



Written by [Bob Adelman](#) on August 24, 2023

## Maryland's Red Flag Law Finally Being Challenged in Federal Court

The weaponization of Maryland's red flag law by a county official in a long-running personal dispute with a local resident could be the beginning of the end for red flag laws across the land.

Donald Willey, assisted and joined by the Second Amendment Foundation (SAF), filed a lawsuit ([Willey v. Brown](#)) in the U.S. District Court for the District of Maryland's Northern Division on Tuesday, an action brought against not only the local county official who had it in for Willey, but the county sheriff who assisted her and the state's attorney general.



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Willey and the SAF proclaim that "Maryland's red flag law [RFL] ... violates the Fourth Amendment to the United States Constitution because [it] authorizes state ... judges to issue RFL Warrants ... on a standard **less than 'probable cause'** called '**reasonable grounds**,' and ... violates the Second Amendment to the United States Constitution because the RFL has no historical analogue." (Emphasis in the complaint.)

The complaint decries Maryland's RFL — and those adopted elsewhere — as "Orwellian":

The knee-jerk burst of copycat red flag legislative activity over the last decade was fueled substantially by the non-empirical belief espoused by many gun control proponents that red flag laws could be used to identify and stop would-be mass shooters.

However, this belief is inherently Orwellian, since red flag laws authorize seizure and punishment for conduct that *hasn't* occurred but that the government predicts *could* occur at an unknown place and time in the future. (Emphasis in the complaint.)

The complaint details the horror story of Willey, a retired Marine with 25 years of service (during which he served in front-line combat), who ran afoul of some minor zoning laws in his county. The situation escalated over the years to the point where the county official, Susan Webb, Director of Planning and Zoning for Dorchester County, decided to punish Willey by asking a local judge to issue an RFL against him. The local sheriff got involved and Willey suffered the loss not only of his firearms and ammunition, but of his personal dignity as well.

Let the lawsuit tell the story (excerpts):

This cautionary tale about the danger of unconstitutional law wielded by an abusive and dishonest public official, proves the old adage that truth is sometimes stranger than fiction....



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In May 2021, Webb launched a new campaign of harassment by letter from one of her inspectors to Willey advising that he was in violation of the County Code due to rubble, junk, and untagged vehicles in his yard.

Webb then issued three “Uniform Civil Citations” (the “Citations”) to Willey requiring him to pay fines: one relating to the condition of his yard, one for allegedly running an illegal business on his property, and one for purported “unpermitted disturbance to 100-foot tidewater buffer.”...

Webb soon realized that the condition of Willey’s yard was not properly addressed in this manner and withdrew the yard infraction Citation.

At a meeting with Willey without his attorney about the two remaining Citations, an incensed Webb attempted to intimidate him by aggressively pushing copies of the Citations toward Willey on a table and threatening to fine him \$5,000 a day for the “business” infraction and \$5,000 a day for the “tidewater buffer” infraction.

Willey has never operated a business on his property.

After this initial meeting, Willey’s attorney confronted Webb with the reality that Willey did not have any “business” on his property and that the “tidewater buffer” infraction was not applicable to Willey.

Webb reluctantly withdrew these remaining Citations.

Undeterred, Webb commenced an enforcement proceeding against Willey in Dorchester County Circuit Court in July 2022 relating to the alleged condition of his yard. The parties resolved this proceeding by Consent Order dated November 3, 2022, whereby Willey agreed to remediate any alleged yard infractions no later than May 31, 2023 and that Webb’s inspectors could enter the property to assess compliance, but only after notice to his attorney....

On May 30, 2023, Webb and one of her inspectors, Tyler Bennett (“Bennett”), conducted a compliance inspection of Willey’s property. Although Willey had indeed made substantial and costly efforts to ensure compliance with the Consent Order, and in fact had achieved substantial compliance, Webb was not satisfied.

