

Stephen Gutowski (00:02.446)

All right. Welcome, ladies and gentlemen, to another episode of the Weekly Reload Podcast. I'm your host, Steven Gutowski. I'm also a CNN contributor and the founder of TheReload.com. I've been doing this intro. Like I had it memorized. It's down very smooth. All the while I've done like 200 episodes of the show now and tripped up on that version. But you can add over, of course, to TheReload.com if you want to keep up to date with what's going on with guns in America. You can also buy a membership if you wanna get extra insight into how things are going with firearms in America. You can get access to exclusive pieces you won't find anywhere else, including all of our analysis pieces. This week, we are talking about the first case where a federal judge has tossed out machine gun possession charges for the first time since the Bruen standard was handed down in 2022. There was a second amendment challenge to a recent defendant's charges over possession of some pretty interesting fully automatic weapons. We'll get to that. to discuss this, I've heard him a couple of times, but we have somebody who

handles National Firearms Act cases. National Firearms Act, for those who don't know, is what regulates possession of fully automatic weapons in the United States. And since 1986 is also the law that has banned new sales of fully automatic weapons to civilians. And that is a big part of this ruling. But I wanted to bring in a lawyer and somebody who actually interacts with these laws in court.

in real life to discuss this. And that's why we have Matt LaRosier, LaRosier, I'm never gonna get your name right. Back on the show. my gosh, LaRosier.

Matt Larosiere (02:02.953)

You've to write every time you were practicing it before you start recording. It was intentional at that point. Lo and it's fine. The French language deserves no respect, just don't worry about it.

Stephen Gutowski (02:10.134)

You said you said so that's there we go. He's back on the show.

Stephen Gutowski (02:18.656)

I can't, this has been a, anyone who's listened to show long enough knows that I'm terrible at pronouncing names at least the first couple of times somebody comes on. And so I apologize, but welcome back to the show. had you on back in April now, I guess. And so this, your, your comeback on you host, obviously, in addition to your legal work in Florida, you also host a show called Fuddbusters on YouTube. So that's sort of a legal analysis show.

Bit of a different I think tone and tenor than perhaps our show but But get into a lot of the weeds on on this exact kind of stuff So tell people a little bit more about yourself and your show

Matt Larosiere (03:00.541)

Yeah. Well, thanks for having me on again. Stephen, I've known Stephen for a long time and it's it's funny because on my show, it seems like half the time we're talking about your articles. But the distinction is our tone is a little more irreverent and decidedly less, you know, you're sober, serious firearms reporting. And I think we're whatever the opposite of that is. But.

Stephen Gutowski (03:19.745)

A little bit, yeah.

Stephen Gutowski (03:26.542)

Right.

Matt Larosiere (03:29.181)

But I do like, I love the reload because, you know, the greatest compliment somebody's ever given me on my content is NBlockpress said that it presupposes a level of knowledge of firearms law and policy that most don't. And I think that's, I'd give the same compliment to your content. Like you, you don't avoid getting into the weeds and discussing.

Stephen Gutowski (03:47.81)
Hmm.

Matt Larosiere (03:55.943)
the merits of individual policies and legal contentions. And so that's why I'm always excited to work with you. But yeah, I've got, of course, I've got a, you know, I hate to say broad just because of my, you you wind up making friends in this field that no more than you ever will. Right. But I've worked in the industry. I currently advise several major manufacturers and importers. And I

Stephen Gutowski (04:03.889)
Thank you.

Matt Larosiere (04:24.893)
do representation, usually on a pro bono basis of people who are faced with novel and aggressive interpretations of the National Firearms Act. And so it's something that I'm frequently asked to opine on and to write on. And this is certainly an interesting matter. the most interesting thing about it is how uninteresting everything before the ruling was.

Stephen Gutowski (04:54.983)
Yeah, so this is a case called US v. Morgan, right? We just had an analysis piece, one of those pieces only members have access to over at the reload, where Jake Fogleman, my contributing writer at TheReload, went through and looked at this case and looked at, this is, because like I mentioned at the beginning, it's the first time, as far as I'm aware, and I believe as far as you're aware, that we've seen

a machine gun possession charge tossed under the Bruen standard. Now this is to be clear, right. Yes, so then that's what makes it significant because this is a second amendment challenge. It's not just challenging some of the circumstances of the arrest or something like that, which are obviously more common things to see in court proceedings. Second amendment challenge to the underlying law.

Matt Larosiere (05:23.995)
under Bruen specifically. Yes, they get tossed fairly routinely, but this is the first time under Bruen.

Matt Larosiere (05:34.471)
Yes.

Matt Larosiere (05:46.706)
Mm

Stephen Gutowski (05:46.996)
as now again, this is an as applied challenge, right? So that means it's not, it didn't strike down the provision for everyone. still in the force. It's still in effect. Now it may have.

Matt Larosiere (05:59.055)
Well, this is a this. So this one's interesting, right? Because there's there's the distinction between as applied and facial challenges, and they brought both here. And if this ruling is allowed to stay, and it has precedential impact in the 10th Circuit, which

Stephen Gutowski (06:05.66)
Mm hmm. Yeah.

Matt Larosiere (06:22.095)
if it is upheld on appeal it would then

Stephen Gutowski (06:24.589)
Right. You know, I was confusing actually this with another case where it was the, gosh, we talked about it the news

update when I filmed it earlier. So that was the as applied challenge succeed. This is the marijuana user case, out of the, the fifth circuit where the as applied challenge was sustained, but the facial challenge wasn't so that, so yeah, explain to us the what happened in us Morgan before we go.

Matt Larosiere (06:31.422)
Yeah.

Matt Larosiere (06:37.235)
Right.

Matt Larosiere (06:44.273)
Is this what is it being?

Right. So Morgan is interesting because they brought a facial challenge and then they also brought by any other name and as applied challenge. so the court disposes of the facial challenge because after really, interestingly enough, Rahimi showed the court really nailing down that they don't like facial challenges and that you have to basically prove that there is and this goes back quite a couple of decades, right? But

in the Second Amendment context, you'd have to prove that there is no constitutionally acceptable application of the law. And the judge here in the Morgan case kind of handwaves away the facial challenge by using an analogy that the defendant made, you know, saying the machine gun definition is so broad, it covers aircraft mounted cannons to potentially lasers.

Stephen Gutowski (07:42.104)
Alright.

Matt Larosiere (07:45.095)
I don't know if I agree with that interpretation. But the court then used the linchpin of well aircraft mounted cannons aren't bearable arms. So it doesn't necessarily Yeah.

Stephen Gutowski (07:54.624)
you can't carry them around literally. That's sort of the distinction the court makes in that section.

