

POINT BLANK

**STRAIGHT TALK
ABOUT WHAT YOU
CAN DO TO
PRESERVE YOUR
RIGHT TO KEEP AND
BEAR ARMS**

BAN ON INTERSTATE HANDGUN TRANSFERS IS 'UNCONSTITUTIONAL'



March 2015

Volume XXXX No. 3

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In a rare federal court foray, the Citizens Committee for the Right to Keep and Bear Arms scored a major victory in federal district court in Texas when a judge ruled that current law requiring residency for handgun transfers is "unconstitutional on its face."

The judge also denied a motion by the government for a 60 day stay.

U.S. District Court Judge Reed O'Connor of the Northern District of Texas, Fort Worth Division noted in his 28-page opinion that "the federal interstate handgun transfer ban burdens conduct that falls within the scope of the Second Amendment." Significantly, the judge applied strict scrutiny in formulating his ruling.

CCRKBA Chairman Alan Gottlieb was elated. He said CCRKBA's case was financially supported by the Second Amendment Foundation. SAF is CCRKBA's sister organization, and is typically point on such legal actions. CCRKBA hardly ever ventures into the legal arena, but the nature of this case made it a natural for the organization to undertake.

The case moved surprisingly fast. It was originally filed in July 2014, and the ruling came down in early February.

CCRKBA and the individual plaintiffs, Texas resident Fredric Russell Mance, Jr., and Tracey Ambeau Hanson and Andrew Hanson, both of Washington, D.C., were represented by Virginia attorney Alan Gura and Texas attorney William B. "Bill" Mateja with Fish & Richardson in Dallas.

At issue is a federal requirement under the Gun Control Act of 1968 that prohibited interstate handgun transfers to citizens who are not residents of the state in which the transaction occurs. Rifles and shotguns may be legally transferred to non-state residents, but not handguns. CCRKBA argued that the prohibition makes no sense in the advent of the National Instant Check System (NICS), which went on line under provisions of the 1993 Brady Law.

The Hansons were not able to complete a handgun purchase from Mance because of this transfer prohibition, which places an undue burden on a citizen's right to exercise the Second Amendment.

The judge's ruling seemed to underscore that argument, noting, "The federal interstate handgun transfer ban is unique compared to other firearms restrictions because it does not target certain people (such as felons or the mentally ill), conduct (such as carrying firearms into government buildings or schools), or distinctions among certain classes of firearms (such as fully automatic weapons or magazine capacity).

CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS

(A non-profit corporation)

12500 N.E. Tenth Place
Bellevue, Washington 98005
425-454-4911

Capitol Hill Office:
1350 Eye St., N.W.
Washington, D.C. 20005

(Continued on page 2)

JUDGE RULES FED. BAN IS 'UNCONSTITUTIONAL'

Continued from page 1

"Instead," Judge O'Connor wrote, "the federal interstate handgun transfer ban targets the entire national market of handgun sales and directly burdens law-abiding, responsible citizens who seek to complete otherwise lawful transactions for handguns."

The judge further commented that, "By failing to provide specific information to demonstrate the reasonable fit between this ban and illegal sales and lack of notice in light of the Brady Act amendments to the 1968 Gun Control Act, the ban is not substantially related to address safety concerns. Thus, even under intermediate scrutiny, the federal interstate handgun transfer ban is unconstitutional on its face."

"This case involved an important Constitutional question," Mateja said. "While we expect the government to appeal, we are confident that the 5th U.S. Circuit Court of Appeals will agree with Judge O'Connor's sound ruling."

"Our lawsuit strikes at the heart of a debate that has been ongoing for several years, since the creation of the National Instant Check System (NICS)," Gottlieb said. "With the advent of the NICS system, it makes no sense to perpetuate a ban on interstate transfers of handguns."

Gura commented, "It is bizarre and irrational to destroy the national market for an item that Americans have a fundamental right to purchase. Americans would never tolerate a

ban on the interstate sale of books or contraceptives. And Americans are free to buy rifles and shotguns outside their state of residence, so long as the dealers respect the laws of the buyer's home state. We're gratified that the Court agreed that handguns should be treated no differently."