According to a Notice of Violation issued to Willey on June 1, 2023, “the inspection revealed tall grass/weeds/vegetation 12” or higher, which is in violation of the Dorchester County Nuisance Ordinance,” with correction required by June 7, 2023 on pain of fines....

On June 2, 2023, Webb and Bennett drove to Willey’s property in Fishing Creek without notice to his attorney as was required by the Consent Order, in order to serve him with one or more of the aforementioned Notices of Violation.

When Webb and Bennett arrived in a marked County vehicle at Willey’s property, he was outside in his yard. Willey respectfully declined to accept in-hand service of the Notices and instead politely asked Webb to communicate with his attorney. Instead, an irate Webb refused to leave, berated Willey, and yelled at him that his fence had to be taken down. In response, Willey told Webb: “you’re stupid.”

Webb, apparently not satisfied, lingered and continued to berate Willey even after he said “bye” several times....



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At no time on June 2, nor during multiple prior interactions with Webb and her inspectors, did Willey ever (a) brandish or otherwise display a firearm or any other weapon, (b) have a firearm or any other weapon on his person or immediately accessible, or (c) make any verbal threats or even raise his voice....

Webb decided to punish Willey by going to a local judge demanding that he issue an RFL, allowing the local sheriff not only to forcibly confiscate Willey's firearms and ammunition but also to force him to undergo an involuntary mental health evaluation at a local medical center.

In order to do that, however, Webb had to perjure herself — not once but five times:

- Lie No. 1: She declared on the form required that Willey posed an immediate and present danger of causing personal injury to himself, to herself, or to someone else, by merely possessing a firearm.
- Lie No. 2: She declared that Willey had been “making threats of violence by firearms to myself and other departmental employees on numerous occasions.” But she didn't provide any details as the RFL application demanded.
- Lie No. 3: She alleged that Willey possessed an unknown number of firearms, but without providing any details or amplification: “These allegations were nothing more than a guess — Webb had never spoken to Willey about his firearms, and had no other lawful method of determining which firearms Willey possessed.”
- Lie No. 4: Another section of the form required Webb to provide a description of just how “respondent has unlawfully, recklessly, or negligently used, displayed, stored, possessed, or brandished a firearm.” Webb merely inserted three dates, nothing more.
- Lie No. 5: Elsewhere on the form, Webb stated that “On three recent occasions myself and staff were warned of threats of violence from Mr. Willey.” Willey had never threatened violence of any kind against Webb or her subordinates on any occasion.

Following the confiscation by the sheriff of his firearms and ammunition, Willey was subjected to the mental health evaluation without his permission. There were “multiple nonconsensual tests, including but not limited to a blood-alcohol test, [a] comprehensive metabolic panel, and a urinalysis drug screen. Willey was also forced to remove his clothes and don a hospital gown.”

Seven days passed before Willey was able to present his case to the judge. Before he was allowed to testify, however, Webb asked the judge to withdraw the RFL request.

This ended her case against Willey, but just started his case against her, the sheriff, the state's AG, and the law itself.

From the complaint:

The Maryland RFL is unconstitutional as applied to Willey and unconstitutional on its face.

Accordingly, Plaintiffs bring this challenge to vindicate their rights under the Second, Fourth, and Fourteenth Amendments to the United States Constitution, and to immediately and permanently enjoin enforcement of the Maryland RFL as required to conform the RFL to the Constitution's text as informed by our Nation's history and tradition....

Plaintiffs hereby demand trial by jury.



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SAF's Executive Director Adam Kraut [said](#):

Red flag laws are based on the inherently Orwellian belief that you can take actions against someone for an alleged crime that hasn't occurred. Such laws authorize seizure and punishment for a crime nobody committed but which could occur at some place and time in the future. This may work in a science fiction movie, but should not be allowed in real life.

Added SAF's founder Alan Gottlieb: "This is the sort of nonsense we have repeatedly warned about. These so-called 'red flag laws' can be abused and weaponized against private citizens who have done nothing wrong."



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