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Biden DOJ Seeks to Disarm Anyone Who Uses Marijuana

The Biden administration is petitioning federal courts to deny users of marijuana the ability to exercise their natural right to keep and bear arms — and the arguments they are making are just astounding.

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Here's a bit of background, as published by *Reason* magazine online:

> [The Biden administration is filing briefs in defense] of the federal law that makes it a felony for cannabis consumers to possess firearms. That law, the U.S. Department of Justice (DOJ) argues in an appeal brief filed last week, is "consistent with this Nation's historical tradition of firearm regulation"—the constitutional test established by the Supreme Court's 2022 decision in *New York State Rifle & Pistol Association v. Bruen*. To make its case, the government cites laws passed in the 17th, 18th, and 19th centuries that prohibited people from carrying or firing guns while intoxicated, which it implausibly argues are analogous to the gun ban for marijuana users that Congress imposed in 1968.

Did you catch that?

Joe Biden's Justice Department insists that old laws prohibiting drunk people from firing guns in public are persuasively and philosophically analogous to the White House's aim to disarm anyone who uses — even under medical supervision — marijuana.

Beyond the case mentioned above, the White House is using similar arguments to uphold similar laws or overturn decisions striking down such laws in other jurisdictions. The ultimate aim of all of the lawsuits is to disarm anyone using cannabis, based on the spurious and illogical claim that owning a gun if you smoke weed is the same as firing a gun in public if you're drunk.

That's not an exaggeration. The Biden Justice Department is making that claim. Really.

Here's the Justice Department's arguments, as set out in its briefs in the case, again according to *Reason*:

> "As early as 1655," the DOJ notes, "Virginia prohibited "shoot[ing] any gunns at drinkeing [events]." A 1771 New York law "likewise barred firing guns during the New Year's holiday," a regulation that "was aimed at preventing 'the great Damages…frequently done on [those days] by persons…being often intoxicated with Liquor.'" In 1731, Newport, Rhode Island, "forbade the firing of 'any gun or pistol' in any tavern at night, a time and place where people were at a heightened risk of drinking to excess."

Readers are probably able to distinguish immediately those historical statutes from the "law" disarming pot smokers simply for smoking pot.

First, the earlier laws prohibit the *firing* of weapons in public by people who *are intoxicated*.

Second, none of those old laws disarm the person a priori. They simply forbid someone from firing a weapon at a public event while the person is drunk. That's it. That's still a crime, or at least good grounds for a suit for negligence against the drunk guy shooting the gun in public!

An accurate analogy would be to disarm a person who drinks alcohol, whether that person ever gets drunk or not and whether he is ever drunk in public or not, simply because firing a weapon while intoxicated is potentially dangerous.

Patrick Wyrick, a federal judge in Oklahoma, pointed out these significant differences in an opinion handed down in the 2023 case of *United States v. Harrison*:

> First, the restrictions imposed by each law only applied while an individual was actively intoxicated or actively using intoxicants. Under these laws, no one's right to armed self-defense was restricted based on the mere fact that he or she was a user of intoxicants. Second, none of the laws appear to have prohibited the mere possession of a firearm. Third, far from being a total prohibition applicable to all intoxicated persons in all places, all the laws appear to have applied to public places or activities (or even a narrow subset of public places), and one only applied to a narrow subset of intoxicated persons ["public officers"]. Importantly, none appear to have prohibited the possession of a firearm in the home for purposes of self-defense.

Here's how *Reason* reveals the ridiculous assertions put forward by the feds:

> The government's 11th Circuit brief wisely eschews the DOJ's earlier reliance on what Wyrick called "ignominious historical restrictions" that disarmed slaves, Catholics, loyalists, and Native Americans. Those precedents, the government had argued, showed that legislators have the authority to withhold gun rights from any group they deem "untrustworthy." But the DOJ is still arguing that "the people" protected by the Second Amendment are limited to "law-abiding, responsible citizens," a category that it says does not include cannabis consumers or anyone else who breaks the law, no matter how trivial the offense.

Do you trust the government to determine trustworthiness?

Does trustworthiness have any bearing whatsoever on the right of the people to keep and bear arms?

Does the Second Amendment grant to the federal government the authority to disarm someone it deems

untrustworthy?

Let's see. The Second Amendment reads:

> 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.

Samuel Johnson's Dictionary of 1786 defines "infringe" as "to violate, to breach a contract."

Pretty simple.

There is no provision in that amendment for the disarmament of people who aren't "responsible" or "trustworthy."

Lest we think that such restrictions are reasonable and thus not constitutionally offensive, we must be constitutionally consistent. We cannot treat the rights protected by the Constitution as a buffet, some sort of convenient a la carte menu of provisions to be enforced or ignored according to a party or practice with which we don't agree.

Finally, constitutionalists must look upon *every* regulation on the natural right of the people to keep and bear arms as an act of tyranny — and treat it accordingly.

Laws against using a firearm while intoxicated (or high) already exist, and we need not violate the Constitution in order to protect people from such acts. To punish someone for a potential crime simply because he does something that sometimes contributes to the commission of a crime is unconstitutional, illogical, and un-American.