Matt Larosiere (08:00.049)
Yeah, and, you know, I'm not sure about all of that, but it's a, it at least gets us past talking about the facial and, and to talking about the as applied. And so the question here is mere possession, right? So the, the funny thing is though, the as applied challenge is so close to facial that it's, it's hard to really distinguish them.

Stephen Gutowski (08:27.086)
And I would say that's kind of true for a lot for even the marijuana case too. basically anyone who's a marijuana user, at least in the fifth circuit at the moment, you're probably not going to get charged for owning guns under this federal statute.

Matt Larosiere (08:31.197)
No it is.

Matt Larosiere (08:40.209)
I think it's a distinction without a difference. I think it's a purely technical thing, right?

Stephen Gutowski (08:44.876)
Of course, that Fifth Circuit case is that was you've had two panel level decisions in the Fifth Circuit on that. This is a district court case. It's a little bit different, right?

Matt Larosiere (08:53.383)

Yes. Yeah, so it has no presidential authority on the courts of appeal. It would have presidential authority in this particular court. But this doesn't mean, you know, clickbait thumbnail Supreme Court ablaze, the NFA is over.

Stephen Gutowski (09:13.504)

sure we'll see plenty of that on YouTube. but yeah, like it's, you know, we obviously try to be a bit more as you mentioned earlier, sober and serious here on our analysis. And so the practical implications are, are not that the NFA is now, you know, impossible, but but they're not nothing right? Can you get into what what they are?

Matt Larosiere (09:15.761)

If you already have it, yeah, it's wonderful.

Matt Larosiere (09:24.391)

Yeah.

Matt Larosiere (09:33.193)

No. So what's interesting here is that the motion, the motion to dismiss was fairly straightforward and it really, it was well done. And it follows the same lines of the ones that came before it, the ones that came after Bruen, is, hey, 922 -0, which is the actual section he was charged under, prohibits the simple possession, not connected with any particularly dangerous type of firearm, not connected with any type of activity. So basically 922 -0,

says, no matter what, if you buy a machine gun that was not possessed by a individual before 1986, and you put it down in your safe for 20 years, you're just as guilty of a violation as somebody who buys it to then go and do terrible things, right? And yeah, or use it as a weapon, right? So the actual use of it as a weapon, which is relevant in other contexts in this area is completely irrelevant.

Stephen Gutowski (10:19.574)

some other crime.

Matt Larosiere (10:31.399)

in the machine gun context. And in fact, the machine gun definitions is one of the only ones that does not require the item be a weapon. But it could be, you for example, the switch itself, the Glock switch is not on its own a weapon. It's a part or a combination of parts for another weapon. So what this case is about, I guess kind of back up there because we didn't really talk about the circumstances. Mr. Tamari Morgan had in his possession, allegedly, a...

two very interesting machine guns. And Anderson manufacturing AM -15. So kind of like your wonder bread AR -15 converted to full auto in 300 blackout. And then he had a Glock switch, which everyone's heard about Glock switches. These go on the back of a Glock frame to make them fire automatically. And this was a fixed to a Glock model 33 in 357 SIG. And so for those of you who don't know, that's...

Stephen Gutowski (11:02.968)

Very interesting, yes.

Matt Larosiere (11:29.353)

like the smallest double stack Glock you can have. So it's like a Glock 26, but in 357 sig, which is very stout.

Stephen Gutowski (11:36.462)

Gotta be the weirdest full -auto gun I've ever heard of to be honest.

Matt Larosiere (11:39.955)

So think you'd wind up having like six or seven rounds in the standard magazine for that and then it'd be full auto. So it just truly bizarre.

Stephen Gutowski (11:46.542)

Very strange. Yes, what he actually possessed was accused of possessing is a very strange combination of weapons, but

that is relevant to the case. Yeah. 300 blackout AR in full auto, which I they don't detail this, I would be interested in, you know, how he got that AR to full auto.

Matt Larosiere (11:54.279)

Yeah. It's definitely a min -max loadout. Yeah.

Matt Larosiere (12:10.707)

Right.

Stephen Gutowski (12:11.502)

whether it's a drop in auto sear or something, I don't know, but they don't talk about it. then, yeah, presumably a Glock switched 33, just a weird combination, but it is relevant to the point you made earlier about bearable, bearableness, Yeah.

Matt Larosiere (12:19.773)

Right.

Matt Larosiere (12:28.093)

Yeah, bearability. So, so basically the this is actually public defenders, right? I've quipped many times that many of the best developments in firearms all come from the public defenders office, right? Because they're constantly they have no choice but to engage with this type of stuff and to engage to the best extent they possibly can.

Stephen Gutowski (12:47.97)

And it's a relatively easy defense or at least a relatively cost effective one because Bruen puts the burden not on the defense, but on the government, right?

Matt Larosiere (12:59.089)

Right. It's a burden shifting defense. Right. And so it's it's kind of a a no brainer thing to do. And so the the attorneys are like, hey, you know, the the framework says if it's bearable arms, it has to be justified. And so they haven't done that in every other course case. This has happened. The prosecution, you know, the defense sites Bruen says there is no historical analog that can be identified. And so we must win. And then

the prosecution will quite lazily and oftentimes word for word copying previously used motions by the government basically just say, no, but heller.

Stephen Gutowski (13:42.946)

Yeah, I've noticed that in a lot of these cases as well. It's kind of just the same thing over and over again.

Matt Larosiere (13:45.809)

Yeah, with no mention of particular historical analogs, just, but Bruen didn't overturn Heller. Well, Heller didn't actually say anything about the NFA. I mean, there was dicta where in the discussion they were saying, well, this would be, you know, shocking or whatever, but the actual line that they talk about, right, that they cite that says restrictions on M16 rifles and the like.

The full context of that dicta was historical analogs for restrictions on dangerous and unusual weapons, M16 rifles and the like, should they exist will come to light in future litigation. And so the government's kind of trying to flip the burden here by saying, but Heller, and it's like, yeah, no, but Heller said, someday you're gonna have to prove this. And so now it's your turn to prove it. And they've never done it.

And the reason they've never done it is because there actually aren't any historical analogs. The closest thing they have is the statute of Northampton and the two or three times that was invoked in the early American history. But as the judge in the Morgan Morgan case points out, that's not analogous at all. The again, that's the big law that the government has relied upon here. And one, it's from way too early to be relevant to the passage of the Constitution. It's like an old English concept. And two,

Stephen Gutowski (15:03.235)

Mm

Matt Larosiere (15:13.039)

It concerns conduct. It concerns actual bad intention actions. So it's the carrying of dangerous, unusual weapons in such a way or such a manner that would or as to instill terror in the people.