Mateja and Gura both indicated that the government is likely to appeal, but they are confident the O'Connor ruling will be upheld. Gottlieb is equally confident, and if that is the case, one of the major gun control provisions of the past half-century could be history.

ANTI-GUNNERS SEEK INTERVENTION IN LAWSUIT AGAINST WA INITIATIVE

Supporters of Washington state Initiative 594, the so-called "universal background check" measure passed by voters despite opposition from the Citizens Committee for the Right to Keep and Bear Arms and others, filed a motion in federal court to intervene in a legal challenge to the initiative.

Participants in the motion are initiative backer Cheryl Stumbo, the Washington Alliance for Gun Responsibility and Everytown for Gun Safety. They cite as their reason for intervention to "ensure that the interests of the voters who approved I-594 are fully represented."

This contention puzzled Gottlieb, told Point Blank, "This suggests that they don't have enough confidence in the attorney general to properly defend the measure in this case. It's also a strong indication," Gottlieb continued, "that the other side realizes our lawsuit has merit."

Stumbo was among the victims of the July 2006 Seattle Jewish Federation office shooting, but now is employed as an outreach associate with the Everytown for Gun Safety Action Fund. Everytown is the \$50 million lobbying organization financed by anti-gun billionaire Michael Bloomberg, who contributed to the I-594 campaign.

Gottlieb suggested there may be another reason for the billionaire-backed gun control lobby to intervene. He asserted that this motion may have been filed simply to slow down the process and cost the plaintiffs more money in attorney's fees.



POINT BLANK

*"Straight talk about what you can do to
preserve your right to keep and bear arms."*

Editor J H Versnel
Publisher Alan M. Gottlieb
Managing Editor Dave Workman
Associate Editors Tom Gresham
 Don Moran
 Herb Stupp
 Peggy Tartaro
 Joe Waldron
 Rhett Workman

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ATF PULLS PROPOSED AMMO BAN, BUT FIGHT NOT OVER

While overwhelming public pressure caused the Bureau of Alcohol, Tobacco, Firearms and Explosives to postpone action on a proposed ban on M855 ammunition for modern sport-utility rifles, the Citizens Committee for the Right to Keep and Bear Arms said the battle is not over in defense of firearms rights.

CCRKBA Chairman Alan Gottlieb was gratified to learn from an ATF

statement that more than 80,000 comments had been received from the public.

"We are delighted to have been a part of the effort to stop this proposal in its tracks," Gottlieb said. "The grassroots responded to a serious threat, and the negative reaction on Capitol Hill from both the House and Senate – no doubt spurred by constituent calls and letters – have,

at least for now, put the brakes on a bad idea.

"However," he continued, "we are encouraging the nation's gun owners to remain vigilant. Grassroots activists should know that the Obama administration is not likely to abandon its gun control efforts. Frankly, this may just be the end of Round One. The ATF has postponed this fight--not ended it."

CCRKBA BACKS CORNYN BILL ON NAT'L CCW RECIPROCITY

When Texas Senator John Cornyn introduced his Constitutional Concealed Carry Reciprocity Act of 2015, the Citizens Committee for the Right to Keep and Bear Arms jumped on board in support of the measure, and its House companion, sponsored by Rep. Marlin Stutzman (R-Indiana).

"We think that Sen. Cornyn's proposal is long overdue, now that all 50 states have adopted some form of concealed carry legislation," said CCRKBA Chairman Alan Gottlieb. "Law-abiding citizens can drive their cars across the country on their state-issued driver's licenses, and it's time that states acknowledge that the right to keep and bear arms is not confined to one's home state."

There was immediate opposition from anti-gun New York Senator Charles Schumer, who immediately decried the bill, S. 498, as "a menace to New York."

Gottlieb called it another example of Schumer's campaign of paranoia to push gun control, and he quickly moved to paint the perennial gun prohibitionist into a corner.

