



Written by [Veronika Kyrylenko](#) on June 7, 2021

## California “Assault Weapons” Ban Overturned, Deemed Unconstitutional

On Friday, U.S. District Court Judge Roger Benitez struck down California’s ban on “assault weapons” in *Miller v. Bonta*. [The ruling](#) of the judge begins, “Like the Swiss Army Knife, the popular AR-15 is a perfect combination of home defense weapon and homeland defense equipment,” and declares the California statutes making it a crime to own an AR-15-style rifle unconstitutional.

California’s “assault weapons” ban was passed in 1989 and has since been updated a number of times.

The lawsuit was filed by the San Diego County Gun Owners Political Action Committee, California Gun Rights Foundation, Second Amendment Foundation, and Firearms Policy Coalition. It is among several challenging California firearms laws.

The main issue appeared to be the state’s definition of an “assault weapon.” California Attorney General Rob Bonta [argued](#) that “assault weapons” were dangerous and were used in more crimes and mass shootings.

But the judge disagreed, stating in his ruling that AR-15-style rifles were overwhelmingly owned for legal purposes, such as home defense. And, he said, the definition unlawfully deprived law-abiding citizens from owning firearms that are legal in most other states.

The ruling reads, “The Second Amendment ‘elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home’”

The judge continues by stating that “This case is not about extraordinary weapons lying at the outer limits of Second Amendment protection. The banned ‘assault weapons’ are not bazookas, howitzers, or machineguns. Those arms are dangerous and solely useful for military purposes. Instead, the firearms deemed ‘assault weapons’ are fairly ordinary, popular, modern rifles. This is an average case about average guns used in average ways for average purposes.”

The ruling says the media created the persuasion that AR-15 are “murderous assault weapons,” when, in reality, the FBI numbers show that murders in California involving AR-15s are seven times less common than deadly knife attacks. Californians are also three times more likely to be murdered by an attacker using his bare hands, fists, or feet than a person using a rifle.

Modern semiautomatic rifles such as the AR-15 are legal to build, buy, and own under federal law and the laws of 45 states, have become immensely popular in the United States, and in California in



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particular. Despite being banned for 20 to 30 years, according to the state's own evidence, there are 185,569 "assault weapons" currently registered with the California Department of Justice. And the numbers are on the rise.

Yet, says Betinez, California has banned, and continues to ban, these popular rifles, adding, "Perhaps the State has a long-range plan of taking incremental steps toward more and more gun control. But it should be obvious that barring total extinction of the Second Amendment, no amount of 'common sense' gun control laws will prevent criminals from misusing guns."

The case is described as "very simple": If the government bans an entire class of very popular hardware — firearms that are lawful under federal law and under the laws of most states and that are commonly held by law-abiding citizens for lawful purposes — then "under no level of heightened scrutiny can the law survive."

California Democrats and gun control advocates were outraged by the ruling upholding the citizens' Second Amendment-protected rights.

California Governor Gavin Newsom (D) issued a [statement](#) that said, in part: "Today's decision is a direct threat to public safety and the lives of innocent Californians, period," and called AR-15 a "weapon of war."

Kris Brown, president of the nonprofit Brady Center to Prevent Gun Violence [expressed](#) her dismay at Judge Benitez's decision, saying, "I'm incredulous and I think this judge doesn't deserve to be on the bench. It's a gross mischaracterization of facts from what I've read and I find it deeply ... honestly, humiliating. It makes me ashamed to be an American."

The case will now go to a three-judge panel in the Ninth Circuit Court of Appeals and could be headed for the U.S. Supreme Court, since the California AG has already filed an [appeal](#).

Gun-rights advocates hailed Benitez's ruling, saying they would be prepared to fight to uphold it all the way to the Supreme Court if necessary.

"This historic victory for individual liberty is just the beginning, and FPC [Firearms Policy Coalition] will continue to aggressively challenge these laws throughout the United States," FPC President Brandon Combs, whose group helped bring the lawsuit to court, said in a [statement](#).

Benitez's ruling marks a defeat for Democrats who have looked to expand gun control in recent years, only to be rebuffed by conservative judges and Republicans in Congress. The ruling on Bonta's appeal could hold sway over whether Democrats, led by President Biden, will be successful in their push to implement a federal ban on "assault weapons," a prohibition Biden [promised](#) on the campaign trail he would put into effect.



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