Now, state law permits a third party (that would be any Tom, Dick, Harry or some liberal political operative) to collect mail-in ballots and hand-deliver them to polling place/election office.

According to Steven Huefner, a law professor at Ohio State, *"at least three distinct kinds of fraud can occur when political operatives 'assist' when returning absentee ballots. First, those collecting the ballots*

*can intentionally discard (or conveniently lose or misplace) any ballots they suspect or know (or perhaps by opening the ballot envelopes) have been cast in favor of the 'wrong' candidate. Second, those collecting the ballots can open the ballot envelopes and change or alter whatever votes the voter originally recorded. Third, those collecting the ballots can collect unvoted ballots (or partially voted ballots) and complete the ballots themselves..."*

The possibilities are endless! Townhall.com asked the burning question *"Imagine...what happens if, for example, a [ballot harvester's] house visit has a 'Make America Great Again' flag planted in the front yard? Could [the operative] go there...pretend [to be a supporter], then toss the completed ballot on their way to Ben & Jerry's?"* Well, that's a no-brainer. Of course this is a possibility, as is targeting a home of someone who has no intention of voting and using some sort of coercive tactics to get them to turn over their ballot – to a completely unfamiliar individual. This gives new meaning to "stranger-danger" and is a serious warning to all who vote-by-mail: **Never** give your ballot to someone you don't trust 100%.

The left-leaning LA Times even warned about this, rebuking Democrats and charging that *"...[they] set themselves*

*up for ... allegations [of fraud] when they passed what really is an overly permissive ballot collection law. It was written without sufficient safeguards, and suspicions of abuse were inevitable."* The Times goes on to actually concede the point that *"it does open the door to coercion and fraud and should be fixed or repealed before the next election."*

In Orange County alone, vote-by-mail drop-offs was "unprecedented – over 250,000" and the losses were absolutely attributed to ballot harvesting by local political leaders.

*"Doesn't it also encourage ballot collectors to gather the ballots and then 'lose' them – oops! – on the way to the drop-off? Isn't there the possibility that they might pay voters to handover their unfilled mail ballot?" - LA Times editorial 12/7/2018*

In the words of GOC's founder, Senator H.L. Richardson, *"dogs bark, snakes wiggle, jackasses bray, vultures vomit and radical leftists lie. It's in their nature to do so."*

We need to wake up and realize that we are dealing with people who aren't honest. Ballot harvesting was introduced as nothing more than a means to "help" people, which it did. It helped a lot of anti-gunners get elected in California.

**TO: SENATOR H. L. RICHARDSON, (ret.)**

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