



Written by [Joe Wolverton, II, J.D.](#) on March 22, 2023

## Federal Judge Strikes Down California Gun Law as Unconstitutional

A federal judge on Monday blocked a California law that restricts the sale of new handguns.

U.S. District Court Judge Cormac Carney pointed out that parts of the legislation violate the Second Amendment and therefore are unenforceable.

Carney's [order in the case of \*Boland, Santellan, et al. v. Bonta\*](#) took notice of the fact that no new models of semiautomatic handguns have been approved for sale in California since 2013 and citizens of that state seeking to conform to the statute in question would be forced to purchase older handguns, some of which would not have the safety features available on newer models. Specifically, Carney's opinion pointed out that:



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No handgun available in the world has all three of these [safety] features. These regulations are having a devastating impact on Californians' ability to acquire and use new, state-of-the-art handguns.

The state law known as the Unsafe Handgun Act carved out an exception for older handguns that don't have to conform to the safety conditions imposed on current handguns.

Of this exception, Carney wrote:

Californians have the constitutional right to acquire and use state-of-the-art handguns to protect themselves. They should not be forced to settle for decade-old models of handguns to ensure that they remain safe inside or outside the home.

For its part, the government of the state of California argued that keeping handguns out of the hands of civilians is necessary to prevent "public safety risks," such as "accidental shooting injuries and deaths."

"The fact of the matter is, California's gun safety laws save lives, and California's Unsafe Handgun Act is no exception," California Attorney General Rob Bonta said in a statement.

Carney responded in his order that the claim that preventing the purchase of the statutorily outlawed handguns "will prevent accidental shootings, injuries, or deaths is entirely speculative."

While Americans should not depend on a federal judge's opinion for the protection of their natural right to defend their life, liberty, and property, Judge Carney is to be congratulated for his well-reasoned



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refusal to support the state government's attack on the people's right to keep and bear arms as protected by the Second Amendment to the U.S. Constitution.

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.

The reason for inclusion of the Second Amendment in the Bill of Rights had little to do with the British and more to do with future attempts by an out-of-control, all-powerful central authority to disarm the American people as a step toward tyranny. Take, for example, the following statements by Founding Era jurists regarding the purpose of the passage of this amendment. In commenting on the Constitution in 1833, [Joseph Story wrote](#):

The right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them.

St. George Tucker, a hero of the battle of Yorktown, also [warned about the threat to liberty](#) posed by politicians infringing on the right of a free people to be armed:

This may be considered as the true palladium of liberty.... The right of self defense is the first law of nature: in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Wherever standing armies are kept up, and the right of the people to keep and bear arms is, under any color or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.

The first step in thwarting government's goal of consolidating all power in the hands of the establishment is to remember that any act, regulation, or order that restricts the right of the people to keep and bear arms has no legal effect.

As for the claim that regulations restricting keeping and bearing arms keeps the people safe, the influential Italian jurist [Cesare Beccaria wrote in 1764](#):

The laws of this nature are those which forbid to wear arms, disarming those only who are not disposed to commit the crime which the laws mean to prevent.

Can it be supposed, that those who have the courage to violate the most sacred laws of humanity, and the most important of the code, will respect the less considerable and arbitrary injunctions, the violation of which is so easy, and of so little comparative importance?

Does not the execution of this law deprive the subject of that personal liberty, so dear to mankind and to the wise legislator; and does it not subject the innocent to all the disagreeable circumstances that should only fall on the guilty?

It certainly makes the situation of the assaulted worse, and of the assailants better and



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rather encourages than prevents murder, as it requires less courage to attack unarmed than armed persons.

Judge Carney's injunction prevents California's gun statute from being enforced for two weeks, giving the state's attorney general time to prepare an appeal.



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