"Gun prohibitionists like Schumer have contended for years we ought to treat gun ownership like car ownership," Gottlieb stated. "Well, here's a chance for Schumer to put up or shut up and support legislation to recognize concealed carry as a national right."

Since driving is a privilege and bearing arms is a civil right delineated in the constitution, it would seem that a license to carry should automatically be recognized by all 50 states, Gottlieb reasoned.

Schumer complained that "potentially dangerous people" could be bring guns into New York grocery stores, theaters, etc. "without even notifying the police."

Gottlieb fired right back, noting with no small amount of sarcasm, "New York criminals have been doing that for years, and he knows it. Perish the thought that a legally-armed private citizen from anywhere might just want to be on a level playing field with Empire State street hoodlums."

The companion measure will face opposition in the House, and

Stutzman noted in a statement that, "this fundamental right has been under attack from the anti-gun lobby on both the federal and state levels. This bill preserves the right to keep and bear arms for law-abiding citizens while respecting the roles and responsibilities of state legislatures."

"Americans enjoy a natural right to self-defense preserved by the Second Amendment," he added. "This federally guaranteed liberty should not be forfeited when state lines are crossed."

Perhaps not surprisingly, anti-gunners are also putting on the pressure at the state level when the subject of reciprocity comes up. Two Maryland lawmakers are pushing adoption of a measure that would allow non-residents licensed to carry in other states carry their defensive sidearms in Maryland.

Maryland State Sen. Steve Waugh, a Republican, is sponsoring SB 454 and state Delegate Deb Rey, another Republican, is behind HB464, the companion measure.

COURT CHALLENGE TO D.C. 'GOOD REASON' CCW REQUIREMENT

A case filed in federal court in Washington, D.C. should be of huge interest to members of the Citizens Committee for the Right to Keep and Bear Arms, as it goes after a core issue of concealed carry: Requiring someone to demonstrate "need" or "good cause" before they get a carry permit.

The case was filed against the District of Columbia by the Second Amendment Foundation and three individual plaintiffs. SAF – the sister organization to CCRKBA – is challenging the District's requirement that concealed carry permit applicants provide a "good reason" to qualify for a permit, alleging that this violates the Second Amendment right to keep and bear arms.

SAF is joined by Brian Wrenn and Joshua Akery, both of Washington, D.C., and Tyler Whidby, a Florida resident who also maintains a residence in Virginia. The city and Metropolitan Police Chief Cathy Lanier are named as defendants.

The 13-page complaint was filed in U.S. District Court for the District of Columbia in early February. The lawsuit asserts that "individuals cannot be required to prove a 'good reason' or 'other proper reason' for the exercise of fundamental constitutional rights, including the right to keep and bear arms." All three individual plaintiffs in the case have applied for District carry permits and have been turned down by Lanier because they could not "Demonstrate a good reason to fear injury to person or property."

"The city's requirements to obtain a carry permit are so restrictive in nature as to be prohibitive to

virtually all applicants," said CCRKBA Chairman Alan M. Gottlieb. "It's rather like a 'Catch 22,' in which you can apply all day long, but no reason is sufficiently good enough for Chief Lanier to issue a permit."

According to attorney Alan Gura, the city is still appealing its earlier loss in the *Palmer v. D.C.* case, which struck down the city's total ban on carrying handguns. The courts have not yet ruled on SAF's claim that the city's "may issue" law violates the *Palmer* injunction.

"We are going to give the courts every chance to bring Washington, D.C. into constitutional compliance," said Gura, who represents SAF and the other plaintiffs in both cases.

SAF has challenged other restrictive carry laws. Critics contend they are open to abuse by local officials.

"Because of that," Gottlieb explained, "the city has set the bar so high that it relegates a fundamental civil right to the status of a heavily-regulated government privilege. That is not only wrong, it also does not live up to previous court rulings."

The city had only issued a handful of permits at the time the lawsuit was filed.

"Law-abiding citizens who clear background checks and are allowed to have handguns in their homes are being unnecessarily burdened with the additional requirement of proving some special need," he observed. "The last time we checked, we had a Bill of Rights that applied to the entire nation, including the District. It's not, and never has been, a 'Bill of Needs'."

