

The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

Issue 154

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Dear Subscriber,

The landmark citizen lawsuit against the District of Columbia's 1976 handgun ban has taken a new turn: five of the original Washington, D.C. plaintiffs – the ones who were dismissed from the case for lack of "standing" – **have filed a petition to be reinstated.**

Their petition came after **the U.S. Court of Appeals for the D.C. Circuit in March struck down as a violation of the Second Amendment the city's ban on handguns** and a related provision on how **rifles and shotguns must be stored in private homes** in a way that renders them useless for self-defense.

In May, the city requested an *en banc* rehearing of the court's March decision, but **the court denied the request.** *En banc* refers to the whole appeals court, all 13 judges, rather than just a three-judge panel like the one which struck down their handgun ban.

But that victory for gun rights also brought **a defeat for personal civil rights:** the Appeals Court also held that **only one plaintiff** of the six original D.C. residents who filed the case in 2003, **DICK HELLER, had the necessary "standing" to challenge the law.**

Five plaintiffs, SHELLY PARKER, TOM PALMER, GILLIAN ST. LAWRENCE, TRACEY AMBEAU, and GEORGE LYON, were dismissed from the appeal, and HELLER went on alone. HELLER was allowed into the case **only because he had filed an application to own a handgun in the District of Columbia and was rejected by the city.** The other five who were dismissed did not make a similar application to the city or suffer the same rejection.

In September, **the District filed an appeal with the U.S. Supreme Court to reverse the lower courts on the merits of the gun challenge.** The language of its appeal was stunning: "Whatever right the Second Amendment guarantees," D.C. Attorney General LINDA SINGER reportedly said, "it does not require the District to stand by while its citizens die" – *a slick way to keep an unconstitutional gun ban.*

The District has willingly stood by while its citizens died for the 30 years of its gun ban, which only disarmed honest citizens. The huge rise in murders that has been suffered by D.C. residents since the ban was imposed came from illegal guns, not legal guns. So **the public was disarmed and criminals have easy prey.**

The hypocrisy and intellectual dishonesty of the District's appeal is likely to be noted by the Supreme Court.

Then **the five excluded plaintiffs filed their own petition asking the Supreme Court reinstate their case against the District** and allow them to proceed along with HELLER as they did in the lower courts for over four years.

In late September **the District went to the federal appeals court asking that its requirement that shotguns and rifles be kept unloaded or burdened with trigger locks remain in effect** until the Supreme Court decides whether it will consider the constitutionality of the gun law.

The citizen plaintiffs opposed the city with their own filing, but **the court agreed to allow the city to keep its restrictions on long guns** until the Supreme Court accepts or rejects its writ of *certiorari*. The Supreme Court will likely decide late this month whether to accept the appeals.

Also in this issue: ● *Lawsuit against Bloomberg stays in Georgia* ● *Senate grills ATF nominee* ● *Microstamping passes in California* ● *Presidential candidates face NRA beauty contest* ● *Eleven New Jersey officials arrested by FBI* ● *Pastor slashed by intruder in our Page Eight "Parting Shot"*

**ON THE
LEGAL
FRONT**

WISCONSIN JUDGE FAVORS PIZZA DELIVERY MAN IN SHOOTING CASE

In January, Milwaukee pizza delivery man Andres Vargas was approached by two men, one pointing a gun in his face. He responded by shooting the assailant in the hip, secured the assailant's firearm, placed both weapons on the top of the pizza car, and immediately called 911.

The District Attorney's office determined that he did indeed act in self-defense but brought him up on concealed-carry weapons charges anyway.

When it went to court in September, Milwaukee County Circuit Judge Daniel A. Noonan ruled that Vargas needed a gun.

"This Court is not convinced that there are any reasonable alternatives that would have secured Vegas' safety. Vegas' concealed weapon has most likely saved his life on several occasions; this the State cannot ignore. The State has conceded that Vegas did not have an unlawful purpose for concealing a weapon," the ruling read. Vargas was freed. The Milwaukee prosecutor looks bad.

