Written by **Raven Clabough** on March 25, 2021

Ninth Circuit Issues Controversial Ruling: Americans Have "No Right" to Carry Guns in Public

The Ninth U.S. Circuit Court of Appeals ruled on Wednesday that Americans do not have a right to carry a gun in public, prompting concerns from Second Amendment advocates who have already been forced into a defensive position by gun-control advocates following mass shootings in Colorado and Georgia.

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Claiming to have examined 700 years of legal history going as far back as the 14th-century English parliament, the Ninth Circuit ruled in an "en banc" decision, "There is no right to carry arms openly in public; nor is any such right within the scope of the Second Amendment."

"The Second Amendment did not contradict the fundamental principle that the government assumes primary responsibility for defending persons who enter our public spaces," Judge Jay Bybee, a George W. Bush appointee, wrote for the majority. "The states do not violate the Second Amendment by asserting their longstanding English and American rights to prohibit certain weapons from entering those public spaces as means of providing 'domestic tranquility' and forestalling 'domestic violence.'"

The 7-4 ruling rejected a 2012 challenge by Hawaiian resident George Young to Hawaii's requirement that residents must pass an application to have weapons outside a home. According to the *Washington Times*, Young applied twice for a firearm carry license but was denied, prompting him to file a lawsuit against the state's restrictions.

A 2018 ruling by a divided three-judge Ninth Circuit court panel ruled in Young's favor, asserting that carrying a gun in public is a constitutional right, but the "en banc" panel majority reversed that decision on Wednesday. "We can find no general right to carry arms into the public square for self-defense," Judge Bybee wrote, adding that the Second Amendment merely applies to the "defense of hearth and home."

"The power of the government to regulate carrying arms in the public square does not infringe in any way on the right of an individual to defend his home or business," the judges wrote.

The decision will allow Hawaii to continue to limit permits for open-carry to security guards, the *Los Angeles Times* writes.

Four of the panel judges disagreed with the ruling, with Judge Diarmuid O'Scannlain calling it "as unprecedented as it is extreme" in his dissent.

"At its core," wrote O'Scannlain, a Reagan appointee, "the 2nd Amendment protects the ordinary, law-abiding citizen's right to carry a handgun openly for purposes of self-defense outside the home. Despite

an exhaustive historical account, the majority has unearthed nothing to disturb this conclusion."

Judge O'Scannlain contends the majority failed to properly interpret the U.S. Supreme Court's 2008 ruling in *District of Columbia v. Heller*, and in doing so, failed to correctly conclude that "armed self-defense in public as at the very core of the Second Amendment right."

The ruling is typical of activist leftist judges who make rulings to expand "rights" to aid their own causes yet attack rights conservatives cherish. While the right to free speech has been expanded to mean that pornographic images and movies must be allowed countrywide, despite images having no connection to speech, free speech rights have been curtailed for religious persons under the claim that religion and the public sphere must remain separate. Neither claim is logically tenable under the Constitution, as it was intended and written.

Wednesday's decision affects nine states, the *Los Angeles Times* reports, including California.

The Ninth Circuit already decided in 2016 that Americans did not have a constitutional right to carry concealed guns in public, which allowed counties to set their own requirements for permits. But Wednesday's decision goes even further by alleging Americans do not have a constitutional right to carry a gun outside of their home and is likely to force the U.S. Supreme Court to intervene, asserts Alan Beck, who represented Young in the case.

Courthouse News also contends the Ninth Circuit's ruling is "ripe" for Supreme Court intervention:

> By upholding state laws that restrict carrying guns in public, the Ninth Circuit joined three other circuit courts that have issued similar rulings: the Second, Third and Fourth Circuits. Meanwhile, the D.C. Circuit and Seventh Circuit have struck down state laws that ban carrying guns in public. That makes the dispute ripe for Supreme Court review.

Beck observes that even as other circuits have upheld restrictions on carrying guns in public, none have gone as far as the Ninth Circuit's ruling. "The Ninth Circuit's opinion, which finds the Second Amendment right does not apply outside the home at all, contradicts the decisions of every federal circuit court in the country that has ruled on this issue," Beck told Courthouse News. "We will be seeking Supreme Court review in order to overturn the Ninth Circuit's erroneous decision."

Predictably, anti-Second Amendment advocates seized on the ruling to push for stricter gun control in the wake of mass shootings in Colorado and Georgia. "Today's ruling, joined by respected appellate judges across the ideological spectrum, is the latest reminder that arguments against reasonable, life-saving gun laws rarely hold up in the courtroom," said Eric Tirschwell, managing director for Everytown Law. "As the court recognized, states and localities have extremely broad power to restrict the carrying of firearms in public spaces."

But constitutional groups such as the National Rifle Association have already pledged to fight the ruling. "The US Court of Appeals for the 9th Circuit just ruled that THERE IS NO RIGHT TO CARRY — either openly or concealed in public. This ruling impacts RTC [right-to-carry] laws in AK, HI, CA, AZ, OR, WA, & MT. This was not an NRA case but we are exploring all options to rectify this," the gun-rights group wrote on Twitter.