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Officials vow fight to keep assault weapons ban spurred by horrific Stockton shooting

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State officials and gun-control advocates are vowing to fight back after a federal judge on Friday overturned an assault weapons ban spurred by a horrific school shooting in Stockton.

In ruling California's 30-year-old ban unconstitutional – just as Gun Violence Awareness Month got underway – U.S. District Judge Roger Benitez compared the AR-15 semiautomatic rifle to a Swiss Army knife, calling it “good for both home and battle.”

Benitez, of the Southern District of California, issued a permanent injunction against the law's enforcement in what legal experts described as the most detailed opinion ever issued on the topic, but stayed it for 30 days to give the state a chance to appeal.

California is one of seven states, plus Washington, D.C., that ban assault weapons, according to the Brady Campaign to Prevent Gun Violence.

California's first-in-the-nation ban was first introduced following the shooting at Stockton's Cleveland Elementary School. On January 17, 1989, Patrick Purdy opened fire while children were playing outside during recess. Purdy murdered five children — 6-year-olds Sokhim An and Thuy Tran, 8-year-olds Oeun Lim and Ram Chun, and 9-year-old Rathonar Or — and wounded 29 others before killing himself.

Seven-year-old second-grader Samnang Leam was shot three times, but he miraculously survived. The now-39-year-old remembered “crawling on the floor in the hallway” trying to open doors, until a teacher scooped him up and saved his life.

The shootings had a major effect on the gun-control debate in the United States. They brought into focus the issue of school safety like no other campus shooting had to that point and were a flashpoint in the movement to ban assault weapons.

“The Stockton schoolyard shooting was so horrific it spurred people into action,” said Brian Malte, director of state legislation for the Brady Campaign to Prevent Gun Violence. “California blazed the trail.”

Within weeks of the attack, leaders in Stockton adopted an ordinance banning semiautomatic assault weapons. By year's end, California's lawmakers had followed the city's lead with what would become the strictest ban in the nation.

The ban has been revised multiple times over the past three decades since being signed into law by Republican Gov. George Deukmejian.

In his 94-page ruling, Benitez wrote that it was unlawful for California to deprive its citizens of weapons commonly allowed in most other states and by the U.S. Supreme Court.

"This is by far the most fact-intensive, detailed judicial opinion on this issue ever," said Dave Kopel, an adjunct professor of constitutional law at the University of Denver and adjunct scholar at Libertarian think tank the Cato Institute. That's because the lawsuit is the only challenge of its kind to proceed all the way to trial, he said.

"Judge Benitez had a much larger factual database to write an opinion from than any other judge has ever written on this topic has ever had," Kopel said.

State Attorney General Rob Bonta called the decision "fundamentally flawed" and said he would appeal.

"There is no sound basis in law, fact, or common sense for equating assault rifles with Swiss Army knives — especially on Gun Violence Awareness Day and after the recent shootings in our own California communities," Bonta said in a statement.

Last month, a gunman opened fire at a light rail yard in San Jose, killing nine co-workers and dying of an apparent self-inflicted gunshot wound.

Officials said he was armed with three semiautomatic 9-mm handguns and 32 high-capacity magazines loaded with additional ammunition.

AR-15s have been used in some of the nation's deadliest mass shootings, including one in Las Vegas that killed 58 people in 2017.

"Today's decision is a direct threat to public safety and the lives of innocent Californians, period," Gov. Gavin Newsom said Friday in a statement. "The fact that this judge compared the AR-15 — a weapon of war that's used on the battlefield — to a Swiss Army knife completely undermines the credibility of this decision and is a slap in the face to the families who've lost loved ones to this weapon. We're not backing down from this fight, and we'll continue pushing for common sense gun laws that will save lives."

The ruling came in response to a lawsuit filed in August 2019 by pro-gun groups, including the San Diego County Gun Owners Political Action Committee, California Gun Rights Foundation, Second Amendment Foundation and Firearms Policy Coalition.

The plaintiffs also included three San Diego County men who said they own legal rifles or pistols and want to use high-capacity magazines in them but can't because doing so would turn them into illegal assault weapons under California statutes.

In cases where the government seeks to limit people's constitutional rights, such as those guaranteed by the Second Amendment, the government has the burden to prove the limitation is helping to advance an important public interest, like reducing mass shootings, Kopel said.

"You're essentially weighing how much of a burden you are inflicting on law-abiding people versus how much you are reducing whatever problem you're trying to deal with," he said. In this case, he said, the judge found that "we're not getting any reduction in mass shootings, and it's imposing quite a severe burden on innocent people, like people who want to have these types of firearms for protection in the home."

In response to a challenge brought by the Fresno Rifle and Pistol Gun Club soon after the law was enacted, the 9th Circuit Court of Appeals found that based on existing precedent, the Second Amendment only applied as a limitation on the federal government, not state governments, Kopel said.

That changed in 2010, when the U.S. Supreme Court ruled in *McDonald v. Chicago* said that the Second Amendment does apply to the states, he said.

Each time, those who owned the firearms before they were prohibited were required to register them. There are an estimated 185,569 such weapons registered with the state, Benitez said.

California law defines an assault weapon as a semiautomatic rifle or pistol that can accept a detachable magazine and is outfitted with certain features that could make it more lethal or concealable, including a thumbhole or folding stock for rifles and a second handgrip or threaded barrel for pistols. Firearms with fixed magazines that can accept more than 10 rounds are also considered assault weapons under the law.

The state attorney general's office had argued that such weapons are more dangerous than other firearms and are disproportionately used in crimes and mass shootings, saying that barring them "furthers the state's important public safety interests." Similar assault weapon restrictions have previously been upheld by six other federal district and appeals courts, the state argued.

But the judge spoke favorably of the weapons and said they were overwhelmingly used for legal purposes.

"This case is not about extraordinary weapons lying at the outer limits of 2nd Amendment protection," he wrote. "The banned 'assault weapons' are not bazookas, howitzers, or machine guns."

"In California, murder by knife occurs seven times more often than murder by rifle," he added.

The state is also appealing two other rulings by Benitez: one from 2017 that overturns a ban on buying and selling magazines that hold more than 10 bullets, and another from last April that blocks a 2019 law requiring background checks to buy ammunition.

San Diego gun violence prevention advocate Wendy Wheatcroft was shocked by the language in the ruling.

“I know families whose children were murdered with an AR-15. By his logic, very few AR-15s are ever used,” said Wheatcroft, co-lead for Moms Demand Action, a national gun violence prevention grassroots organization. “But when they are used, the results are way more deadlier than any type of shooting with a handgun or any type of military weapon.

“It's just incredibly insulting to victims and survivors of gun violence who lost their loved ones to a weapon of this type, and it should never be compared to a Swiss Army knife. A Swiss Army knife in the hands of civilians does not kill dozens of people in one fell swoop.”