



## Judge Smacks Down New York's Attempt to Create Gun-free State

District Court Judge John Sinatra, a 2018 Trump nominee and a member of the Federalist Society, [shut the door](#) on efforts by anti-gun radicals populating New York State's legislature to turn the entire state into a "gun free zone."

That New York legislation arose out of an emergency session called by New York Governor Kathy Hochul following the Supreme Court's ruling in *Bruen* (*New York State Rifle & Pistol Association, Inc. v. Bruen*). *Bruen* declared that New York's "proper cause" requirement to obtain a concealed-carry permit was unconstitutional. That ruling also declared that laws infringing on the Second Amendment could only be sustained if the government passing them could show a "historical analogy" to laws from the time of the Republic's founding.

The law, misnamed the "Concealed Carry Improvement Act," or CCIA, essentially turned the entire state into a gun-free zone. It prevented anyone carrying a firearm from entering private property that was open to the public unless the owner of that property expressly and publicly declared through signage that citizens carrying could enter that property.

Litigation ensued, including the present case, *Christian v. James*. Brett Christian, a law-abiding gun owner living in the state with a concealed-carry license, joined with the Firearms Policy Coalition (FPC) and the Second Amendment Foundation (SAF) in complaining that he could go nowhere — even a gas station — unless the owner expressly permitted him to enter the gas station while carrying a firearm.

### Judge Tossed the Law

Judge Sinatra wrote:

A newly-enacted New York law makes it a felony for a concealed-carry license holder to possess a firearm on *all private property*, unless the relevant property holders actually permit such possession with a sign or by express consent....

New York's restriction is unconstitutional — a result dictated by the teaching of the Supreme Court's recent cases [including *Bruen*] addressing individual Americans' right to keep and bear arms.



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For its law to be constitutional, New York State must demonstrate "that the CCIA is consistent with the



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nation’s historical tradition of sufficiently analogous regulations. New York fails that test here.”

This is the second time New York lost on this very issue. Christian filed his complaint in September 2022. He claimed that the law effectively prevented him from “going about his daily life” while “lawfully carrying his firearm for purposes of self-defense.” In December of 2022, Judge Sinatra issued a preliminary injunction against enforcement of the new law.

The State of New York predictably appealed Sinatra’s ruling. The Second Circuit Court of Appeals, however, upheld Sinatra’s ruling supporting the temporary injunction. In January 2024, the Second Circuit turned that temporary injunction into a permanent injunction. On March 1, Christian and his attorneys moved for a summary judgment. They asked the court to declare the law unconstitutional and permanently prevent its enforcement. Sinatra’s ruling on Thursday granted it.

### **Historical Tradition**

He took New York State to the woodshed:

The Nation’s historical traditions have not countenanced such a curtailment of the right to keep and bear arms. Indeed, the right to self-defense is equally important — and equally recognized — on the vast swaths of private property open to the public across New York State.

In the absence of historical tradition in support of the State’s restriction, there is no genuine issue for trial ... the restriction violates the right of individuals to keep and bear arms for self-defense outside of their homes on private property open to the public.

Judgment for [Christian] on this issue, therefore, is required.

Sinatra reminded the State of New York of the ruling in *Bruen* that supported his conclusion:

The [Supreme] Court reiterated that the Second Amendment is not a second-class right subject to lesser rules. The [Supreme] Court indicated that it knew of “no other constitutional right that an individual may exercise only after demonstrating to government officers some special need.

That is not how the First Amendment works when it comes to unpopular speech or the free exercise of religion.

It is not how the Sixth Amendment works when it comes to a defendant’s right to confront witnesses against him.

And it is not how the Second Amendment works when it comes to public carry for self-defense.

He concluded his whipping with this:

A fair reading of the historical enactments [presented by New York State in defense of the law] reveals that the proffered enactments are not “analogous enough” to the State’s new restriction on private property open to the public to “pass constitutional muster” (quoting from *Bruen*) ...

The enactments - considered together - are a far cry from a tradition supporting a universal



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ban of firearms on all property open to the public.

### **Appeal Likely**

The State of New York had the audacity to request a stay, “pending appeal.” Judge Sinatra laughed that away: “A stay pending appeal is not warranted ... [Christian]’s constitutional rights are violated absent an injunction. The State has not established irreparable injury in the absence of a stay. The preliminary injunction has been in place since November 22, 2022. The balance of hardships and public interest weigh in favor of [Christian] ... it is [Christian] who has demonstrated success on the merits.” Request denied.

Nevertheless, New York State is likely to demonstrate its intransigence by filing an appeal. The war against the private ownership and use of firearms by law-abiding Americans will continue.



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