Stephen Gutowski (15:34.678)

going on to the terror of the people, I believe is the common phrase that survives through that history even into early American law that existed at the founding era, which is what they're citing this, it goes back much longer than that, but it did continue into the American founding era. But it was like you said, it was about going on to the terror of the people. it was sort of about the context as far as I understand it is.

And as far as I've seen it written out by the Supreme Court and other courts was sort of a high women situation where people would ban, roaming bands of robbers basically going around intimidating people with their weapons into robbing them essentially or making them do what they want. so it's in that sense, it's not the same.

Matt Larosiere (16:24.891)

So the history of it is actually kind of a little more subversive than that, right? Because it first comes around because the King is concerned he's going to be overthrown, right? And so that's a little bit different than, you know, general highwayman misbehavior. But it does. And that's the beauty of the English common law is these, you know, these mixes of decrees of the King and common practices.

Stephen Gutowski (16:42.23)

Yeah, but that's kind what it warps into later on is to understand it.

Matt Larosiere (16:53.813)

merge into something. And so the the kind of English common law result here was exactly as you said, a phrase and going armed and stuff like that. That's all stuff we can get historical support for. But it's not constitutionally significant for a Bruen analysis, because it's very clear we need a historically analogous law. And Rahimi showed us that they're not concerned so much about

Stephen Gutowski (16:55.342)

Mm

Matt Larosiere (17:23.945)

how the law was enacted, right? Because that would be, that would kind of be the reverse problem of, it only protects muskets, right? That would kind of be, it only protects muskets, but in our favor. So, Rahimi said, it doesn't matter how they did it. What really matters is that the why is analogous. And so the why of the going armed and the statue of Northampton is,

We do not want people banding and like swinging around flaming dead cats and things right to rob people and otherwise steal power or like discourage. Exactly.

Stephen Gutowski (18:02.188)

Yeah, there's an intent to intimidate or to scare people with the weapons that you have. That's sort of the core of what they're trying to get at. so that would be the why aspect of a.

Matt Larosiere (18:14.825)

Right. So then what's the why of what we're talking about here? And remember, we're not talking about the NFA. We're talking about the Firearm Owners Protection Act in 1986. The NFA is not relevant to a 922 -0 prohibition. So whatever the thing about mobsters and this and that, it's not really relevant here. The question is, how come when every other NFA firearm you can own

Stephen Gutowski (18:24.546)
Right, the music.

Matt Larosiere (18:43.305)
as long as you're willing to pay the tax, right? In some cases, the tax is only \$5, right? And you're otherwise not prohibited. But in this instance, for this type of item only, you can only have it if someone else had it pre -86, to which the practical effect is you can only have it if you have enough money. The why there is very hard to track.

Stephen Gutowski (18:45.484)
and do the registration.

Stephen Gutowski (19:10.126)
Because, right, and the money thing is just because there's a limited supply of how many of these exist. Although I guess this was a, right, so just to, I guess, finish off this aspect of what we're talking about here. In your view, and I think this is a good description of what the judge holds, basically the historical analogs they cited.

Matt Larosiere (19:15.347)
Exactly.

Stephen Gutowski (19:35.404)
really aren't very similar at all to a total ban on possession of machine guns for everyone, because that's what the law effectively does. At least new production machine guns, let's say that post -86 production machine guns, can't buy them as a civilian without, now obviously there are a certain number of exceptions to this that have to do with certain kinds of FFL licenses and.

Matt Larosiere (20:00.997)
And those are all for prospective government sale.

Stephen Gutowski (20:05.312)
Right. So it's a very limited, there's very limited number of ways that you could, as a civilian, own these firearms. But for the general public, for the general population, it's a possession ban on post -86 fully automatic weapons.

Matt Larosiere (20:13.159)
Right.

Matt Larosiere (20:20.841)
Well, note that the judge does note that there are many hundreds of thousands of registered machine guns that were. Yeah.

Stephen Gutowski (20:27.936)
Right. And I do want to get to that in a moment, but, cause that gets into the sort of common use Heller.

Matt Larosiere (20:34.185)
Well, I think here's the way to put a pin on it, right? You need a historical analog, right? We have what the government's proposed as analogs and we have their why, but we're not even sure of the why of FOPA. And frankly, that's because it was added rapidly. The why of FOPA, the why of 922 -0,

Stephen Gutowski (20:58.126)
Yeah, it was in a minute.

Matt Larosiere (21:02.345)
is to prevent Reagan from signing FOPPA. That's why. And they were shocked that it passed anyway. So there's not a developed record as to why they cut off post 86 machine gun possession. it's hard to have an analogous why, frankly.

Stephen Gutowski (21:24.51)

But needless to say, the ones they put up aren't really, even if you could say the whys were similar, the how is certainly very different because Northampton, that's about restricting carry of weapons. These going armed laws weren't about possession necessarily, they were about the act of going out armed and scaring people.

Matt Larosiere (21:30.291)

Supportable at all.

Stephen Gutowski (21:54.038)

this is just a straight up possession ban, which there's really not much of a historical analogy for that at all, especially like just a general ban. And this goes back to Heller, right, in a lot of ways, and the handgun ban that was at issue in that case. But that's, know, so basically there's the judge looked at the brewing test, what the government put up and said, this isn't an acceptable analogy, this doesn't fit. And then he moved on from there.

and got into this idea of dangerous and unusual weapons from Heller and common use. And that's where he cited the, I guess there's about 700,000 fully automatic weapons on the NFA registry today, right? And then that's what he points to as evidence of common use for these sorts of firearms, right?

Matt Larosiere (22:44.861)

Well, so I don't necessarily think that he's saying common use, because remember, common use isn't an independent test. A lot of people misunderstand that. A lot of people think that you need to have common lawful use in order for something to be protected at all. I don't think that's true. That may have been what Heller suggested, but Bruen clarified otherwise. Bruen clarified, is it a bearable arm? If yes, step two, what's the analog?

Stephen Gutowski (23:12.43)

interesting. So why do think he brings it up then in this?

Matt Larosiere (23:15.581)

because the government asserts as if it was a talisman dangerous and unusual. They just keep saying, but it's dangerous and unusual, but it's dangerous and unusual. So it's not necessarily that he's suggesting that these are in common use for X purpose, but how is it dangerous and unusual if you, Mr. or Madam government have approved the private possession of this many of them? Then that's not dangerous and unusual at all, is it?

Stephen Gutowski (23:40.822)

And is that like a huge difference in, is that kind of a semantic thing or do you view it as a significant?

