



Written by [Bob Adelman](#) on September 26, 2014

## Mother of Two Avoids Prison Time in New Jersey Gun Case

Shaneen Allen, a phlebotomist from Philadelphia and single mother of two, started breathing normally again on Wednesday when Atlantic County, New Jersey, prosecutor Jim McLain [decided not to prosecute her](#) under New Jersey's draconian Graves Act and offered her New Jersey's Pretrial Intervention Program (PTI) instead.



Allen accepted the offer as an alternative to the mandatory three-to-five years she was facing for mere possession of a firearm while traveling from Philadelphia into New Jersey last October. Pulled over for a minor traffic violation, she made the mistake of informing the arresting officer that she was carrying a weapon in the car along with a concealed weapons permit from Pennsylvania. She had just received the permit and had purchased the handgun a week earlier and, despite going through some training, she was not aware that her Pennsylvania license wouldn't apply in New Jersey. By offering information to the officer that wasn't requested, Allen was immediately arrested and charged with possession of a firearm under New Jersey's Graves Act. She has had this monkey on her back for nearly a year.

With the help of a savvy Second Amendment attorney in Eatontown, New Jersey, Evan Nappen, she was prepared for war. Nappen asked Superior Court Judge Michael Donio to dismiss the case, claiming her ignorance of New Jersey's law. After Donio denied his request, Nappen then asked him to offer Allen New Jersey's PTI program. Donio turned down that request as well.

Thanks to support from highly placed individuals in the state and a well-financed defense team, it became clear that the state of New Jersey was in a no-win situation. Allen received support from New Jersey's Second Amendment Society, State Senator Jeff Van Drew, Assemblymen John Bramnick and Ron Dancer, and most importantly, Frank Minor, the mayor of Logan Township, who also happened to be chairman of the South Jersey Political Black Caucus. In addition, Allen received support from the Morris County Freeholder Board, which, during its September 22 public meeting, approved a resolution urging McLain to "exercise prosecutorial discretion" in Allen's case.

As her case caught national attention, funding for her defense rolled in. In early August, the Shaneen Allen Legal Defense Fund had attracted more than \$34,000 in support from nearly 1,000 contributors.



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As of September 26, that support had nearly doubled to \$67,400 provided by more than 1,800 contributors.

Her case also generated a bill from assemblyman Dancer, called “Shaneen’s Law,” which would give judges discretion to avoid the otherwise mandatory jail sentence Allen faced under the Graves Act. Under that act, if Allen were convicted, the lowest sentence a judge may give is a three-year prison term with no chance of parole.

Enter New Jersey’s Attorney General John Jay Hoffman, who conveniently “clarified” the Graves Act so that, under a distinctly favorable set of circumstances applicable to Allen, a judge may elect to offer PTI in place of a prison term. The “circumstances” are that the person must be from out of state, have a clean record, must legally possess a firearm, must let law enforcement officials know that they possess that firearm, and that the person must not have been advised of New Jersey’s gun restrictions and otherwise have believed they were obeying the law. Wrote Hoffman:

While ignorance of the law is not a defense, prosecutors certainly may consider whether a defendant made an honest mistake in determining the level of defendant’s culpability for purposes of sentencing. In the absence of case specific aggravating circumstances, these defendants should not be sentenced to incarceration.

This fit Allen’s circumstances to a T and provided cover for prosecutor McLain, who had previously determined to conduct a full-court press on the matter as a “deterrent” to others.

A measure of McLain’s intransigence came to light once that clarification by Hoffman was made public when it was revealed that that ruling by the state’s attorney general could apply to as many as 100 other miscreants caught in the same draconian trap of the Graves Act.

All’s well that ends well, it seems, now that Allen can breathe again. Her threatened incarceration not only raised the ire of thousands of individuals around the country, but it also forced New Jersey to back off on enforcement of this outrageous law. Following Allen’s acceptance of the state’s PTI, her attorney said: “She’s absolutely gratified that she could help others like her.”

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