**ON THE
LEGAL
FRONT**

LAWSUIT AGAINST BLOOMBERG STAYS IN GEORGIA

A federal district court in Georgia has denied a request by New York Mayor Michael Bloomberg's attorneys to transfer a lawsuit against the mayor and four co-defendants for libel, slander and tortious interference with business relations brought by Adventure Outdoors, a Georgia gun dealer, to a federal court in New York State. Bloomberg wanted the case moved or dismissed. The denial was a surprise.

Supported by the Second Amendment Foundation, Adventure Outdoors filed suit last year in federal court in Georgia. Former Congressman Bob Barr is attorney.

Defendants are Mayor Bloomberg, the Corporation Counsel of the City of New York, the city's Criminal Justice Coordinator and police superintendent, and private investigators hired to conduct "sting" operations against Adventure Outdoors and several other gun shops in at least five states.

Barr said, "We are pleased that the case will remain before a federal court here in Georgia, governed by Georgia law, and heard by a Georgia jury."

OREGON TEACHER CHALLENGES SCHOOL CONCEALED CARRY RULE

A Medford, Oregon high school teacher has sued for her right to bring a gun into her classroom for personal protection. The woman is identified only as "Jane Doe" to protect herself and her daughter from her ex-husband, against whom she has a restraining order.

She fears for her safety and wants to carry a gun at all times. She has a legal permit to carry a concealed handgun. She is asking the court to overturn the Medford school district's rule that prohibits teachers from bringing a weapon onto school grounds.

The Second Amendment Foundation is supporting the case, citing Oregon's pre-emption law that allows permittees concealed carry on school campuses.

GUNMAKERS APPEAL NEW YORK LAWSUIT

New York's lawsuit against firearm manufacturers for allowing guns to fall into criminal hands is being challenged in the Second U.S. Circuit Court of Appeals. The companies have asked the court to overturn a ruling that allowed the lawsuit to stay alive, despite a federal law passed in 2005 that forbids such lawsuits. The Protection of Lawful Commerce in Arms Act ordered judges to immediately dismiss lawsuits seeking to hold gunmakers and dealers accountable for criminal use of their products.

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MENTAL HEALTH BACKGROUND CHECK BILL STALLED IN SENATE

Sen. Charles Schumer (D-NY) has tried to ramrod the so-called National Instant Criminal Background Check System (NICS) improvements bill out of the Senate Judiciary Committee and straight to the Senate floor under a unanimous consent agreement, no amendments allowed.

**ON THE
FEDERAL
LEVEL**

If only one Senator objects, such an agreement ends. Sen. Tom Coburn (R-OK) ended it. The bill, he said, was supposed to strengthen the mental health records in the NICS system by paying states to provide them to NICS and impose penalties for failure.

Sen. Coburn pointed out that money to pay for the bill had not been found and that nothing was budgeted for a system to allow veterans and others unfairly tagged with mental health concerns to regain their Second Amendment rights to own guns.

Senate Majority Leader Harry Reid (D-NV) doesn't want a messy floor fight in a busy session, and is unlikely to allow the bill to come to a vote.

SENATE CONSIDERS ATF NOMINEE

The Senate has held confirmation hearings on U.S. Attorney Michael Sullivan to become director of the Bureau of Alcohol, Tobacco, Firearms and Explosives, fielding some tough questions about releasing gun trace data. Sullivan said he hopes ATF will provide more data.

Sullivan is a former Republican state legislator and district attorney in Massachusetts, nominated by President Bush for the job in March. He has been acting director of the agency for more than a year.

SENATE VOTES PENALTIES FOR UNITED NATIONS GUN BAN ACTIVISTS

The Senate has passed the Foreign Operations appropriations bill, including an amendment by Sen. David Vitter (R-LA) that prevents any funding to foreign organizations that infringe upon the Second Amendment rights of lawful American citizens.

Any organization that adopts a policy against the U.S. Constitution's Second Amendment would no longer be eligible for U.S. financial assistance, including the United Nations.

Global registration and tracking of firearms has been on the U.N. agenda for more than a decade, and would inevitably lead to the global disarmament of free citizens everywhere, something the Senate has now addressed.

NEW DEMOCRAT BILL TOUTED TO "KEEP GUNS FROM TERRORISTS"

Sen. Frank Lautenberg (D-NJ) and Rep. Peter King (R-NY) have introduced S. 1237 / H.R. 2074, which would allow the Department of Justice to prohibit known and *suspected* terrorists from buying a gun.