Matt Larosiere (23:46.823)

I think it's important because people so like the way many people in our space perceive common use is like this this past the post thing where you have to get past it to get any constitutional protection. And I don't I don't think that's true. So I think suggesting that common lawful use is a predicate to the Second Amendment protection is a mistake. And I don't think that that's in here. I think

It's a counter argument to the suggestion that it is somehow outside the scope of second amendment because it's dangerous and unusual. but even though dangerous and unusual, like restriction, dangerous and unusual is not, and has not been held to be something that on its own allows you to escape constitutional, protection. The court has simply noted in its

Stephen Gutowski (24:25.676)

Okay, interesting, interesting.

Matt Larosiere (24:44.861)

basically in refusing to overturn Miller, it just noted that, no, this actually would be in line with a historical tradition of regulating this, but that's not before us today and we'll deal with that later, right? So.

Stephen Gutowski (25:02.892)

And speaking of Miller, where this really all, obviously people mainly think of Heller, but Heller is based on Miller, or at least is sort of working around Miller.

going off of Miller. how do you take, because Miller is about the NFA, right? And it's about a specific restriction on short barrel shotguns within the NFA. And so how, and does come up in this ruling. Can you take us through that section?

Matt Larosiere (25:17.521)

Yeah. It's in the Miller room.

Stephen Gutowski (25:39.96)

because Miller, for anyone who doesn't remember, really actually one of the first times, maybe the first time that the Supreme Court dealt with second amendment claims at all. And it was a challenge to the National Firearms Act where it was a very strange case, But no, but so in the case someone is charged with

Matt Larosiere (26:03.217)

Yeah, no. So I just forgotten what he said about Miller and I.

Stephen Gutowski (26:10.478)

Very strange procedurally, because I think the defendants weren't even there. it's very, if you look into Miller, there's a lot of strange stuff going on. I it's not a very long decision. Like the opinion's pretty short, but effectively it upholds the ban on or the regulations that the NFA puts on short -billed shotguns.

Matt Larosiere (26:12.681)

Yeah, because he was dead.

Matt Larosiere (26:29.993)

specifically traveling interstate with a short barrel shotgun without permission.

Stephen Gutowski (26:32.234)

Right, because they go back to the idea that the only weapons protected by the Second Amendment were the ones useful in militia service and the guns that would be useful that people would show up to if they were to muster for militia service are ones in common use and short barrel shotguns aren't in common use, they aren't useful in militia service, so they're not protected. It's kind of where the...

Matt Larosiere (26:56.073)

Well, so it's actually more interesting than that because in Miller, they were very specifically trying to uphold the short barrel shotgun regulation. Nothing else was before the court in Miller. And so the Miller discussion really drives into, no, these have to be weapons that are useful in malicious service and what sort of weapons are useful in malicious service. And it actually says military weapons. And

Stephen Gutowski (27:24.824)

Which I questioned the outcome there too, because like, shotguns are definitely useful in military service. We used them at the time and we still use them together.

Matt Larosiere (27:27.015)

Right. Well, it's like we... Yeah. Well, at this time... Well, and remember, at this time, was before information spread as freely as it does now, and the court just presumed that shotguns were not useful in military service.

Stephen Gutowski (27:42.158)

Which is kind of ironic because after World War I, that's when this happened, shortly after World War I, in the interwar period. And in World War I, the Germans filed a complaint that our use of trench guns, as they were called, which were

just shotguns, during that war was a violation of the Geneva Conventions, that it was a war crime. Now, this didn't go anywhere, but it was a real thing that happened. And so it shows you that we were certainly using shotguns to...

Matt Larosiere (27:46.803)

Yeah.

Matt Larosiere (27:55.699)

Right.

Matt Larosiere (28:01.607)

Yeah. Yeah.

Stephen Gutowski (28:11.476)

apparently pretty good military effect during that war right before Miller's

Matt Larosiere (28:14.119)

or at least to some military utility. And so the Miller court kind of just ignores this, probably because they didn't know, frankly. Research was harder back then and information like that was harder to get through. So they probably didn't know. So you can revive it. It is, yeah.

Stephen Gutowski (28:30.058)

also sort of ironic, right? Because like, how has the debate shifted since Miller, right? Because Miller is all about how the Second Amendment only protects guns that are useful in military service today. Yeah.

Matt Larosiere (28:40.445)

Military weapons. Yeah. Yeah. And now people are like, no, it's not a military gun. It's my modern sport gun. Okay.

Stephen Gutowski (28:46.892)

Well, today the whole debate is the exact opposite, right? Which is that military weapons, know, weapons of war, right? You it all the time. second amendment doesn't protect weapons of war.

Matt Larosiere (28:49.231)

Right. This is a military weapon.

Matt Larosiere (28:57.487)

kind of just underlies how like hilariously unprincipled the whole thing always is. but anyway, so and the judge here kind of observes that and it's like, well, there's no such showing here, right? In fact, the military uses machine guns constantly. So we don't have to engage with we don't have to engage with Miller. It doesn't preclude the analysis. And so it kind of like just he kind of does hand wave away Miller like that. And I think it's I think it's a correct hand wave.

Stephen Gutowski (29:18.274)

Right. Right.

Matt Larosiere (29:27.337)

But but yeah, that was the getting around Miller, as it were.

Stephen Gutowski (29:34.094)

Right, right. And actually, one more question on the 700 ,000 count, right? This NFA registry that... One of the things that you'll notice about it is that it goes up quite a bit after 1986. And the reason is, it seems to be that what the Hughes Amendment doesn't ban is law enforcement use of fully automatic weapons for some reason. But...

Matt Larosiere (29:40.317)

I'm not sure about that.

Matt Larosiere (29:56.755)

Right.

Stephen Gutowski (30:01.518)

so, but it does still require them to be registered. so I think most of the guns in there now are probably owned by law enforcement rather than your civilian. I mean, I think there's still would be a couple hundred thousand that are civilian owned. Like that population of what civilians can own hasn't changed much. Yeah. I mean, it's still a lot of guns, but it's not, you know, I don't think that it's the 700 ,000 that.

Matt Larosiere (30:04.947)

Right.

Matt Larosiere (30:21.425)

It's estimated to be about a quarter million. Yeah. So it's majority. Yeah.

Stephen Gutowski (30:30.22)

Although I don't know if that matters much if you're talking about whether they're too dangerous, right? Because, you know, that's the case, should law enforcement have them?

Matt Larosiere (30:36.499)

Well, here's the other question is a law enforcement. Law enforcement is not military. That's certainly a civilian job. So, well, it may have taken on a more military character, Yeah, well, legally speaking, law enforcement officers are civilians, and so they are if they're using machine guns, they're lawfully using firearms.

