



Philadelphia Mother Headed to Jury Trial for Carrying a Gun in N.J.

By declining a plea bargain offered by Atlantic County, New Jersey, prosecutor Jim McClain to spend the next 3 ½ years in jail, Shaneen Allen assured herself the best chance to vindicate herself in a case that has drawn national attention: a jury trial. She is hoping that common sense will prevail — something that has not been evident in the proceedings until now.



Early in the morning of October 1, 2013, Allen was driving from Philadelphia to Atlantic City when she was pulled over by police for making an “unsafe lane change.” She gave the officer her license, registration, and proof of insurance. And then she went a step further: She gave him her license to carry concealed in the state of Pennsylvania, and told him she was carrying a firearm.

She was immediately arrested and charged with unlawful possession of a weapon under New Jersey laws, which don’t reciprocate with Pennsylvania’s concealed carry law. If convicted, Allen will spend at least the next 3½ years in jail, and possibly more.

Said Allen: “It’s definitely a freak thing. I was trying to do a good thing and it turned out so bad — and just like that. I don’t know how to explain it, I really don’t.”

She hired a top Second Amendment defense attorney, Evan Nappen, with funds being largely provided from her website — [Shaneen Allen Legal Defense Fund](#) — which at this moment has attracted more than \$34,000 from nearly 1,000 contributors. Nappen asked Superior Court Judge Michael Donio on Tuesday last week to dismiss the case, claiming ignorance of the law. Donio denied his request. Donio also denied Nappen’s request that Allen be placed in New Jersey’s Pre-Trial Intervention (PTI) program, which would also have kept her out of jail.

So she’s going to trial. Said Nappen:

It’s an incredibly sympathetic case that shouldn’t have to go to trial. But I’m confident that 12 ordinary people who understand the injustice here and will correct it.

Nappen told a local paper, “This is someone who should not be turned into a felon and sent to state prison and have her life destroyed because she made a mistake and committed a victimless crime.” He added:

She’s a hard-working single mom. It’s really crazy that New Jersey is taking someone who’s got no criminal record and was doing nothing wrong — other than a minor traffic violation — and making



it into a felony-level conviction.

Allen purchased her .38-caliber Bersa handgun in Philadelphia just a week before her arrest, having successfully completed the state's mandated classroom training, but never having shot the weapon. In the past year, Allen, the mother of two and a phlebotomist in Philadelphia, has been robbed twice and finally decided to purchase a firearm to protect herself and her family.

Rather than let her off with a warning, or a small fine and perhaps some community service time, New Jersey's Prosecutor's Office has decided to press the matter, claiming that the case will be a "deterrent," ensuring others don't make the same mistake — especially as the case gathers national attention. Added Assistant Prosecutor Deborah Hay, her case was "too serious to warrant divergence" to the state's PTI program.

The court date is set for October 6, and Nappen is ready. First, he will present evidence under New Jersey's ignorance of the law statute, which allows mistakes like Allen's to go unpunished or be subject to drastically reduced penalties. If that fails, Nappen is ready to rely on juror leniency and mercy as he rolls out the details of the encounter last October. He has mentioned the possibility of using a "jury nullification" strategy as well, but that has not been confirmed by his office.

If those strategies fail, then Nappen is prepared to appeal to New Jersey's governor Chris Christie to intervene in the case, just as he did in the case of another innocent who got caught in New Jersey's draconian web: Brian Aitken. Aitken had been sentenced to seven years in prison for violating New Jersey's unlawful possession law while moving from Colorado to New Jersey.

The National Rifle Association's Institute for Legislative Action has been following the Allen case closely and has concluded that the prosecution of Allen has little to do with reducing criminal behavior and everything to do with politics:

Allen's case illustrates an essential truth of gun control. No matter how its proponents attempt to justify it under the guise of "violence prevention," "public safety" or even "public health," its primary purpose is to promote a social and political agenda....

By all accounts, she acted in good faith, unaware she was violating an unusual and totally arbitrary prohibition. Yet all that is irrelevant to the State of New Jersey, which is willing to ruin not just her life but the life of her two young children, to demonstrate just how unwelcome firearms are in the state.

According to FlexYourRights.com, published by the American Civil Liberties Union, what Allen failed to do is follow the rules. She didn't know her rights when she was stopped by the police. She made the mistake of offering information to the officer. According to the ACLU: "You have the right to remain silent and cannot be punished for refusing to answer questions."

As noted legal authority Mas Ayoob said when informed about Allen's error:

She's not the first to make this honest mistake, and won't be the last. (And, before anyone questions that it was an honest mistake, why would someone who knew they were breaking the law spontaneously tell the first cop they encountered that they were doing so?). This case is the very definition of *malum prohibitum* [behavior wrong only because it is made so by statute].

On October 6, a jury of Allen's peers will have an opportunity to expose New Jersey's law, and the determination of the state prosecutor to punish her for her crime, for what it is: *malum prohibitum*. And to rectify the wrong.



Written by [Bob Adelman](#) on August 11, 2014

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