

THE NEWS HERALD

Property must prevail

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A Tampa woman fired for bringing her handgun into her workplace has rekindled an old debate in Florida over constitutional rights vs. property rights.

Ivette Ros was a branch manager of a Wells Fargo bank who was fired last year for carrying her 9 mm handgun on the job. She has a concealed carry permit, and although she sometimes left the weapon locked in her car in the parking lot, other times she carried it inside the bank hidden under her clothing or inside her purse. She said she never openly displayed the gun, but a person noticed it on her and notified bank officials. Ros was fired for violating the company's ban on employees carrying weapons into the building.

Ros recently filed a lawsuit against Wells Fargo claiming the bank violated her Second Amendment rights.

This harkens back to 2008, when the Legislature passed a controversial "guns-at-work" law that allows employees who have a concealed weapons permit to keep a gun locked in their vehicles at work, even if the employer wants to ban guns on the property. The measure was opposed by the state's business community on the grounds that it violated their right to set terms for employment and rules for their private property.

The Florida Retail Association challenged the law in court, and a federal judge ruled that the Legislature has the power to force business owners to let employees with concealed weapons permits keep guns locked in their cars while at work.

However, he also ruled that the state cannot force business owners to let customers bring weapons onto their property, nor do employees have a right to bring firearms into the workplace.

U.S. District Judge Robert Hinkle's opinion in that case should inform the reasoning behind Ros' lawsuit against Wells Fargo. He chided the Legislature for claiming to protect the

“constitutional” rights of gun owners, dismissing that argument as mere “rhetorical flourish” that represented “a radical and totally unprecedented view of both the Bill of Rights ...”

“The right to bear arms restricts the actions of only the federal or state governments or their political subdivisions, not private actors,” Hinkle wrote. “Indeed, that the Bill of Rights restricts only government, not private, action is too well settled for argument. A private business’s banning of guns on its own property plainly is not unconstitutional; there is no constitutional right to bear arms on private property against the owner’s wishes.”

Clearly, employees do not enjoy unlimited First Amendment speech rights in the workplace — you can publicly call the U.S. president a fool without repercussions, but if you denounce your boss in similar fashion you can be sacked. The same applies to the Second Amendment.

Even a gun-rights supporter such as the Cato Institute’s Robert Levy, a winning co-counsel in the landmark Supreme Court case that struck down the District of Columbia’s gun laws and recognized an individual right to keep and bear arms, has sided with property owners over gun owners in these disputes.

Ros was within the law to keep her gun in her car, and Wells Fargo policy makes exception for that. However, nothing in the law should compel the company to permit her to carry the weapon into the building. In this instance, property rights must prevail.

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