Denying gun rights to convicted terrorists is one thing, but depriving a mere suspect not convicted in any court of law of their constitutional rights is quite another.

Notorious anti-gun Sen. Lautenberg made an issue of the fact that terrorist suspects are not allowed to fly - nor is anyone on the Transportation Security Administration's "no fly" watch list - but they are allowed to buy guns.

The Department of Justice already has the authority to investigate and arrest terrorist suspects, but the Lautenberg/King bill would allow the government to deny the purchase of a gun by anyone "appropriately suspected" of being a terrorist or helping terrorists in any way. No warrant, no arrest, no trial, no rights.

And the "remedies" provided by the Lautenberg/King bill for those wrongly suspected are shameful. To get your name off the list, you have 60 days to file suit against the United States, and any information the Attorney General relied on for denying a gun purchase "may be withheld from the petitioner, if the Attorney General determines that disclosure of the information would likely compromise national security." Read the full bill at <http://thomas.loc.gov>.

MICROSTAMPING PASSES IN CALIFORNIA

Microstamping - or microscopically engraving the make, model and identification number on guns and transferring it to each cartridge casing when fired - has passed the California Legislature.

The Crime Gun Identification Act (AB 1471) is headed to Gov. Arnold Schwarzenegger for his signature.

Gun control groups such as the Brady Campaign (formerly Gun Control, Inc.) have praised the bill as mandating "proven technology" - which it isn't.

Gun rights defenders are urging Gov. Schwarzenegger to veto the bill. It would be all too easy for criminals to scratch off the microstamping or contaminate a crime scene with hands full of cartridge casings picked up from the nearest firing range - even the police firing range. They predict thousands of innocent gun owners routinely having to prove they were nowhere near a crime scene.

IN THE STATES

MICHIGAN MAY GET GUNS IN SCHOOLS

Michigan's Republican State Rep. David Agema (Grand Rapids) has introduced legislation that would allow teachers and other school administrators to carry a concealed weapon on school grounds.

Agema says he understands his bill is controversial, but that kids need to be kept safe on school grounds.

All schools in Michigan are weapon-free zones, a legal status with penalties for violators. Agema's bill is not a mandate, but an option for school districts who choose to have someone armed on the premises.

HANDGUN SALES UP IN MISSOURI

Missouri's new Castle Doctrine law also repealed a requirement to get a time-consuming permit to buy a gun and pay a \$10 fee for each permit. As a result, handgun sales are soaring across the St. Louis area.

Gun shop owners and salespeople say business is up at least 20 percent since the August 28 change. No longer do buyers have to seek permission from their county sheriff before buying a handgun or pay the \$10 fee.

Part of the reason for the sales surge is gun buyers who knew the Castle Doctrine bill would pass and waited until now.

NEW MEXICO'S NEW CONCEALED CARRY LAW BOOSTS PERMITS

New Mexico's 2003 concealed carry law has been reinforced by a July 1 law that allows persons with permits to carry their weapons into establishments which sell alcohol for off-premises consumption. More than 7,000 concealed carry permits have been issued in New Mexico, up from 1,127 in July 2004. Firearms instructor Steve Aikens of Clovis said he expects more will seek permits with the new law.

OHIO CONCEALED CARRY PERMITTEES A LAW-ABIDING ARMED CITIZENRY

Ohio Attorney General Marc Dann has released the concealed handgun license statistics for the second quarter of 2007. There have been 98,989 regular and 233 temporary emergency licenses issued by Ohio's 88 sheriffs since Ohio began issuing the licenses in 2004. Less than 1% of those have been suspended for any reason. Clearly, those with licenses are following the law.

TEXAS LAW NOW ALLOWS CONCEALED VEHICLE CARRY WITHOUT A PERMIT

A new Texas law allows law-abiding people to carry guns in their vehicles without a concealed handgun permit. House Bill 1815 passed unanimously in both houses of the Texas legislature. Governor Rick Perry signed it into law without reservation. HB 1815 was actually passed to clarify the state's 2005 concealed carry law, which didn't cover traveling with a gun. Now it isn't an offense as long as 1) the gun is concealed, 2) the carrier isn't involved in any criminal activity, 3) the carrier isn't a gang member, and 4) the carrier isn't a felon - no felon can carry or even be around a gun in Texas.

