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Federal Judge Reluctantly Prevents Enforcement of Maryland Gun Regs

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A federal judge has struck down two Maryland statutes restricting areas in which guns may be carried, even with a permit, holding the statutes to be "unconstitutional under the Second Amendment." This decision follows on the heels of several similar decisions handed down since the Supreme Court's decision in *New York State Rifle & Pistol Association v. Bruen.*

A preliminary injunction issued by U.S. District Judge George L. Russell in the case of *Kipke v. Moore* halts the enforcement of a pair of state regulations pertaining to the carrying of firearms in close proximity to public demonstrations, prohibiting the carrying of guns in establishments that serve alcohol, and presuming restrictions on firearms within other publicly accessible businesses.

Writing for Reason.com, Jacob Sullum explains that Russell's injunction

> confirms that politicians were mistaken in thinking they could defy *Bruen* by expanding the list of "sensitive places" where firearms are not allowed. At the same time, it shows that judges disagree about how to apply the constitutional test established by *Bruen*, which asks whether a gun control law is "consistent with this Nation's historical tradition of firearm regulation."

In June 2022, in the case of *New York State Rifle & Pistol Association v. Bruen*, the U.S. Supreme Court upheld the right of "law-abiding citizens with ordinary self-defense needs [to exercise] their Second Amendment right to keep and bear arms in public for self-defense."

In *Bruen*, the Supreme Court held that "the Second and Fourteenth Amendments protect an individual's right to carry a handgun for self-defense outside the home."

The Supreme Court then explained that courts may analogize regulations of firearms

> in certain locations to "longstanding" "laws forbidding the carrying of firearms in sensitive places such as schools and government buildings." The Court in *Bruen* did not, however, define "sensitive places," providing convenient cover for liberal (read: gun grabbing) judges to stretch the "sensitive places" pavilion wide enough to cover any place, regardless of its historical sensitivity.

In fact, Russell, appointed to the federal bench by Barack Obama, is an example of how the vague language of the *Bruen* decision is being used as an excuse for requiring those whose right to keep and bear arms has been deprived by the government to prove that the area was not sensitive, rather than requiring the government to carry the burden of proof necessary to justify its denial of a person's natural right to self-defense.

In fairness, the Supreme Court opinion in *Bruen* does in fact declare that when a gun-control regulation violates the "plain text" of the Second Amendment, "the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation."

In truth, there is no tradition of firearm regulation. In fact, the tradition in the United States is that of an all but untrammeled right of owning, carrying, and bearing arms in preparation of protecting one's life, liberty, and property.

The "history" of regulating and infringing upon that right is brief and irrelevant, especially in light of the irrefutable existence of the Second Amendment. The Second Amendment explicitly forbids the government from infringing on the right to keep and bear arms. There exists, then, no reasonable restriction, no necessary regulation, no place too sensitive to be within the aegis of the Second Amendment.

Any politician — federal, state, or local — who supports the concept that the government has legitimate authority to give and take away the right to own firearms depending on whether a person has complied with federal guidelines is treacherous! Although Americans have allowed this right to be redefined by Congress, the courts, and the president, the plain language of the Second Amendment explicitly forbids any infringement on this right that protects all others.

Judges such as George L. Russell aren't well pleased by the paramount position occupied by the right to keep and bear arms. In his memorandum opinion, Russell's disdain for the Constitution's protection of this right is evident, even while he reluctantly applies the test imposed by the Supreme Court in *Bruen*:

> The Court notes that it is obligated to question the constitutionality of Maryland's restriction on carrying at public demonstrations because of *Bruen*'s narrow historical framework. If the Court were permitted to apply intermediate or even strict scrutiny to public demonstration restriction, the law would almost certainly pass constitutional muster.

There is no way that any restriction on the right to keep and bear arms could "pass constitutional muster" if the we, as a people, understood and appreciated the black letter of our supreme law: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

Shall not be infringed. Full stop. There is no framework within which firearm restrictions fit. It is, of course, the role of the people to prevent politicians — including politically motivated judges — from contracting the scope of rights that are a gift not from government, but from God.

Finally, it is noteworthy to mention that the U.S. Supreme Court term began on Monday, October 2, and the judges will hear a case challenging restrictions on the right to keep and bear arms.