Stephen Gutowski (30:43.192)

Not supposed to be at least.

been bit more militarized in the last couple of decades.

Stephen Gutowski (30:56.334)

Right. So I guess it perhaps still applies. It's just, I just had that thought when I was reading his site of that, I think people don't really understand what that number represents. And I think the vast majority of it now is likely law enforcement weapons rather than civilian owned. Because the civilian number hasn't really changed since 1986.

Matt Larosiere (31:00.166)

Bye.

Matt Larosiere (31:10.216)

Yeah.

Matt Larosiere (31:20.549)

No, in fact, it's gone down because the ATF does a great job at tricking widows into giving their guns up.

Stephen Gutowski (31:26.678)

Yeah. I mean, you've had like, like the machine gun attractions that exist out there. They mainly are able to own them through that exception. talked about earlier of like FFLs with certain licenses can have fully automatic weapons for demonstrative person purposes for law, for law enforcement agencies, potential buyers. And yeah, so it's kind of a, people.

Matt Larosiere (31:45.521)

Law enforcement. Yeah, it's all in contemplation of government sale. So it's interesting.

Stephen Gutowski (31:53.014)

If you look at how that actually works, think people will be a little bit surprised at it, but it's, it's, yeah, it's legal. I mean,

usually sometimes people get in trouble for that. the, the, the fringes on the. Right.

Matt Larosiere (32:02.513)

Well, we also just don't know, right? Like, technically, there's no written R &D exemption. But all these companies develop guns, right, for potential government sales.

Stephen Gutowski (32:10.028)

Right. Yes, it's a bit of a, you know.

Stephen Gutowski (32:18.348)

Yeah. And there's no, there's no rule against using those to rent them out or in whatever way.

Matt Larosiere (32:23.771)

Yeah, so it's all kind of more of a gray area than people realize.

Stephen Gutowski (32:28.834)

Probably. That's a lot of things like this. A lot of NFA stuff, as I think people have started to understand during the Biden administration, there's a lot of gray areas with these things that given the right people in the right place, can turn into exactly what we've seen with the Biden administration, which is these rules that try to take the gray area and turn it black, if that makes sense.

Matt Larosiere (32:36.019)

Mm -hmm.

Matt Larosiere (32:50.653)

Yeah. Well, and these gray areas are quite simply because the NFA was never intended to have the scope that does today. It was only ever intended to be used as a gotcha to booze runners that were caught traveling interstate.

Stephen Gutowski (33:03.222)

Right. yeah, the gangland era is sort of a reaction to the gangland crime, violence that happened. The Capone era, know, Valentine's Day massacre, that kind of stuff is what motivated.

Matt Larosiere (33:14.247)

they did not envision this as being used as an independent charge.

Stephen Gutowski (33:18.22)

And it also wasn't just, it's just not very well written. To be honest. It's like their definitions of rifle and shotgun, which had caused so much anxiety the last, you know, the last almost hundred years are just weird.

Matt Larosiere (33:21.393)

Yeah, it's like very hilariously well relevant.

Matt Larosiere (33:29.193)

yeah. That was good. The other little piece of NFA trivia that a lot of people don't know is, is why and I know you know this, but why is it a shotgun has to be 18 inches, but a rifle has to be 16 inches?

Stephen Gutowski (33:44.054)

Yes, that is a funny story.

Matt Larosiere (33:46.025)

Yeah. And the answer to that is, well, they were both 18, but then the government sold like 30 ,000 M1 carbines to billions.

Stephen Gutowski (33:50.882)

Yeah, he was the largest dealer of illegal short barrel rifles in history. It's the federal government.

Matt Larosiere (33:55.369)

Yeah, the government just dumped a bunch of 16 inch guns and went, and then quickly and hastily amended the law. Yeah.

Stephen Gutowski (33:59.586)

That's the amp.

The M1 carbine, for those who don't know, was a service rifle during World War II. And then after World War II was over, we didn't need such a large army and we had a lot of surplus and they wanted to sell those to the American public. And apparently they got through selling a lot of them without anyone realizing that the barrel on a M1 carbine is 16 inches long, not 18 inches. And so they just changed the law.

Matt Larosiere (34:29.223)

Yeah.

Stephen Gutowski (34:29.678)

to fix it. So that's why there's that weird discrepancy in there. But yeah, I mean, there's there's a lot of that kind of goofiness around the NFA. And it's frankly, been one of the biggest thorns in the side of a lot of at least online gun rights activists. Like, I don't know that your average gun owner or person who has an NRA hat and gives \$35 a year to the NRA is cares that much about the NFA, but it's a big

concern among online gun, the other sort of gun tube generation where, you know, shooting fully automatic weapons is sort of a form of entertainment. I do it. I enjoy it. You I get it, but it's become a much larger priority there. And so people care intently about this, intensely about this law. No one, not many people on Capitol Hill care about it, but in the, in the online gun rights community, it is, it is a big thing because it limits some of the stuff that people likes, pressers, silencers, machine guns.

Matt Larosiere (35:15.699)

Mm

Matt Larosiere (35:25.416)

Mm

Stephen Gutowski (35:26.818)

And so to that end, let's talk about like the state of the NFA. What do you see actually coming out of this ruling? you know, we talked about a little bit that this is just a district court. It's not presidential for the entire 10th Circuit even. What one, where do you think it's going to go on appeal? Appeal is very likely to happen in this case, right? And do you think it's going to survive a panel in this was the 8th Circuit, right? There's pretty

Tenth Circuit, all right. Tenth Circuit, little less liberal, right? A little more... I don't know, what's the reputation of the Tenth Circuit? Where do see things going for appeal?

Matt Larosiere (35:57.331)

Yeah. Big question mark zone. Yeah.

Matt Larosiere (36:07.009)

TensorFlow doesn't have a tremendous reputation here. It doesn't have a tremendously negative reputation here. just doesn't have much reputation. So I'd it's...

Stephen Gutowski (36:13.697)

Right. They just did the sound or sorry, the pistol brace. OK, there was the one that has SB tactical and like 45 Republican governor or sorry, AGs. That was just decided. mean, not well after the Fifth Circuit. That's usually if you're

looking for a pro gun circuit, people usually get the Fifth Circuit. Right. And so the 10th Circuit is a little less at the top of the list for gun rights activists. But yeah, where do see it coming?