CITIZEN ACTION PR

Congress is considering legislation that would mandate all states accept the states. All 50 states and the District of Columbia now issue concealed carry self defense does NOT arbitrarily stop at a state border. Eleven million Americans concealed firearms.

Until now, CCW reciprocity has been mostly a state issue, with nearly three degree of recognition of out of state licenses. The principal holdouts are the "c issuing authority to arbitrarily deny a license to an otherwise qualified individual with carry licenses, why would they trust those from another state?

Four reciprocity bills have been introduced in the 114th Congress. H.R. 40923, by Rep. Martin Stutzman (R-IN), H.R. 986, by Rep. Richard Hudson (R-TX) would all essentially grant nationwide carry privileges to a licensee, su state being visited.

The bill receiving the greatest attention is S. 498. Sen. Charles Schumer shall not pass." With only 54 seats in the Senate in Republican hands, the D blocking it. But that assumes all Democrats sustain a filibuster.

Now is the time to write both to your Congressman (Representative) and t them to support the following bills: H.R.s 402, 923 and 986 in the House, and

Contact information on your elected officials may be found at www.house.gov "Congressional Information" link in the left margin at www.ccrkba.org. Contact inf may also be found in the "blue pages" at the front of your telephone directory.

LEGISLATURES BUSY WITH GUN RIGHTS ISSUES

Legislatures all over the country are busy as lawmakers wrestle with various gun law proposals that are being monitored by the Citizens' Committee for the Right to Keep and Bear Arms.

In Virginia, the state House approved a bill that would prevent local municipalities from prohibiting the transport of loaded shotguns or rifles in vehicles by people who possess valid state concealed-carry permits. According to the *Washington Times*, the bill passed 62-34 and has already passed the state's Senate, meaning it's off to the governor's desk for his signature.

This measure was one of two gun-related bills that passed the Virginia House. The other changes the burden of proof in order for someone to be convicted of a felony for possessing

a gun on school property.

Three states are looking at bills addressing so-called "constitutional carry."

In Colorado, the state's Senate was considering Senate Bill 32, that would allow carrying of firearms without a concealed carry permit, for citizens 21 or older.

According to the Associated Press, the bill received preliminary approval by the Senate but was expected to fail in the state's House, which remains controlled by Democrats.

Similar legislation is being considered in Tennessee. State Rep. Rick Womick offered the proposal. A companion bill was introduced in the Senate, and is supported by state pro-gun activists.

Kansas lawmakers are also looking at a variation of this as well. According to KMBC-TV, that bill would give citizens the option of not getting a permit or taking a safety class in order to get a permit, but would still require prospective gun owners to undergo a background check.

Meanwhile, in Oregon, lawmakers there are looking at a proposal that would establish state pre-emption for regulations on ammunition.

According to the *Salem Statesman-Journal*, House Bill 2503 would make it easier for lawmakers to stop attempts by anti-gun and environmental organizations to ban certain types of ammo, particularly rounds that contain lead.

The bill also addresses regulation on fishing tackle as well, so sportsmen's groups will be paying close attention.

The chances of this bill passing are not known in the wake of Gov. John Kitzhaber's resignation. He was succeeded by Democrat Secretary of

State Kate Brown.

The Arkansas state legislature unanimously passed a proposal that would lower the age for current and former members of the U.S. military to apply for a state concealed-carry permit.

According to Guns.com, HB 1190 passed 95-0 in the House before passing 34-0 in the Senate, and was sent to the governor. This legislation would reduce the age to 18 from the current 21 for those current and former soldiers to be able to apply for those licenses.

Next door in Texas, an anti-gun Democrat lawmaker from Houston has proposed a bill that would affect residents' ability to defend themselves with a firearm.

The *Texas Tribune* reported that HB 1627 was filed by Rep. Garnet Coleman, and it would only allow lethal force to be used in self-defense if that person cannot safely retreat unless they are inside their residence.

The bill is not expected to pass, but members in Texas should contact their legislators if they have concerns about it.