THE GUN RIGHTS PRESIDENTIAL CANDIDATE?

With this presidential cycle's chaos in primary elections - Iowa and New Hampshire jockeying to be first, Florida and Michigan perhaps pushing their primaries up to early January, and February 5 primaries in California and New York - presidential candidates are rushing to polish their Second Amendment credentials. And gun rights groups for the first time are considering early endorsements.

ON THE POLITICAL FRONT

The National Rifle Association in particular is eyeing candidates early, and just finished letting them parade their stuff at a candidate conference at the Capital Hilton in Washington.

Chris Cox, head lobbyist for NRA, said they usually wait until after the conventions before endorsing a candidate, but "given the candidates and the process and the front-loading for the primaries, it is a possibility that we could get involved in one of these presidential primaries."

That's why NRA gave the candidates the opportunity to make their pitch for why they are the best candidate to protect the rights of gun owners.

Results? GOP front runner Rudolph W. Giuliani, who, as Mayor of New York City, backed the "assault rifle" ban, joined a lawsuit against gun manufacturers, and supported national gun licensing, appeared by video link and met with the astonished question, "How stupid do you think we are?"

He's definitely not the gun rights candidate. However, he's not running against his Republican rivals, he says, but against Democrat Hillary Rodham Clinton, who he can beat. He probably could, say most pundits, but he has to get the Republican nomination to do it.

Conversely, former Tennessee Senator Fred Thompson, who earned an "A" rating from the NRA during his time in the Senate, was the group's favorite.

He also managed to get exclusive rights to advertise at some of Florida's largest gun shows. Bill Bunting, the Republican chairman of Pasco County, said he engineered the deal for Thompson in a state with 435,000 concealed-weapons permit holders.

The state's biggest gun show promoter, Victor Bean, of the Florida and the Southern Gun and Knife shows, said he has 11 shows left until the primaries and estimates that 11,000 people will see Thompson's signs. His email list also has 70,000 politically active gun owners he plans to contact on Thompson's behalf.

However, Thompson's campaign has yet to catch fire with the passion a winning candidate needs and is less impressive than it needs to be.

Mitt Romney is running close with Giuliani in Iowa and New Hampshire, but not as well elsewhere. He, too, has a lot of explaining to do for his past anti-gun stands. He signed an assault-weapons ban into law as governor of Massachusetts in 2004. Romney embarrassed himself earlier this year by claiming he'd been a life-long hunter, only to have his campaign acknowledge that he'd been on just two hunting trips. Romney later said he'd hunted "small varmints" more than twice.

John McCain seems to be the conservative who can't get anyone to acknowledge his conservativeness. He won a few points putting down Romney, saying that candidates are wrong when they think "if you show your bona fides by hunting ducks or varmints or quail, it makes up for support for gun control." He also took Giuliani to task - although not by name - for once branding NRA leaders as extremists.

The other Republicans, California Rep. Duncan Hunter and former Arkansas governor Mike Huckabee didn't seem to make as much stir as the lone Democrat, Bill Richardson, Governor of New Mexico.

Richardson sent a taped video message that acknowledged the conflict between his party affiliation and his support for the NRA. He previously received an NRA endorsement both when running for Congress and for the governor's office.

"As a western governor, I understand and support the Second Amendment," he said. "It doesn't always make me the most popular guy in the room among some."

Congressman Ron Paul who did not make the NRA event will be the only Presidential candidate attending the Gun Rights Policy Conference in Cincinnati.

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

● **Washington:** Anti-gun presidential candidate Sen. Hillary Rodham Clinton's campaign headquarters is protected by a security consortium that has carried online advertising for "assault weapons" and sniper training. Joseph J. Funk, a former Secret Service agent who heads Global Security Services, told the Los Angeles Times that the security presence on the campaign is "more, and starting earlier, than I've ever seen it." Funk's GSS is the Maryland firm hired to protect Sen. Barack Obama from February to May.

