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Felon wins the right to own a gun

Narrow ruling causes big stir

BY SARAH OVASKA, Staff Writer

RALEIGH - A state law barring felons from owning firearms unfairly prevented a Garner man from owning guns, the N.C. Supreme Court ruled Friday, thrusting the court into the national debate over gun ownership.

The opinion applied only to Barney Britt, who was convicted of a drug crime in 1979, and it didn't have an immediate effect on the thousands of other felons in the state. Criminal defense lawyers who practice in federal courts said they don't know what effect, if any, the opinion will have on federal rules, which prevent felons from buying and owning weapons except when a state has restored that right.

The ruling authored by Justice Edward Thomas Brady held that Britt should be able to own guns and that the state unfairly took away his right to own a firearm with a 2004 law that barred felons from owning firearms. Britt was convicted in 1979 of selling Quaalude pills, but he didn't have any further tangles with the law.

Though the opinion focused just on Britt's case, both sides of the gun control issue saw the ruling as significant because the state's highest court found that Britt had a right to bear arms that trumped the state's ability to restrict him from owning any weapons.

Advocates spent Monday poring over the 5-2 decision in Britt v. State of North Carolina. The decision was seen as a victory for those who view government restrictions as too strict, while those in favor of tighter gun control described it as an alarming blow.

"This has implications beyond just North Carolina," said Robert Levy of the Cato Institute, a Washington-based Libertarian think tank that opposes gun control. "North Carolina has now decided that some felonies are not so serious to result in deprivations of the right to defend oneself."

Roxane Kolar, director of North Carolinians against Gun Violence, said the decision was troubling.

"I've never heard of this before, of a felon having an inalienable right to own a weapon," she said. "It's putting a lot of our state gun laws at risk."

The decision could spark a rush to local courthouses as felons try to have their rights to own and store firearms in their homes restored. Those with the best chance would likely be those with cases similar to Britt's; people convicted of nonviolent crimes who had their right to own a gun restored and then taken away with a 2004 law, said Jeanette Doran, a senior staff attorney with the N.C. Institute for Constitutional Law.

Legal e-mail message boards lit up over the weekend, with lawyers swapping tales of clients convicted of felony littering charges then barred from hunting deer for the rest of their lives.

The state legislature may address the issue with a bill introduced for the 2009-2010 session by Rep. Phil Haire, a Democrat from Western North Carolina, that would give limited hunting privileges to nonviolent felons.

Ready to hunt again

Britt said he's excited about hunting this fall and relieved that his four-year legal battle is over.

"It's not a privilege; it's a right," Britt said about gun ownership. "It's a constitutional right."

The office of N.C. Attorney General Roy Cooper, who defended the state law in the case, declined to comment on the ruling.

A passionate hunter who never had any subsequent arrests, Britt had his right to own guns restored from 1987 until 2004, when the new law went into effect.

Brady wrote that the law was too broad in including nonviolent felons like Britt, who had otherwise been law-abiding and had owned guns for 17 years after he successfully petitioned in 1987 to have his civil rights restored, including owning a gun.

"He is not among the class of citizens who pose a threat to public peace and safety," Brady wrote.

Troubled by the ruling

In a dissenting opinion, Justice Patricia Timmons-Goodson said she was alarmed that her fellow justices ignored state law by giving Britt an exemption. She said the ruling made North Carolina the first jurisdiction to uphold a convicted felon's right to own firearms over a state's power to regulate gun ownership.

"Today's decision opens the floodgates wide before an inevitable wave of individual challenges to not only the Felony Firearms Act, but our statutory provisions prohibiting firearm possession by incompetents and the mentally insane," Timmons-Goodson wrote.

Her fears were shared by those seeking tighter gun-control laws.

Kolar of North Carolinians against Gun Violence expressed concern that judges would be the ones to decide whether felons could own guns, something she says gives too much discretion to the courts.

Jim Woodall, the district attorney for Orange and Chatham counties, said he found the opinion worrisome and hoped it wouldn't be applied broadly to others.

"They're carving out a one-person exemption," he said.

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