



Written by [Joe Wolverton, II, J.D.](#) on October 3, 2023

## Hunter Reported to Rely on 2A Case President Said Should “Deeply Trouble Us All”

Hunter Biden, the son of President Joe Biden, might receive a legal advantage from an unexpected origin — a Second Amendment case that was determined by the conservative-leaning U.S. Supreme Court, a decision the president described as one that “should deeply trouble us all.”

Expectations are high as Hunter Biden, age 53, prepares to enter a plea of not guilty in a Delaware court on Tuesday. He faces charges of unlawfully possessing a firearm as an illegal drug user and providing false information about his drug use on a background check form during the purchase of a Colt Cobra revolver in 2018.



AP Images  
Hunter Biden with attorney Abbe Lowell

The backdrop to this case is the Supreme Court’s landmark ruling in June 2022, known as *New York State Rifle & Pistol Association Inc. v. Bruen*. This ruling has set a fresh precedent for evaluating the legality of government-imposed gun restrictions, emphasizing their alignment with the historical tradition of firearms regulation in the United States.

Hunter Biden’s indictment, secured by Special Counsel David Weiss in September, comes after a failed plea agreement with prosecutors in August. His defense attorney, Abbe David Lowell, has hinted at challenging parts of the indictment based on the *Bruen* decision.

The crux of Hunter Biden’s defense is expected to revolve around his assertion that the federal law prohibiting gun ownership by illegal drug users lacks historical precedent and infringes upon his Second Amendment-protected right “to keep and bear arms,” as outlined in the Constitution. Legal experts suggest that he will argue for the dismissal of the possession charge on these grounds.

While admittedly an odd hero for the Second Amendment and the Constitution, Hunter Biden’s legal team is correct in their opinion of the matter. The issue of whether Hunter Biden should own a weapon or not is not up to the president or to the ATF or to you or to me. Owning a weapon is a natural right.

Now, if one were to use that weapon in the commission of a crime — particularly a crime harming or endangering the life, liberty, and property of another person — then after having been convicted of committing that crime by a jury of his peers, that person’s rights may be temporarily suspended as punishment for violating the law, not a regulation written by a bureaucrat employed (unconstitutionally) by the Executive Branch of the federal government.

In the United States, for a law to be valid in the union, it must be passed by Congress as set forth in Article I. In fact, the first sentence of the Constitution (excluding the preamble) is “All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.” Simple. No room for confusion. Laws for the union of republics known as the United States of America come from Congress, not from the president.



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Regulations are not laws; therefore, Hunter Biden, at least in his ownership of a firearm while apparently addicted to crack, did not break the law. He violated a violation — a usurpation — of the law.

In a situation likely to come up at Thanksgiving dinner at the White House this year, President Joe Biden expressed deep concern over the *Bruen* ruling when it was handed down, citing a troubling pattern of mass shootings. Lowell, when questioned about the implications of the *Bruen* ruling on this case, chose not to comment. However, in a public statement following the indictment, Lowell affirmed his belief that the charges contravene the prior agreement with prosecutors, recent federal court rulings deeming the statute unconstitutional, and the fact that Hunter Biden did not violate the law. They intend to present this argument in court.

The political landscape adds a layer of complexity to this case, as Democrats typically support stricter gun restrictions while Republicans tend to oppose them. Thus, Hunter Biden's challenge to a federal firearms law could defy conventional political expectations. President Biden, an ardent advocate and author of unconstitutional gun-control measures, previously voiced his concerns about the *Bruen* decision. Conversely, many Republican lawmakers who have been critical of Hunter Biden applauded the ruling. Politics, indeed, makes strange bedfellows.

Legal experts anticipate that ongoing cases will clarify the extent to which the *Bruen* ruling empowers courts to invalidate gun laws. Already, one U.S. appeals court, the New Orleans-based 5th U.S. Circuit Court of Appeals, concluded in August that the drug-related statute in Hunter Biden's case might be unconstitutional in certain circumstances, citing the *Bruen* precedent.

While the possession charge may be dismissed, Hunter Biden still faces two counts related to providing false information on the background-check form. Experts believe that these counts may be more challenging to dispute because they are akin to charges unrelated to firearms, criminalizing false statements to the U.S. government on significant matters.

The Supreme Court is poised to weigh in on gun regulation once again, with a Texas case scheduled for arguments on November 7. This case addresses whether individuals under domestic violence restraining orders ("red flag laws") can be prohibited from possessing firearms. The Court's decision, expected by the end of June, may provide clarity on the criteria for barring someone from gun ownership.

In this context, the Fifth Circuit has already invoked the *Bruen* ruling to argue that banning individuals under such restraining orders from owning firearms goes against historical precedent, describing the regulation at bar "an outlier that our ancestors would never have accepted."

It's a complex legal landscape that Hunter Biden finds himself navigating, with profound implications for gun rights and regulations in the United States.



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