PROJECT

the concealed carry licenses of all other licenses. And the fundamental right of Americans now possess licenses to carry

quarters of the 50 states allowing some "discretionary issue" states that allow the equal. If they don't trust their own citizens

02, by Rep. Richard Nugent (R-FL), H.R. 498 (NC) and S. 498 by Sen. John Cornyn subject to the restrictions and laws of the

r (D-NY) has already declared "this bill Democrats could filibuster the bill, thus

two Senators and politely but firmly ask d S. 498 in the Senate.

.gov, www.senate.gov and at the "Con-formation on all federal elected officials

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DEFENDERS COME IN BUNCHES!

When it comes to standing up for firearms rights, one of the best examples recently involved three people, the plaintiffs in a case filed by the Citizens Committee for the Right to Keep and Bear Arms, that found the judge declaring the long-standing ban on interstate handgun transfers to be unconstitutional.

Texas firearms retailer Fredric Russell Mance, Jr., and Andrew and Tracey Ambeau Hanson of Washington, D.C. can lay claim to something few others have been able to accomplish. Their federal complaint against Attorney General Eric Holder and the interstate handgun transfers ban produced a significant victory for the Second Amendment.

As noted elsewhere in this issue, CCRKBA – with financial support from the Second Amendment Foundation – and these three citizens took on a very politically incorrect statute. The Hansons, after being turned down on a handgun purchase by Mance because of the interstate handgun sales ban, went after the law. Mance had his own issues as this affected his business, and they worked with CCRKBA attorneys Alan Gura of Virginia and William B. Mateja of Dallas.

This was a speedy case, too, suggesting that it was solid from the opening gavel.

At issue was the federal regulation as it relates to the buying, selling, and transporting of handguns over state lines under 18 U.S.C. §§ 922(a)(3) and 922(b)(3). Long story short, the lawsuit contended that the ban on interstate handgun transfers infringes on a fundamental right guaranteed by the Constitution,

according to the opinion from U.S. District Court Judge Reed O'Connor of the Northern District of Texas, Fort Worth Division.

The Hansons would have had to have the handgun shipped to the single federally-licensed firearms retailer in the District, and he charges a \$125 fee per transfer, therefore adding considerable expense on the exercise of a civil right. That retailer does not keep an inventory of firearms, the ruling noted.

It was a rare foray into the court system for CCRKBA, acknowledged Chairman Alan Gottlieb.

But this case seemed tailor made for the organization because it strikes at the very heart of what the right to keep and bear arms is all about.

At the time the lawsuit was filed, which was only in July of last year, Gottlieb stated, "It is overreaching, if not downright silly, in today's environment with the federal instant background check system to perpetuate a prohibition on interstate

handgun purchases that has outlived its usefulness. If a law-abiding citizen can clear a background check and legally purchase a handgun in his own state, he would pass the same background check just across the border in another state."

Point Blank has frequently recognized the contributions of attorney Alan Gura to the restoration of Second Amendment rights, and Dallas attorney Bill Mateja deserves an honorable mention for his work on this case as well.

While it is likely the ruling will be appealed, Gottlieb and both attorneys are confident CCRKBA will prevail at the Fifth Circuit.

But none of this would have been possible without the three eager plaintiffs, all CCRKBA members, who were willing to join in this legal action. When all is said and done, defending the Second Amendment is a job that invariably falls into the laps of individual citizens who step forward and do the right thing.

BLOOMBERG TAKES HEAT FOR COMMENTS ON DISARMING YOUNG MINORITY MALES

According to the Aspen Times, which covered an event at the Aspen Institute, anti-gun billionaire and former New York Mayor Michael Bloomberg contended that 95 percent of homicides in this country have some things in common. They involve minority males between the ages of 15 and 25, either as victims or perpetrators. He then reportedly argued for cities to disarm this group.

But to read the version of the story reported by WCBS, one would never know it happened. The station apparently picked up the story and pared it down, eliminating the part about Bloomberg's anti-minority rant.

