

## 2<sup>nd</sup> Amendment Cases

In presenting this following list of cases that appear to us to have been, or are in the process of being reviewed under Bruen, the VTFSC has used it's best judgement. As cases are occurring weekly, this is only generally accurate as of 1/18/2023.

**May 15, 1939** – [US v Miller](#) – SCOTUS

Challenge to the 1934 National Firearms Act

Held:

> The sort of weapons protected by the 2<sup>nd</sup> Amendment are those “in common use at the time”

**June 26, 2008** [DC v Heller](#) - SCOTUS

Ability to have a firearm “ready” (not disassembled or locked up)

Held:

> 2<sup>nd</sup> Amendment protects an individual right to possess a firearm

> The 2<sup>nd</sup> Amendment is not unlimited

> Hand gun ban and the trigger lock requirement violate the 2<sup>nd</sup> Amendment

**June 28, 2010** [McDonald v Chicago](#) – SCOTUS

Ability to possess a handgun

Held:

> It is constitutional to possess a handgun

> that the “2<sup>nd</sup> Amendment right is fully applicable to States”

**March 21, 2021** - [Caetano v MA](#) – SCOTUS

Challenge to a MA law concerning the carrying of a stun gun

Held:

> “...the 2<sup>nd</sup> Amendment extends prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding” (Heller)

> SCOTUS overturned and vacated the Supreme Court of MA's decision

This case came before SCOTUS on appeal from the Supreme Court of MA, which had previously upheld a law that a stun gun was a) not in common use at the time of the founding; b) stun guns were dangerous and unusual; and c) stun guns were not readily adaptable for military use.

**July 13, 2021** – [Hirschfeld v BATFE](#) – 4<sup>th</sup> Circuit

Challenge on firearms age restrictions on 18 – 20 year old

3-judge panel found it to be unconstitutional to restrict 18-20 year old, GVR

(see September 22, 2021)

**August 31, 2021** – [Range v Lombardo](#) – District Court of Eastern PA

Challenge to firearm confiscation for non-violent misdemeanors

Summary Judgement in favor of the State (see January 6, 2023 – appealed to 3<sup>rd</sup> Circuit)

**September 22, 2021** – [Hirschfeld v BATFE](#) - 4th Circuit – On Appeal

**Challenge on firearms age restrictions on 18 – 20 year old**

Plaintiff's lost standing as they had turned 21. Prior decision vacated, remanded with directions to dismiss. The Public *"will still retain some benefit from the panel opinion even if vacated, because the exchange of ideas between the panel and dissent will remain as a persuasive source."*

**June 23<sup>rd</sup>, 2022** – [NYSRP v Bruen](#) - SCOTUS

**Ability to bear arms outside the home**

Held:

- > "proper-cause" requirement to get a Concealed Carry Permit is unconstitutional
- > There is a constitutional right to bear arms in public
- > The 2<sup>nd</sup> Amendment is not a 2<sup>nd</sup>-class right
- > No more second-step "means-to-ends" or "reasonableness" tests
- > There is now a single-step test based on history, text and tradition

With the Bruen decision, SCOTUS established a new standard by which ALL 2<sup>nd</sup> Amendment cases must be decided, and it involves a single step inquiry. Using this approach, courts determine whether the "plain text" of the Second Amendment covers the challenged action, and if it does, the government then bears the burden of showing that the challenged regulation is consistent with the nation's historical tradition of regulating firearms.

The intermediate scrutiny test, used by courts all over the country to uphold restrictive gun control measures, has now been abolished concerning the Second Amendment. Courts are now mandated to disregard alleged government objectives and public policy arguments, instead analyzing firearms restrictions by exclusively looking at the historical meaning and text of the Second Amendment.

Seven other states had laws similar to what was struck down; Maryland struck down theirs on July 8, 2022.

**June 21, 2022** – [Miller v Bonta](#) – District of Southern CA

**Challenge to CA's "assault weapons" ban**

Judge Benitez initially ruled that the ban was unconstitutional by any standard. This was upheld by a 3-judge panel of the 9<sup>th</sup> Circuit (2-1); that was appealed to the 9<sup>th</sup> Circuit en banc.

Judgement vacated with case remanded for further consideration under Bruen

Benitez will be re-issuing his decision soon, likely in February and will not change his stance. If appealed back to the 9<sup>th</sup> Circuit, they will either uphold the Benitez decision or strike it down. If struck down, there will be an emergency appeal to SCOTUS, who WILL uphold Benitez as he exhaustively employed the new standard.