Matt Larosiere (36:37.639)

Yeah. So the issue here is that there's just this public perception that no, machine guns are different, right? And that's because most people have not had enough experience with a machine gun. Well, maybe I'll phrase it this way. Most people who are in the business of arguing about and making decisions with what happens with machine guns have not had enough experience with machine guns.

to learn that they are not different on principle from any other self-loading firearm. If you really boil it down to principle effects, right? So you wind up having to deal with, and this was intimated by some of the concurring opinions in the Cargill decision, right? The bump stock case where it's very clear that people who are on our side, on the second amendment side broadly,

find machine guns to just be like reprehensible and terrible things. Is there any legal basis to this? No, none whatsoever. But all you need is the majority of lawyers wearing dresses to agree with you to prevail.

Stephen Gutowski (37:54.274)

And I do want to get to this report later. We'll get to that in a little bit. so it seems like you're pretty skeptical that this is going to survive a panel. We obviously don't. We can't know for sure because we don't know what the panels. don't even know that there. I don't think there's even been a wild yet.

Matt Larosiere (38:04.371)

Yeah.

Matt Larosiere (38:08.017)

Yeah, we don't know anything. don't know anything. It's just the like, you know, general opinion of non experts, right, who are like, who don't know much about guns and have just been watching this happen is going to be well, obviously not that right, despite the fact that the obviousness is not manifest. And maybe it can be briefed out to make it clear that this obviousness is not manifest and is actually unsupported.

Stephen Gutowski (38:21.934)

Public perception.

Matt Larosiere (38:37.097)

Hopefully, you know, that can be accomplished. But my gut is that the government will appeal this and that it won't go great. I don't think that's because it's wrong.

Stephen Gutowski (38:50.433)

Do you think that though, right? Yeah, I get what mean. You say you're skeptical that the courts are ready to accept these arguments, even if you feel like they're right.

Matt Larosiere (39:01.225)

I think that these arguments are 100,000 % right. I guess I'm so jaded that especially when the Supreme Court has intimated as it has, which, I think they're wrong. And I think that could be fixed with good briefing and maybe it could be fixed with good briefing here, but you know, that's my gut feeling.

Stephen Gutowski (39:12.376)

Hmm, yeah.

Stephen Gutowski (39:23.95)

And so from that, if you don't, if you think this particular case, one, it's not, you know, it's not enjoining the AG from enforcing this law in the first place, right? So it's not gonna have any sort of, it's not a national injunction, nothing like that. Do you see any potential benefit for those who are looking to either strike down the Hughes Amendment in

particular, or the NFA generally?

out of this. mean, you're dealing with NFA cases in your day -to -day practice. What do you see as the practical effect of this?

Matt Larosiere (39:59.789)

well, immediately it lends credibility to our arguments. Right. Or it's like, instead of it just being pro gun lawyers that are making these arguments, it's look, there's a United States District Court judge that agrees with exactly what we're saying. And so, you know, these are going to be this decision is going to be referred to in several of my cases and several cases that my friends are running. So there's definitely and that certainly led lends credibility to the argument. So that's certainly positive.

the I yeah, but I mean, it's entirely possible. Yeah, no, this isn't like this isn't a nothing burger, right? It's they're starting it's it's starting to catch on. Right. And it's the first time it's caught on. Is it likely that the first time is going to be the one that carries us all the way to the end? I mean, probabilities say unlikely, but it's certainly possible.

Stephen Gutowski (40:33.775)

I mean, so that's the positive effect that you can see. It's not just a totally irrelevant thing that happened. could

Stephen Gutowski (41:00.27)

Okay. Okay. you know, that's significant. and, and so let's real quick at the end here, talk about the Supreme court and why you're skeptical of where they might come down on this as of today. Like you said, you perhaps the, you brief this out properly or enough courts get on board with it or whatever, you know, things could change from here. And when they take up case one, do you think it's likely they'll take up a case like this anytime soon?

because that's one issue that seems obvious at this point. They're not moving very quickly. I don't know. I'm interested in your perspective. You could argue on court time, they're taking less and less cases overall, but a higher percentage of those cases have been gun related at least, if not directly Second Amendment related. They don't have any Second Amendment cases on their docket right now. They do have the ghost gun kit ban case, but that's not a Second Amendment case.

Matt Larosiere (41:46.002)

Right.

Stephen Gutowski (41:58.667)

And they just rejected a whole slew of of second memory related cases that even the DOJ wanted them to take up So it seems like I don't know. What what do you feel about the odds of a case like this ending up there?

Matt Larosiere (42:13.159)

I'm worried that I guess I'll say.

I think probably right now the thing for them to do would be to take it and say, you obviously this is unconstitutional, right? I think that maybe with the makeup of the court as it stands, it would be more likely that it not be taken, right? Because there's aspects of the, like, there's aspects of the NFA that are not as procedurally deficient.

but definitely pass the smell test a lot less that are being litigated right now. So I think we might see those get fully litigated first. Like I think barrel length and silencer regulation are their days are numbered. That's like a hundred.

Stephen Gutowski (43:07.726)

Do you think that this case, because one thing I've wondered, one thing I see that is a potential benefit, I guess, for plaintiffs in a case like this is that it's a total possession ban, right? You can't own these post -86 fully automatic weapons outside of the small exceptions we talked about. And that's just for everyone. This is like a blanket ban on possession. Whereas a lot of the other NFA stuff, it's not a

blanket possession ban. It's like you have to go through and register and you have to pay a tax and so forth. Do you think that gives it a leg up at all?

Matt Larosiere (43:46.117)

It certainly does. It certainly does legally. Whether that's enough to pass through the Overton window problem is a different question entirely. Legally, it absolutely does. And especially given the difference in treatment between firearms that were possessed before the state and firearms after, because there is no, you cannot explain a principal distinction there. And yeah.

Stephen Gutowski (43:53.984)

Hmm.

Stephen Gutowski (44:08.396)

Because that was one thing I noticed in Rahimi is that one of the reasons that they thought the restraining order gun ban for domestic violence, restraining orders was sort of kosher, was that it's temporary. It's not a lifetime total ban. It's a temporary measure that's specifically tailored for a certain kind of dangerous person, basically. This is kind of what they keep.

Matt Larosiere (44:31.141)

Well, and Rahimi also did rein in some of it, right? Because Rahimi indicated that it had to be supported by an actual finding. So, yeah.

Stephen Gutowski (44:35.477)

Mm

Stephen Gutowski (44:40.056)

Sure. Of dangerousness, Yeah, like, Verhimi, but that's where, you know, some of these things, this starts to look a little more like DC's handgun. Obviously, it has that Overton window issue of like the general public, most people perceive machine guns as a lot more dangerous than handguns, if, know, statistically, handguns are used far more often in crime than any sort of fully automatic weapon is. But

Matt Larosiere (44:50.952)

Yeah.

Matt Larosiere (44:58.931)

Right.

even if it's not really valid. Yeah. Yeah.