According to the Aspen newspaper's original story, Bloomberg told the audience, "These kids think they're going to get killed anyway because all their friends are getting killed. They just don't have any long-term focus or anything. It's a joke to have a gun. It's a joke to pull a trigger."

The ex-mayor, who has invested \$50 million in a lobbying group called Everytown for Gun Safety, also criticized marijuana legalization in Colorado. That remark has drawn sharp criticism from pro-pot activists.



QUICK SHOTS

In Nevada, a former Democratic state lawmaker was sentenced to probation over a gun charge.

The *Las Vegas Review-Journal* reported ex-state Assemblyman Steven Brooks was given the sentence after being convicted on the charge of possession of a gun by a prohibited person.

According to the newspaper, the charge stemmed from an admission he made that he was using marijuana while carrying a revolver. This conviction, reports the R-J, followed a similar sentence that had been handed down after he was convicted of a separate charge of resisting a public officer while using a gun in January.



Residents in Kentucky who want the ability to carry firearms concealed now have a much easier way to do it, and what's even better is that the process is now much faster as a result.

The state has now put the permit application online, and according to WAVE-TV, the online permits have to be processed within two weeks by state police, compared to the two months that cops had to process the old paper applications.

The TV station reported a spike in permit approvals from 2012 to 2013 in Kentucky, so the online permit system is expected to help further growth in permit applications in the state.

Those who do not have online access can still file a request for a permit with state police at any of their stations throughout the state.



The defensive gun use file takes us to Texas, where a longtime criminal saw his career, and his life, come to an end at the hands of a woman defending herself with a firearm.

According to KLTU-TV, sheriff's deputies in Van Zandt County, received a 911 call from the resident stating that she had shot an intruder who was attempting to gain entry forcefully into her residence.

Deputies arrived soon after and found the man dead. Turns out he had a lengthy criminal record and had been released recently on personal recognizance for failing to register as a sex offender. Further, the county fire marshal said that Foster was also wanted in connection with an arson fire that had occurred the previous evening.

The local sheriff praised the woman's actions.

"Presently, as the result of underfunding and inadequate staffing at the Van Zandt County Sheriff's Office, homeowners need to take appropriate precautions to protect their families. I will continue to support the law abiding citizens of our community when they are forced to take actions to protect their lives, liberty and property," said Sheriff Michael Ray in a statement.



Pennsylvania authorities were investigating a fatal training accident that left a state trooper dead.

According to WFMZ-TV, prosecutors charged Cpl. Richard Schroeder with five counts of reckless endangerment

following the incident, which took place in the fall of last year. The station reported that the accident occurred during a session at the Montgomery County, PA, police training school in which officers were learning how to use a new police-issued gun when Schroeder allegedly pulled the trigger on his without checking to see if the gun was loaded. A live round was in the chamber and when the gun discharged, the trooper was killed instantly.

The charges came as a result of a grand jury review, which finished last month. The corporal was arrested, arraigned on the charges and released on bail.



It looks like we have a case of hypocrisy coming out of Cleveland.

According to the *Cleveland Plain Dealer*, prominent local civil rights attorney David Malik was arrested Feb. 14 after TSA agents at the Cleveland airport found a gun and ammunition in his carry-on luggage, according to records obtained by the newspaper. In a statement, the attorney acknowledged having participated in a recent target shooting class and forgot to remove the gun from his bag.

But the head of Cleveland's police union told the *Plain Dealer* that Malik's arrest came as a surprise.

"What's interesting about David is he is such an anti-gun person," Cleveland Police Patrolmen's Association head Steve Loomis said to the paper. "He's such an anti-violence person, and of all the things for him to get arrested for, that really surprises me."



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The full roster of GRPC 2015 speakers has not yet been set. Past speakers have included: Alan Gottlieb, Joseph Tartaro, Alan Gura, Tom Gresham, Larry Elder, John Lott, Eugene Volokh, Sandy Froman, Massad Ayoob, Mark Walters, Emily Miller, Rep. Bob Barr, Rick Patterson, Gene Hoffman, Tim Schmidt and many others. Check our websites -- www.saf.org or www.ccrkba.org for updates.

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