



Written by [David Kelly](#) on February 6, 2023

Prohibiting Guns for Marijuana Users Ruled Unconstitutional

A federal district judge in Oklahoma [ruled](#) Friday that a federal law prohibiting people who use marijuana from owning firearms is unconstitutional, citing a recent U.S. Supreme Court (SCOTUS) ruling that significantly expanded gun rights. This is the latest challenge to firearms regulations since the conservative-majority SCOTUS set new standards last year for interpreting the Second Amendment.

In *United States of America v. Jared Michael Harrison*, defense attorneys argued that Harrison's Second Amendment rights were being violated by the [Gun Control Act](#), which makes it illegal for anyone "who is an unlawful user of or addicted to any controlled substance" to possess firearms or ammunition. The lawyers claimed the law was not consistent with the nation's "historical tradition of firearm regulation," noting the SCOTUS [ruling](#) last June in *New York State Rifle & Pistol Association v. Bruen*.



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Harrison had been charged with a violation of the Gun Control Act after being arrested in Lawton, Oklahoma, following a traffic stop. The court document shared, "The officer asked Harrison to step out of his car. When he did, the officer noticed that Harrison was wearing an ankle monitor. Harrison told the officer that he was on probation in Texas for an aggravated assault." Police found a loaded revolver and marijuana in Harrison's car. He said he was on his way to work at a medical marijuana dispensary. He did not have a state-issued medical-marijuana card.

"Federal prosecutors had argued that the portion of the law focused on drug users is 'consistent with a longstanding historical tradition in America of disarming presumptively risky persons, namely, felons, the mentally ill, and the intoxicated,'" [reported](#) the Associated Press

However, U.S. District Judge Patrick Wyrick disagreed with the prosecutors' arguments, dismissing the indictment against Harrison saying it infringed his right to bear arms under the U.S. Constitution's Second Amendment. Noting a history of gun law restrictions involving "intoxicated persons," the judge wrote that, "importantly, none appear to have prohibited the possession of a firearm ... for purposes of self-defense."

In Wyrick's ruling, he found that Harrison's status as a marijuana user didn't justify "stripping him of his fundamental right to possess a firearm" and that the law "is not a constitutionally permissible means



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of disarming Harrison.”

“The mere use of marijuana carries none of the characteristics that the Nation’s history and tradition of firearms regulation supports,” he added. He also highlighted that under Oklahoma law, marijuana can be bought legally at more than 2,000 storefronts in the state.

In the court’s conclusion, Wyrick wrote:

None of this is to say that the government cannot play a role in protecting the public from dangerous persons possessing firearms. It can, and it should. For example, if the State of Texas thought that Harrison’s alleged involvement in a shooting demonstrated that Harrison was a danger to the public, it could have demonstrated to a Texas judge ... that Harrison ought to be jailed while awaiting trial for that shooting.... But that didn’t happen; Harrison was released pending trial in Texas. And so here we are, with the federal government now arguing that Harrison’s mere status as a user of marijuana justifies stripping him of his fundamental right to possess a firearm. For all the reasons given above, this is not a constitutionally permissible means of disarming Harrison.

Friday’s ruling marked the latest decision of a federal court declaring a gun regulation unconstitutional after the SCOTUS *Bruen* case ruling that the Second Amendment protects a person’s right to carry a handgun in public for self-defense.

On Thursday a three-judge panel of the 5th U.S. Circuit Court of Appeals [ruled that](#) the government can’t stop people who have domestic violence restraining orders against them from owning guns, referencing the SCOTUS *Bruen* decision in its ruling.

Considering all the gun-control rhetoric being bandied about by President Biden and his ilk, it’s good to see federal judges and SCOTUS push back and rule in favor of people’s constitutional right to own and carry firearms.

However, with all firearms ownership comes the need for knowledge and the responsibility to not handle firearms while under the influence of alcohol, marijuana, or any controlled substance — for the safety of others as well as oneself.



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