Matt Larosiere (45:07.859)

For sure. Now, if you're talking purely legally, procedurally, purely legally, the machine gun ban is the slam dunk. It's the slam dunk. If you look at it mathematically, it should be smacked down immediately because one, is, know, under all of the tests we've had under the first amendment where you regulate some forms of speech and not others, right? This is regulating two of the exact same things differently.

that's never held water before. Two, there's a tax structure that predicates registration and you've just disallowed payment of the tax. That is an instant fault on the government under tax law. So they don't get the fallback of this is just a tax. You cannot treat this as a simple regulation anymore. It is a prohibitory confiscatory regime.

Stephen Gutowski (46:06.03)

And that's where it seems to have an advantage legally. But I guess to finish this off, we get into that Overton window discussion specifically in reference to the Supreme Court, because one of things you'll notice in both the court's rulings and in things like the oral arguments or concurring opinions is that they seem pretty open to banning machine guns. know, while it was just dicta, they do. And that's a different court now.

Matt Larosiere (46:09.363)

Certainly.

Stephen Gutowski (46:35.224)

that still holds, I think, probably a lot of water in predicting where they might go. And if you look at Cargill, the Bumpstock Band case, where they're talking about something that is not even an actual machine gun, according to the, right, they're basically saying that they would be, you get a number of concurrences and questions from oral arguments that make it fairly clear a lot of the conservatives on the court who would be the people that presumably might strike down the Hughes Amendment.

Matt Larosiere (46:47.017)

telling Congress to act now.

Stephen Gutowski (47:01.952)

are pretty comfortable with Congress just going out and banning bump stocks through legislation and they don't bring up any second amendment concerns to that.

Matt Larosiere (47:11.773)

Well, and the case was completely not lit. So the case was completely not litigated on Second Amendment grounds. So I guess they get to do that without like that's not presidential. That doesn't have any impact on Second Amendment litigation. But it yeah, because, know, at least it is tealy for reading, right? So it's not presidential, but it is cautionary. Yes.

Stephen Gutowski (47:20.918)

Sure. But it gives you insight into where their heads might be at,

Stephen Gutowski (47:28.834)

Mm

Stephen Gutowski (47:32.416)

None of this is presidential. They have not ruled that machine guns can be banned under the second amendment. They've never ruled that, but they have, there are these indications that probably a majority of the court thinks that way. Cause certainly the three liberal justices are, they all seem on board with basically the idea that yeah, that the second amendment isn't an individual right at all, including, yeah, Kinkaji.

Matt Larosiere (47:37.181)

they've never ruled that machine guns can be bad ever. Yeah.

Matt Larosiere (47:49.135)

think you should be able to ban handguns.

remember Heller was a 5 -4 and that was talking about like straight up pistol in your house so

Stephen Gutowski (47:59.468)

Right. So you already got three votes against it. It's just a matter of whether the other six where they're coming down. And I think, yeah, you, you agree here that the signs are not great as like if this court, if this came up tomorrow. Yeah.

Matt Larosiere (48:02.686)

Yeah.

Matt Larosiere (48:12.739)

tea leaves are I wouldn't be betting money on the on this cup of tea, you know.

Stephen Gutowski (48:17.71)

But you're still hopeful that maybe in the future that could change.

Matt Larosiere (48:21.457)

Well, that's what I'm devoting a lot of my life to. So, yeah, I think I think we can. And I think it's going to take a lot of stuff we've talked about, you know, changing discourse, getting people to understand that gun owners are not, you know, maniacs that, you know, what is the utility of this weapons? Why would you want to own one? And I think this is something I just thought of that I'd like to include.

Stephen Gutowski (48:26.254)

There you go.

Matt Larosiere (48:50.729)

Ivan, my co -host on FUDBusters, he came across an old letter written in the 60s by the NSSF that was talking about how obviously the second amendment protects military weapons. should only, know, they're writing all these veterans and things and they're saying that it has to protect every weapon that would be useful in the military. It has to protect cannons, it has to protect this and that, but not machine guns. And that's like...

weird. And I think it might be explained that a lot of those guys were World War II vets who like, you know, when they interacted with the machine gun, it was very different than how we think of a machine gun today, right? Like probably American World War II vets didn't like the MG 42 very much, right? And they may have had a reasonable excuse for that. But I think that that's kind of the seed of this weird pro gun, pro gun.

discourse that questions machine guns specifically. But I would ask yourself, and especially in your audience, you probably have plenty of readers that fall on that side. And I'd love it if they commented, if you are a pro -gun person that questions machine guns, I'd like you to challenge yourself and ask why and put it in the comments and let us know. Cause I'd love to see it.

Stephen Gutowski (50:14.19)

Well, hey, I think that's a good place to leave off then. Can you tell people?

Matt Larosiere (50:19.623)

What are you going to indicate? Where do you feel? Indicate how you feel.

Stephen Gutowski (50:23.272)

well, I'm not going to take a position on the policy aspect of it all as a, you know, that's just not my, my role. I would, like I said earlier, there's a, I think there's a legally, just as from an analysis standpoint, that it seems particularly vulnerable to this part of the NFA because of the, the, you know, just finality of it. The, don't know that the, like,

Matt Larosiere (50:27.185)

really?

Matt Larosiere (50:31.529)

Alright guys, I tried.

Matt Larosiere (50:48.041)

structure.

Stephen Gutowski (50:52.576)

Even you read the ruling in Morgan and the judge seems like he would be more amenable to the NF like regular NFA regulations on machine guns, you know, or something, some sort of heightened regulation, but not a total ban on possession. And so that's what makes it seem at least plausible to me that that other courts could agree that this is

the way the law is currently doesn't fit with the second amendment, as the Supreme court has, has, you know, discussed

it, but the main impediment to getting to those rulings is this, think public perception. And I think the court itself takes public perception more into account than a lot of people would like to think. Cause yeah, if you look at this to me, when I read the P when I read the ruling, it was a pretty straightforward Bruen.

analysis, like the Bruen analysis, I don't think has to be some super complex thing. You're really just supposed to, is this a bearable arm? If so, is there any historical, is there a historical tradition of regulating that dates back to the founding era? And there's some dispute over when exactly the founding era begins and ends. But, you know, generally speaking, we have a pretty good idea of what the regulations were at the time. And they aren't that, just weren't that many of them.

Matt Larosiere (52:18.77)

Yeah.

Stephen Gutowski (52:19.314)

And so, you know, I don't think it's surprising to see a total possession ban struck down, you know, just a general everyone is banned from owning this thing. You know, that's but at the same time, the public perception is that these guns are much more dangerous or scary than your average person likes. So I think that filters into the courts for sure. The court is much if you look at where they've gone.

