

US APPEALS COURT SAYS PEOPLE CONVICTED OF NONVIOLENT OFFENSES SHOULDN'T FACE LIFETIME GUN BAN - ASSOCIATED PRESS

Posted on June 7, 2023 by MARYCLAIRE DALE | ASSOCIATED PRESS



Photo: Judge Thomas Hardiman authored the majority opinion

A U.S. appeals court ruled Tuesday that nonviolent offenders should not be subject to lifetime gun bans, [the latest fallout](#) from a recent Supreme Court decision that instructs judges to look to history and tradition to weigh the constitutionality of gun control laws.

In an 11-4 vote, the 3rd U.S. Circuit Court of Appeals sided with a man who had pleaded guilty to misstating his income to receive about \$2,500 in food stamps for his family in 1995.

While the case involved a misdemeanor, and Bryan Range received only probation, he faced up to five years in prison. That potential penalty triggered a Pennsylvania ban on gun possession for people facing at least a year in prison.

The 11-4 majority — reversing a lower court decision in the wake of the [Supreme Court's Bruen decision](#) — looked to gun laws dating to the 18th century for guidance and found none that contemplated lifetime weapons bans for nonviolent criminals.

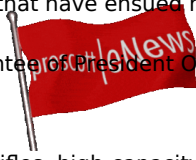
Even rebels who took part in the 1787 tax uprising in Massachusetts known as Shays' Rebellion could generally get their weapons back after three years, Circuit Judge Thomas Hardiman noted in a footnote to his majority opinion, which called the ruling a narrow one.

"Range remains one of 'the people' protected by the Second Amendment, and his eligibility to lawfully purchase a rifle and a shotgun is protected by his right to keep and bear arms," wrote Hardiman, who was on the short list for a Supreme Court nomination in 2017, when President Trump instead selected Justice Neil Gorsuch.

In the Bruen decision last year, the Supreme Court tossed aside the balancing test that lower courts had long used to decide gun control cases. Judges should no longer consider whether the law serves public interests like promoting public safety, but must instead find the ban consistent with the country's "historical tradition of firearm regulation." The ruling has led courts to overturn gun bans designed to keep weapons away from domestic abusers, felony defendants and marijuana users.

Legal experts say the confusion and conflicting opinions that have ensued may lead the high court to revisit the issue.

In a dissent Tuesday, Judge Cheryl Ann Krause, an appointee of President Obama, said that history and tradition may be apt if the weapons bans involved “muskets and flintlock pistols.”



Instead, she said, our divided nation is awash in assault rifles, high-capacity magazines and semi-automatic handguns, while mass shootings are “a daily occurrence.” She argued that lawmakers, as elected representatives, “bear the heavy responsibility of enacting legislation that preserves the right to armed self-defense while ensuring public safety.”

“Although they face evolving challenges in pursuing those twin aims, striking that delicate balance has long been a core function of the legislature in our system of separated powers,” Krause said, “and legislatures’ authority to disarm those who cannot be trusted to follow the laws has long been crucial to that endeavor.”

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