**July 1, 2022** – NY Passes CCIA [Concealed Carry Improvement Act \(CCIA\)](#)

**July 22, 2022** – [Rocky Mountain Gun Owners v Superior](#) – District Court of CO

Challenge to CO's "assault weapons" ban

Enforcement of ban was stopped

**August 1, 2022** – [Duncan v Bonta](#) (previously Duncan v Becerra) – 9<sup>th</sup> Circuit

Challenge to California's High-Capacity Magazine ban

Judgement vacated by SCOTUS with case remanded for further consideration under Bruen

**August 1, 2022** – [Young v Hawaii](#) – 9<sup>th</sup> Circuit

Challenge to carrying restrictions in Hawaii

Judgement vacated by SCOTUS with case remanded for further consideration under Bruen

**August 1, 2022** - [Bianchi, Dominic, et al. v. Frosh](#) – 4<sup>th</sup> Circuit

Challenge to Maryland's Assault Weapon ban

Judgement vacated by SCOTUS with case remanded for further consideration under Bruen  
Maryland subsequently dropped its "special need" requirement

**August 1, 2022** – [NJRPA v Grewal](#) – 3<sup>rd</sup> Circuit

Challenge to NJ's High-Capacity Magazine ban

Judgement vacated by SCOTUS with case remanded for further consideration under Bruen

**August 11, 2022** – [Vanderstock v Garland](#) – 5<sup>th</sup> Circuit

Challenge to ATF's "Frame and Receiver" Rule

As of 1/12/2023 – Motions pending for Preliminary Injunction & Summary Judgement

**August 25, 2022** [Firearms Policy Coalition v McGraw](#) – Western District Court of Texas

Challenge to Prohibition on handgun carrying by those under 21

Challenge was successful – law was struck down

**August 31, 2022** [Antonyuk v Bruen](#) – Northern District of New York

Constitutional challenge to NY's CCIA; sensitive places & procedures

Unsuccessful; court ruled Antonyuk lacked standing (Antonyuk stood alone)

**September 19, 2022** [United States v. Quiroz](#) – Western District Court of Texas

Receiving firearms while under indictment for a felony

Federal law barring those under indictment for a felony from receiving (but not possessing) firearms during the pendency of the charges struck down.

**September 23, 2022** [Rigby v Jennings](#) – Delaware Federal Court

Ghost Gun Law

Struck down as unconstitutional

**September 27, 2022** – [Stickley v City of Winchester](#) – Winchester City Circuit Court  
Challenge to Sensitive Places  
Court granted preliminary injunctions regarding enforcement of specific sections

**November 23/2022** – [Christian v Nigrelli](#) – 2<sup>nd</sup> Circuit  
Challenge to NY’s “private property exclusion” tenet  
District Court of Western NY upheld – now on appeal with 2<sup>nd</sup> Circuit

**November 17, 2022** [Antonyuk v Nigrelli](#) – Northern District Court of New York  
Challenge to NY’s CCIA; sensitive places & procedures  
Motion for Preliminary Injunction on CCIA granted in part and denied in part. The Federal judge wrote his decision (above link), with that decision ordering NY officials to halt enforcement of certain provisions of the new CCIA, but he delayed finalizing his decision to give state officials time to appeal to the US 2<sup>nd</sup> Circuit. That appeal was made.

The 2nd Circuit stayed the injunction without adequate explanation, thereby allowing the law to continue to stand.

Antonyuk & plaintiffs filed an emergency appeal to SCOTUS to overrule the 2<sup>nd</sup> Circuit. SCOTUS upheld the stay, but issued this [interestingly-worded order](#).

It is expected that the District Court judge will now formally issue the already-written thorough ruling, which will place an injunction on most aspects of the new CCIA.

That decision COULD be left standing (staying a number of the CCIA’s provisions) or COULD be appealed back to the 2<sup>nd</sup> Circuit. If it is appealed: The 2<sup>nd</sup> Circuit has been given some pretty clear instructions by SCOTUS via the [interestingly-worded order](#).

**December 8, 2022** – [Baird v Bonta](#) – Eastern District Court of CA  
Challenge to CA’s Carry laws  
Court has asked Plaintiffs and Defense for Expert Historical Witnesses (Bruen)

**December 20, 2022** – [Lane v James](#) – District Court of Southern NY  
Challenge to NY’s “assault weapons” ban  
Declaratory judgement against ban

**December 22, 2022** – [Renna v Bonta](#) – District Court of Southern CA  
Challenge to CA’s allowed roster of handguns  
Pending – next hearing February 10th

**December 30, 2022** - [G.W. v C.N.](#) – Supreme Court Of New York  
Challenge to NY’s ERPO/Red Flag Law  
Ruled as unconstitutional

**January 6, 2023** – [Range v BATFE](#) – 3<sup>rd</sup> Circuit (on Appeal from District Court of Eastern PA)  
Challenge to firearm confiscation for non-violent misdemeanors  
Move for re-hearing of en banc 3<sup>rd</sup> Circuit – Case Pending

**January 1, 2023** – [Koons v Reynolds](#) – District of NJ  
Challenge to NJ “sensitive places”  
Temporary restraining order granted, Court reserves it’s decision on preliminary injunction

**January 12, 2023** – [Graham v Jennings](#) – Delaware District Court  
Challenge to DE’s High-Capacity magazine ban  
Declaratory judgement against ban