

Why Are Lifetime Gun Bans Being Imposed on Tax Cheats?

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That the punishment should fit the crime is a widely held axiom. If you lie on a tax return, you might expect to face certain consequences, such as fines and the repayment of back taxes, probably with interest, and perhaps even home confinement, or (in the extreme case) prison time. But you would not expect a lifetime restriction on your fundamental rights — such as the freedom to speak, to own property, or to enjoy your privacy. These punishments would be arbitrary and unjust given the nature of the crime.

Nor would you expect to permanently lose your right to own a firearm as punishment for a false statement to the IRS. But that is exactly what could happen, and what *has happened*, because of an unforgiving and unconstitutional federal law — passed as part of the Gun Control Act of 1968 — that automatically bans nearly all felons, even those convicted only of non-violent crimes, from *ever* possessing firearms for self-defense.

Losing the natural, constitutionally protected right to own a firearm is an unjust and arbitrary consequence for a non-violent crime of this nature. It is akin to losing one's right to speak or the right against unreasonable search and seizure. And yet, unlike those other — hypothetical — unjust punishments, this lifetime ban on the possession of firearms is actually imposed by the federal government on tens of thousands — if not hundreds of thousands — of non-violent offenders.

Non-violent felons are not the only people subject to this “life sentence.” Conviction of any crime *punishable* by more than one year's imprisonment automatically triggers the ban. And this lifetime ban applies regardless of whether any prison time was *actually served*. Under this sweeping standard, even some misdemeanors result in a lifetime loss of gun rights.

Worse, all of this depends — arbitrarily — on where an offense was committed. There are eight states in which a single DUI conviction triggers this permanent ban on gun ownership. In Oklahoma, adultery (which isn't even a crime in some jurisdictions and is only a misdemeanor in others) will trigger this lifetime ban.

In Pennsylvania, a conviction for reading someone's email without permission would result in a lifetime without gun rights. So would the federal offense of uttering “any obscene, indecent, or profane language by means of radio communication.”

Mountain States Legal Foundation's Center to Keep and Bear Arms recently filed three *amicus curiae* (or friend of the court) briefs with the U.S. Supreme Court addressing this issue. One on behalf of Ken Flick, who lost his gun rights for life over a 1987 conviction for importing and reselling bootleg music cassettes. Another on behalf of Lisa Folajtar, who was convicted of making false statements on her tax returns in 2011 and has been prevented from owning a gun

ever since. And the last, joining the Cato Institute on behalf of Raymond Holloway, who pleaded guilty to a misdemeanor DUI in 2005, in which no one was hurt, and has since been denied his natural right to self-defense.

The lifetime gun ban for non-violent offenders runs contrary to the natural rights protected by the U.S. Constitution. It violates the Second Amendment. And it goes against Supreme Court precedent.

Some lower courts have upheld this permanent ban through the new — and incorrect — notion that the right to possess firearms requires “virtuousness” and can be stripped by the government from “serious” offenders. Other fundamental rights, such as those protected by the First and Fourth Amendments, are not treated this way.

The Supreme Court has already cleared the way to ending these unjust lifetime bans; it simply needs to apply its own test. The Court’s holding in *District of Columbia v. Heller* makes it clear that courts must look to the text, history, and tradition of the Second Amendment when determining whether a modern firearm regulation is constitutional.

The Amendment’s text speaks of an individual right of gun ownership: a right based on human nature, not a governmental determination of “virtue.”

And based on the same natural-law standard, our Anglo-American tradition only limits the exercise of this right by those who are demonstrably dangerous. In a proper, historically informed understanding, “dangerousness” is a narrowly tailored category with a clear rationale, in contrast with the abstract and unduly harsh idea that *any* crime a court or legislature deems “serious” should spell the end of one’s gun rights.

The difference in standards and reasoning is not minor. There is a basic clash of visions regarding the very nature of our rights.

Gun rights are *not* a privilege granted by the government to the “virtuous,” to be denied on whatever basis the government considers “serious.” This misunderstanding of gun rights shows a deep and dangerous misunderstanding of rights in general, and of where they come from.

Lifetime gun bans for the non-violent should not be upheld based on such errors. Based on sound reasoning and the Supreme Court’s holding in *Heller*, non-violent individuals cannot be uniformly prevented from exercising their natural, fundamental right to keep and bear arms for life.