



Pro-gun Group Seeks to Overturn Florida Ban on Open Carry

Gun Owners of America (GOA) [just filed a lawsuit](#) seeking to vacate a Florida law from the 19th century prohibiting the open carrying of firearms. It is using the recent decision in *Bruen* to overturn the law.

The old law, according to the complaint, makes it “unlawful for any person to openly carry on or about his or her person any firearm.” It was passed after Reconstruction and “openly targeted only a disfavored subset of the population — newly freed Blacks — while Whites enjoyed defacto immunity from enforcement.”



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Florida, long known as “the Gunshine State” for its early support for the Second Amendment, recently passed a bill into law allowing “permitless carry” for those wishing to carry a concealed firearm on their person. Florida was the 26th state to do so.

That bill was passed by Republican supermajorities in both chambers of the legislature and a Republican governor, Ron DeSantis, but it didn’t go far enough, according to the GOA.

From the complaint:

Despite its reputation as a largely gun-friendly state, Florida inexplicably continues to prohibit the peaceable carrying of firearms in an open and unconcealed manner.

This blatant infringement of the Second Amendment right to “bear arms” runs counter to this nation’s historical tradition and would have criminalized the very colonists who openly carried their muskets and mustered on the greens at Lexington and Concord to fight for their independence.

It also cannot be sustained in light of the Supreme Court’s ruling in *Bruen* in 2022. That ruling recast the judicial landscape in that governments must now show “historical analogues” to support their infringements of the Second Amendment. The law in question was passed in 1893, a century after the Second Amendment was ratified, and decades after the 14th Amendment was applied to the states.

Thirty-eight states now allow “permitless carry” — aka “constitutional carry,” so-called for a citizen’s freedom to carry without first being required to obtain permission from local authorities to do so. Florida, by allowing the 1893 law to remain in place, joins deep blue states such as California, New York, and Illinois in its infringements on the Second Amendment.

Erich Pratt, GOA’s senior vice president, pointed out that unhappy association with far-left deep blue states in keeping its onerous restrictions in place: “Florida lawmakers claim to be pro-gun, but year after year they’ve refused to repeal the ban on open carry, leaving Floridians in the very anti-gun company of New York, Illinois, and California, where this is also prohibited ... the ban has no historical



Written by [Bob Adelman](#) on August 6, 2024

basis and will surely be found unconstitutional under the *Bruen* precedent.”

In 2017 the ban was challenged in *Norman v. Florida*, but the state’s high court ruled it was constitutional, even invoking Supreme Court decisions in *Heller* and *McDonald* to make its case:

We hold that [the 1893 law] does not unconstitutionally infringe on the Second Amendment right to bear arms, as interpreted by the United States Supreme Court in *Heller* and *McDonald*, or the Florida Constitution’s freestanding right to bear arms ... and does not impair the exercise of the fundamental right to bear arms.

The *Bruen* decision has changed the legal landscape and is likely to be successful in Florida as well as in so many other venues where infringements prior to *Bruen* were inflicted on law-abiding citizen gun owners.



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