Matt Larosiere (52:29.746)

Mm

Stephen Gutowski (52:48.428)

We've talked about this on the show in the past, but they really follow public opinion. They're not front running it most of the times. know, Heller holding that handguns are protected by the second amendment came way after the public opinion on handguns being legal shifted in favor of them, right? Cause that was, you'd have to go back a long time to get to a point where a majority of Americans thought handguns should be illegal. And same thing for Bruen.

Matt Larosiere (52:53.639)

way more than they should. I'll make that a point.

Stephen Gutowski (53:18.498)

Bruen struck down the most restrictive, almost in practice ban on concealed carry at a point where the whole country had already, other than a few holdouts, had already made that determination through normal course of politics by passing laws, Repealing restrictions. Yeah.

Matt Larosiere (53:38.621)

Yeah, over the course of two decades, we went from like very not frequently seeing people carrying guns to just kind of presuming that many, many, many people were.

Stephen Gutowski (53:47.308)

And so the court is not getting ahead of those trends. They're following them much later on and sort of cleaning up the last vestiges of the old resistance to them. And so if you want to look at what's most likely in my mind for them to go after, it'd probably be something like assault weapons bans, which are similarly rare, just like the concealed carry restriction, the May issue laws that

Matt Larosiere (53:50.589)

Yeah.

Stephen Gutowski (54:17.154)

they struck down were so, know, and even that seems to be, I don't know if they're going to do it, right? They've been pretty resistant to going that way and taking those cases. So, and there's a lot, and Bruen has really opened up a lot of other worms, a lot of cancer worms that they probably wouldn't like the, you know, prohibited persons lists and which of those are okay. And which of those are not, you know, that's why I wasn't surprised at all by Rahimi because basically every K every state has that.

Matt Larosiere (54:42.173)

I was.

Stephen Gutowski (54:46.606)

restriction, the domestic violence restraining order gun ban is a very popular policy across the entire country. And so I was not surprised to see them. You you could talk about the way they got there or whatever, and the critiques of that from Thomas and the 8 .1 ruling is a weird way. You're not seeing that very often as the outcome of the court. But the overall holding, don't think was surprising. That's how I tend to read the court because like, yeah, I could look at Bruen.

Matt Larosiere (54:59.697)

Yeah.

Stephen Gutowski (55:14.87)

And I can look at a case like this one and say, that fits with Bruen, but that doesn't necessarily mean that that's, because you could say that over Hemi, right? You could say there wasn't anything like a domestic violence restraining order at the founding. And that's true. And they didn't, they didn't try to sort of pretend there was, they kind of mashed together a couple of traditions. Sure.

Matt Larosiere (55:24.562)

Right.

Matt Larosiere (55:35.209)

Although they literally weakened the test and they said that they were doing it in order to get the result. And that's what you and I disagreed on. I remember we kind of like, we battled a little bit over the phone. We agreed that they'd get to the result they did, but you pretty much predicted what happened that I was like, no, they'll give a narrow ride for this situation only because he agreed he was dangerous. But they like kind of just said, no, we're gonna approve this policy.

Stephen Gutowski (55:46.744)

Yeah.

Stephen Gutowski (55:58.754)

Yeah. And I, and I think that's, you know, just how I view what the court does in these cases. and I don't know that Rahimi is like Thomas obviously looks at it as sort of the potential end of Bruen more or less, like you could do this for anything the way they got to Rahimi. I think they're probably what they've set up is here's what we think is too loose, or too strict of a standard, basically what the fifth circuit did in Rahimi. And now they have to come back.

Matt Larosiere (56:05.287)

Yeah.

Matt Larosiere (56:23.049)

Yeah.

Stephen Gutowski (56:28.65)

I would imagine that they will come back at some point, probably range is what I would guess. Although they did reject taking up range. I don't know. I would, although range wouldn't do it. What you'd need is, and that's where the assault weapons ban cases could come in. You need a case where the lower court has gone too loose in how they're applying Bruen so that the court can come in and say, okay, Rahimi, the fifth circuit was too strict.

Matt Larosiere (56:34.045)

Mm

Matt Larosiere (56:38.024)

Yeah.

Matt Larosiere (56:50.215)

Right. Yeah.

Stephen Gutowski (56:55.394)

You know, maybe Bianca, here's their, they were too loose. And so, you know, we're, you want you somewhere in the middle here, lower courts. That would make a lot of sense. I don't know if they're going to do that, but that would make a lot of sense.

Matt Larosiere (56:55.443)

Found my other bookend. Yeah.

Matt Larosiere (57:07.581)

That would fit with Supreme Court tradition though. They do like bookending, right?

Stephen Gutowski (57:14.006)

It just seems like, cause you know, you can talk about philosophy and, and the right way to technically apply these things. know that that's what a lawyer would probably prefer all this stuff to be based on. but in practice, like trying to go through the entire historical record to determine whether or not, a law is sort of analogous or not is a pretty big ask for a regular old district court judge, even if the government is supposed to be the one who.

has to make that case. and so I think they're going to get somewhere where they just try to find a spot in the middle of these and that's going to be our test. And that's just like, I mean, to be fair, like that's look at the first amendment, look at first minute jurisprudence, how many cases, if it was simple, if there was just a very easy test that you could apply to everything and everyone would come out the same way all the time, you'd only need to do one first amendment. We've had hundreds of right? And we've only had, we've only had like,

Matt Larosiere (57:51.624)

Yeah.

Matt Larosiere (57:58.75)

Yeah.

Matt Larosiere (58:10.077)

Yeah, and they're continuing to happen.

Stephen Gutowski (58:14.496)

What is it now? Five? Miller, Heller, McDonald, Seitano, Bruen, and Rahimi. Six. Six Second Amendment cases at the Supreme Court. They're going to need more than six to determine it, I think. But anyway, for people who want to follow your work and listen to your analysis and keep up to date with what you're doing, where can they do that?

Matt Larosiere (58:19.741)

McDonald's.

Matt Larosiere (58:24.339)

and Bruett. Yeah. And Rahimi. Yeah.

Matt Larosiere (58:32.521)

Yeah.

Matt Larosiere (58:43.219)

You can follow me on YouTube, Fuddbusters for gun law related content, Fuddblasters for firearm specific content. You can follow me on the Twitter bird app, Fuddbusters. And I do have a Patreon, subscribers to the Patreon really enable me to do the kind of public interest work that I do. So please consider checking that out. And the Patreon will

give you access to one of the greatest hives of scum and villainy on the internet. So do consider it.

Stephen Gutowski (59:11.784)

There you go. There's the pitch for you. All right. Well, that's all we've got for you guys this time. We will see you guys again real soon.