● **Springfield, Massachusetts:** Smith & Wesson Holding Corporation, parent company of Smith & Wesson Corp., the legendary 155-year old company in the global business of safety, security, protection and sport, has posted record first quarter revenues of \$74.4 million and profits of \$4.7 million. President and CEO Michael F. Golden said, "Our results for the first quarter of fiscal 2008 demonstrate progress across many initiatives and reflect growth in our core handgun business as well as our newly established long gun business. Handgun sales into the retail channel increased by 41.0% for the quarter. We continued to penetrate the law enforcement channel in the first quarter. Our Military & Police (M&P) polymer pistols have a cumulative win rate of over 80% in all test and evaluation processes in which they have competed. The number of law enforcement agencies that have purchased or approved for carry our M&P pistol has now grown to 231."

● **New Jersey:** Eleven public officials, including state lawmakers, mayors and city councilmen, in communities across the notoriously anti-gun state of New Jersey, have been arrested by the FBI on bribery and related charges. The latest arrests prompted speculation that the state's deeply rooted culture of corruption was why its anti-gun politicians don't want citizens to have firearm rights. More than 100 New Jersey public officials have been convicted on federal charges in the past five years. Alan Gottlieb, chairman of the Citizens Committee for the Right to Keep and Bear Arms said of the suspects, "They will no doubt argue that they are innocent until proven guilty in a court of law. Might I suggest they given law-abiding gun owners the same benefit of the doubt, instead of being constantly treated like second-class citizens in a state where anti-gun demagoguery is as deeply rooted in politics as is public corruption."

● **New York City:** Illegal weapons are getting harder to come by - taking longer to land on New York streets and to be used to commit crimes, according to the latest federal statistics from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Guns traced last year took 12 years to go from a gun store to a crime scene in the city. In 2002 it took 9 years for guns to make the same trek. ATF officials said the increase, or "time-to-crime index," showed it was more difficult to acquire illegal weapons. Last year the ATF recovered 7,059 guns used in crimes in New York city, up from 6,031 in 2005. Brooklyn accounted for the most weapons seized - 2,558.

● **Knoxville, Tennessee:** Seven-year-veteran Knoxville Police Officer Glenn Todd Greene stopped, frisked, and threatened to arrest Trevor Putnam, 24, for legally carrying a gun inside a Wal-Mart this summer. Putnam had the handgun holstered on his hip not concealed. Greene stopped him and Putnam said he had a permit and wasn't doing anything wrong. Greene told him it was a concealed carry permit and his gun wasn't concealed. He pushed Putnam up against a wall and took his firearm while he frisked him. Putnam insisted that Tennessee law allows open carry. Greene said he'd find something to put Putnam in jail for. It turned out that Putnam knew the gun laws better than Officer Greene. Putnam is vice president of Coal Creek Armory, a national gun dealer based in West Knoxville, and deals with police officers across the country every day. Greene let him go after asking other officers who didn't know either. The incident earned Greene a written reprimand and remedial training for rudeness and not knowing the law, Internal Affairs records show. The Police Chief wrote Putnam a humble letter of apology.

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

● **Columbus, Ohio:** Ohio Attorney General Marc Dann (D) has signed another concealed handgun license reciprocity agreement, this one with Arkansas. Ohio Concealed Handgun Licenses are now valid in 25 states.

● **Haringey, Borough of London:** "Gun enabled crime" is the Brit buzzword, and it has risen in this North London outer borough for the first time in years. In the 12 months leading up to June this year, there were 160 incidents of "gun enabled crime" - a 21 percent rise on the same period the year before. Gun crime, or really criminals using guns, has been steadily decreasing in the borough over the past few years. Chief Inspector Shaun De Souza Brady said, "When you've pushed a type of crime to low numbers, a small climb gives you a disproportionate percentage." A gun control group called The Don't Trigger Campaign said, "we are saddened that gun crime has risen in Haringey, but are not surprised. Councils must provide a portion of their budgets on facilities for young people to keep them off the streets."

● **Phoenix, Arizona:** Three high-ranking Mexican police officers were arrested on allegations of buying weapons and ammunition at a gun show in Phoenix in violation of law barring noncitizens from purchasing firearms. Booked on state weapons misconduct and conspiracy were Carlos Alberto Flores, 36, a Baja California state police director; Baja State Police Commander Guillermo Valle Medina, 33; and Jose Santos Cortes Gonzales, 41, a federal police commander in Baja California. Flores and Cortes were released on \$2,000 bond each and Valle was released on personal recognizance. They appeared to be buying the firearms and ammunition for personal use, said ATF spokesman Tom Mangan.

