

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Virginia Duncan; Patrick Lovette; David Marguglio; Christopher Waddell; California Rifle & Pistol Association, Inc. v. Rob Bonta

133 F.4th 852 (9th Cir. 2025) · No. 23-55805 · Decided March 20, 2025

SUMMARY

The Ninth Circuit, sitting en banc, held that California's prohibition on possessing large-capacity magazines does not violate the Second Amendment. The court concluded that such magazines are optional firearm accessories outside the Second Amendment's plain text and, alternatively, that the ban is consistent with historical traditions of regulating especially dangerous weapon uses and firearm components. The court reversed the district court and remanded with instructions to enter judgment for Attorney General Rob Bonta.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Kim McLane Wardlaw; Mary H. Murguia, Chief Judge; Sidney R. Thomas; Susan P. Graber; Richard A. Paez; Marsha S. Berzon; Sandra S. Ikuta; Andrew D. Hurwitz; Ryan D. Nelson; Patrick J. Bumatay; Lawrence VanDyke
JURISDICTION	United States Court of Appeals for the Ninth Circuit
DECIDED	March 20, 2025
DOCKET	23-55805
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from the Southern District of California's renewed summary judgment for plaintiffs and permanent injunction against enforcement of California's large-capacity-magazine ban. The Ninth Circuit heard the appeal en banc.
STANDARD OF REVIEW	De novo review of summary judgment and constitutional questions; appellate review limited to the record developed in the district court.
PRECEDENTIAL VALUE	Published en banc Ninth Circuit opinion; precedential
PARTIES	Rob Bonta, in his official capacity as Attorney General of the State of California v. Virginia Duncan, Patrick Lovette, David Marguglio, Christopher Waddell, California Rifle & Pistol Association, Inc.

TOPICS

second amendment

constitutional law

appellate procedure

standard of review

takings clause

PRACTICE AREAS

constitutional law

firearms law

civil rights

appellate procedure

QUESTIONS PRESENTED

1. Whether California's ban on possession of large-capacity magazines violates the Second Amendment.
2. Whether the ban effects an unconstitutional taking under the Fifth Amendment.
3. Whether the Ninth Circuit could decide the renewed appeal en banc under the applicable statutory and procedural framework.
4. Whether the appellate court could consider factual material outside the district-court record introduced in a dissenting opinion.

HOLDINGS

1. The Second Amendment's plain text does not protect possession of large-capacity magazines because such magazines are optional accessories or accoutrements rather than arms or accessories necessary to the ordinary operation of a firearm.
2. Even assuming that possession of large-capacity magazines falls within the Second Amendment's plain text, California's ban is consistent with the Nation's historical tradition of firearm regulation.
3. The California large-capacity-magazine ban does not effect an unconstitutional taking.
4. The appellate court may not consider factual material outside the district-court record merely because it appears in a judicial opinion or linked video.

KEY QUOTATIONS

"First, the plain text of the Amendment protects the right to bear "Arms," not accessories to firearms that are neither arms themselves nor necessary to the ordinary functioning of a firearm." (12)

"Because the text of the Second Amendment does not encompass the right to possess large-capacity magazines, we hold that Plaintiffs' Second Amendment claim fails." (30)

"In sum, even assuming that Plaintiffs' proposed conduct of possessing large-capacity magazines implicates the plain text of the Second Amendment, California's law fits within the Nation's tradition of regulating weapons." (60)

FACTUAL BACKGROUND

California's law prohibits possession of magazines capable of holding more than ten rounds of ammunition, subject to specified exceptions, and requires nonexempt possessors to remove, sell, surrender, or permanently alter them. The law was enacted in response to the use of large-capacity magazines in mass shootings and the

legislature's conclusion that prior restrictions on sale and transfer were ineffective and difficult to enforce. Plaintiffs own or represent persons who own such magazines and challenged the possession ban.

PROCEDURAL HISTORY

Plaintiffs challenged California's prohibition on possession of large-capacity magazines under the Second Amendment, the Fifth Amendment Takings Clause, and the Fourteenth Amendment Due Process Clause. The district court preliminarily enjoined enforcement, later granted plaintiffs summary judgment, and permanently enjoined the law. After an earlier Ninth Circuit en banc decision upheld the law, the Supreme Court vacated and remanded for reconsideration in light of *New York State Rifle & Pistol Ass'n v. Bruen*. On remand, the district court again granted plaintiffs summary judgment on the Second Amendment claim. The Ninth Circuit reversed and remanded with instructions to enter judgment for Bonta.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court was instructed to enter judgment in favor of Defendant Rob Bonta, Attorney General of the State of California.

CASES CITED

- *Duncan v. Becerra*, 265 F. Supp. 3d 1106 (S.D. Cal. 2017)
- *Duncan v. Becerra*, 742 F. App'x 218 (9th Cir. 2018)
- *Duncan v. Becerra*, 366 F. Supp. 3d 1131 (S.D. Cal. 2019)
- *Duncan v. Becerra*, 970 F.3d 1133 (9th Cir. 2020)
- *Duncan v. Bonta*, 19 F.4th 1087 (9th Cir. 2021) (en banc)
- *Duncan v. Bonta*, 142 S. Ct. 2895 (2022)
- *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022)
- *United States v. Rahimi*, 602 U.S. 680 (2024)
- *District of Columbia v. Heller*, 554 U.S. 570 (2008)
- *McDonald v. City of Chicago*, 561 U.S. 742 (2010)
- *Jackson v. City & County of San Francisco*, 746 F.3d 953 (9th Cir. 2014)
- *Fyock v. Sunnyvale*, 779 F.3d 991 (9th Cir. 2015)
- *United States v. Alaniz*, 69 F.4th 1124 (9th Cir. 2023)
- *Mai v. United States*, 952 F.3d 1106 (9th Cir. 2020)
- *Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38 (1st Cir. 2024)
- *Ass'n of N.J. Rifle & Pistol Clubs, Inc. v. Attorney General of New Jersey*, 910 F.3d 106 (3d Cir. 2018)
- *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017) (en banc)
- *Hanson v. District of Columbia*, 671 F. Supp. 3d 1 (D.D.C. 2023)

- *Hanson v. District of Columbia*, 120 F.4th 223 (D.C. Cir. 2024)
- *Bianchi v. Brown*, 111 F.4th 438 (4th Cir. 2024) (en banc)
- *Or. Firearms Fed'n v. Kotek*, 682 F. Supp. 3d 874 (D. Or. 2023)
- *Bevis v. City of Naperville*, 85 F.4th 1175 (7th Cir. 2023)
- *United States v. Cox*, 906 F.3d 1170 (10th Cir. 2018)
- *United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244 (9th Cir. 1992)
- *Fernandez-Ruiz v. Gonzales*, 466 F.3d 1121 (9th Cir. 2006) (en banc)
- *Oyebanji v. Gonzales*, 418 F.3d 260 (3d Cir. 2005)
- *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954 (9th Cir. 2010)
- *Duncan v. Bonta*, 83 F.4th 803 (9th Cir. 2023) (en banc order)

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