

Straight Shooters
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2nd Amendment attorneys outspoken on gun permit issues

By DOUGLAS S. MALAN

Like tobacco and alcohol, guns carry a stigma of political incorrectness that makes most discussions of their regulation and control a controversial matter. It's a perfect arena for lawyers.

Civil rights lawyers in the state who handle gun ownership rights cases are practicing at an interesting time, as the U.S. Supreme Court debates the scope of the Second Amendment and allegations in a federal lawsuit say that the state Department of Public Safety is trampling on the right to bear arms.

New Britain attorney Ralph Sherman, whose practice is centered on gun rights, is adamant about protecting Second Amendment rights, which in the state constitution are outlined in Article 1, Section 15: "Every citizen has a right to bear arms in defense of himself and the state."

Applicants for local and state pistol permits must be at least 21 years old and legal residents of the United States. Rifles and shotguns do not require permits.

Sherman's beef is that the state office that oversees gun permits is inefficient. His goal is to make it more accountable. "I'm the only person in the state on a campaign to put himself out of business," said Sherman, who began practicing in 1991.

The bulk of his caseload is representing people who applied for state pistol permits through the Public Safety Department's Special License and Firearms Unit (SLFU) and were denied, or those who had their permits revoked. Appeals are filed with the seven-member Board of Firearms Permit Examiners.

Sherman said problems exist in the permitting. Some of his clients, he said, have been denied permits for unclear reasons. And, he added, the number of denials has created a backlog in the appeals process.

Mistaken Identity

One of Sherman's clients was denied a permit because the mandatory background check revealed a criminal history. But it was the criminal history of someone with the same name as Sherman's client, not actually Sherman's client.

Sherman has also been an outspoken critic of two bills currently under consideration by the General Assembly. One would outlaw the sale of firearms ammunition that does not bear a serial number on the bullet and cartridge case.

The other would outlaw the sale of firearms unless their ammunition is micro-stamped with a unique number or other mark.

Sherman, who is also chairman of Gunsafe, a Connecticut gun owners' group, said his strong beliefs in the right to bear arms is rooted in his admiration of the Founding Fathers and the country's revolution against the British. "I'm a libertarian at heart," he said. "I believe that the country was built on two principles: mind your own business and keep your hands to yourself."

Danbury attorney Andrew Buzzi Jr. also has butted heads with the state when clients retain him in gun-related issues.

He has been involved in denied permits cases and also has represented clients whose guns were seized under what some call the "turn-in-your-neighbor" law, which gives police the right to seize weapons and ammunition from the

home of a person who authorities believe may be considering a criminal act. That law was adopted in 1999, a year after the shooting deaths of four people at the state's lottery headquarters.

Buzzi said that often his legal representation involves sitting down with state's attorneys and parsing the language of state laws to make his case for a client who was wrongfully denied a permit.

He believes the DPS is encroaching on citizens' rights through its long delays.

"Administrative failure to timely act and administer the law has threatened our basic rights and circumvented the checks and balances present in our legislative system," said Buzzi, whose 2nd Amendment work makes up only a small part of his practice.

Rachel M. Baird, a Hartford attorney, has only recently become involved in gun-rights matters. She filed a complaint in federal court in Hartford on behalf of M. Peter Kuck, a member of the Board of Firearms Permit Examiners.

In Baird's amended complaint, filed in January, Kuck contends that the appeals process is intentionally backlogged with unsubstantiated denials to delay hearings and the issuance of permits for as long as possible.

Specifically, Kuck challenged the notion that he needed to submit a birth certificate, United States passport or voter registration card to the Department of Public Safety for the renewal of his permit, which he first obtained in 1982. Kuck, a U.S. citizen and West Hartford resident, was told by the firearms unit that since the Sept. 11 attacks, its policy was to demand a U.S. passport or birth certificate as condition for renewal.

"DPS is relying on justification such as homeland security and making their own laws that are not authorized by state statute," Baird said. "They're ignoring the fact that they have no legislative authority to do this."

State Defends Actions

Judge Vanessa L. Bryant is hearing the case, and the Attorney General's office is defending the matter.

"The Connecticut Constitution provides a right to bear arms only to citizens and legal residents, and state law requires anyone seeking a permit to carry a pistol to demonstrate they are citizens or legal residents," said Attorney General Richard Blumenthal. "This requirement — especially in the wake of 9/11 — is simple common sense."

Blumenthal also noted that the Board of Firearms Permit Examiners "reviews and rules on appeals as fast as its resources allow. If Mr. Kuck believes the board should move faster, he should lobby the governor and the General Assembly — which must carefully weight allocation of scarce public safety dollars — for additional resources."

Some gun owners and their lawyers see all of this as an erosion of their civil rights, but they have received no assistance from the state chapter of the American Civil Liberties Union. "As far as I know in Connecticut, we've never handled these types of cases," said Andrew Schneider, executive director of the state chapter.

While executive director at the West Virginia chapter, Schneider represented a hunting club that challenged a state law prohibiting Sunday hunting on one's private land. The gun club ultimately lost before the West Virginia Supreme Court.

Eyes are on the U.S. Supreme Court as the justices contemplate the right to bear arms in *District of Columbia v. Heller*, the first Second Amendment case before the court in nearly 70 years. The plaintiff, who is challenging a Washington, D.C., pistol ban, lost in federal court, but prevailed before the Federal Circuit Court of Appeals.

Sherman, the New Britain attorney, hopes that a favorable ruling for *Heller* will inspire lawyers to challenge other gun laws that they deem unconstitutional.

"The right [to bear arms] is a fundamental civil right and a right to defend against aggression," Sherman said. "I'm not out to force people to have guns. [But] there are people out there who want to impose their beliefs on others, and that's wrong in a fundamental and moral sense."•