● **Alexandria, Virginia:** The International Association of Chiefs of Police (IACP) is a 501(c)(3) non-profit organization formed to advance the art and science of police services, but notable for its left-wing anti-gun stance on numerous issues. Its 2005 revenue was \$26.7 million; \$10.5 million came from federal grants; it had \$6.7 million invested in various securities; Daniel N. Rosenblatt, executive director, got a salary of \$171,078 with benefits of \$30,876. Its 2007 report *Taking a Stand: Reducing Gun Violence in Our Communities* was paid for and written in large part by the Chicago-based Joyce Foundation, a notorious funder of gun control groups. IACP received a \$20,000 grant from Joyce. The report reads like it could have been written by any gun control group.

● **Bonn, Germany:** German Interior Minister Wolfgang Schaeuble has dropped plans to ease gun control laws, bowing to complaints within the ruling coalition that the move threatened public safety. Schaeuble had sought to reverse an increase in the minimum age for possessing major firearms to 21 from 18, passed by former Chancellor Gerhard Schroeder after a shooting rampage at a high school in eastern Germany killed 18 people in April 2002. Schaeuble's plan drew criticism from fellow Christian Democrats and their Social Democrat coalition partner, led by Kurt Beck.

● **Fairfield, Maine:** Some of the guns sharpshooter Annie Oakley once donated to raise money for the Spanish-American War effort are being auctioned off this month in Maine. Firearms up for sale include an engraved, gold-plated .38-55 caliber Marlin rifle valued at between \$150,000 and \$250,000. Auctioneer James Julia said, "This was a firearm used by Annie Oakley. She was a real patriot, and she turned it in for the war effort to generate money for war bonds." Oakley, who had become an entertainer with Buffalo Bill Cody's Wild West Show, donated many of her specialty rifles and trophies to raise money for the war effort.

● **Toronto, Canada:** Ontario Liberal Leader Dalton McGuinty does not want to see the province's schools installing metal detectors and uniformed officers patrolling the halls in the wake of a fatal stabbing at a Toronto high school. "Let's ban handguns in Ontario," he said. "Let's ban handguns across the country. Let's declare war against handguns." It's not always easy to see how politicians think, but it seems like a ban on knives would make more sense as a response to a stabbing.

Parting Shot

PASTOR SLASHED BY INTRUDER

William Willis and his wife Judith retired to Greenville, South Carolina from New York. Willis, 70, had been a pastor his entire career and came to the South to be far from the scurry and strife of the big city.

They bought a home on Lake Shore Drive, just down the road from the Donaldson Center Airport, a pleasant part of town.

One Tuesday night last month, they were sound asleep when, about 11 p.m., Judith woke up her husband after she heard a noise in another room.

William Willis grabbed a gun that he kept in the bedroom and went out to investigate.

In another room, Pastor Willis found Emzie Lee Smith looking for money and other valuables.

The pastor confronted Mr. Smith and got a knife in the arm.

Smith slashed and stabbed the pastor.

The bleeding pastor shot the intruder several times.

Judith Willis called sheriff's deputies and, seeing her husband bleeding profusely from several wounds, ran to the bathroom, grabbed some towels and wrapped her husband's arm. Then she called her neighbor, Lavon Brock and his wife Mary for help.

When deputies responded to the scene, they found Judith Willis sitting on the side porch in her nightgown, her arms covered in blood.

It was her husband's. Greenville County Sheriff's Lt. Tim Ridgeway ordered a medic unit, which took Pastor Willis to Greenville Memorial Hospital.

He was treated for severe stab wounds, most of them in his arm, and reported to be in good condition.

Mary Brock told television reporters who swarmed to the scene, "I'm glad the Willises are still here. I thank God that they are still here and He gave mercy for them last night as well as forever."

Deputies found Emzie Lee Smith in the house, where he had received several gunshot wounds. He was dead.

Greenville County Sheriff's Master Deputy Michael Hildebrand said, "From the information we've gotten so far, it doesn't look like there's going to be any charges against the victim. Looks like he was merely protecting his property which is justified under the law."

Emzie Lee Smith's last known address was found to be the Greenville County Detention Center.

Alan M. Gottlieb

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