

Episode 133-- Why an AR-15 Isn't a Swiss Army Knife

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SPEAKERS

Tim "TJ" Ryan, JJ Janflone, Kelly Sampson, Fred Guttenberg, Kris Brown



JJ Janflone 00:08

This is the legal disclaimer where I tell you that the views thoughts and opinions shared in this podcast belong solely to our guests and hosts and not necessarily Brady or Brady's affiliates. Please note, this podcast contains discussions of violence that some people may find disturbing. It's okay. We find it disturbing too. Hey, everybody, welcome to a very special minisode. We're joining you today with Brady president Kris Brown, advocate and father Fred Guttenberg, and veteran activist TJ Ryan, to talk about what happened on Friday. Namely that US District Judge Roger Benitez, of the Southern District of California overturned California's longtime ban on assault weapons, saying the state's law was unconstitutional, and that prohibiting such firearms for decades was a "failed experiment". This was a huge blow to gun violence prevention advocates who were shocked when in his ruling, Judge Benitez opened with calling AR-15s not dissimilar to Swiss Army knives.



Kelly Sampson 01:17

Can our three wonderful guests introduce themselves?



Kris Brown 01:19

Hi everyone. I'm Kris Brown. I am the president of Brady United Against Gun Violence.



Fred Guttenberg 01:24

Hi I'm Fred Guttenberg, big, huge fan of Brady and happy to be connected with you all. I'm also the father of Jesse and Jamie, my children were in the Parkland school shooting and unfortunately, my daughter Jamie died that day.



Tim "TJ" Ryan 01:40

TJ Ryan, I'm a Army veteran from 2005 to 2017. And now, post that I've been really big into mental health advocacy, which ties in to a lot of advocacy for gun violence and that is what brings me here today.



JJ Janflone 01:59

And an artist, don't sell your art short.



Tim "TJ" Ryan 02:01

Oh, that's right. Yeah, I gotta own the artist.



JJ Janflone 02:04

Don't sell it short.



Kelly Sampson 02:06

So why are we here? How are you all doing? What just happened? And when you heard this decision, what was your initial response?



Fred Guttenberg 02:14

No, listen, you have an activist judge who inserted himself into a gun safety issue, in an intentional way. I mean, we can all say, bad decision. No, no, no, this was an intentional decision, poorly written, hoping to be overturned on appeal, with the belief that it would go to the Supreme Court. That is what this is. And, and, and, you know, the in your face to people like me, starting with the very first sentence comparing it to a Swiss Army Knife is infuriating. Had a Swiss Army Knife been used in Parkland, my daughter would be alive and so it almost everyone else. And he knows that but he put it there anyway. The use of the word common, okay, just tells me this was actually written by the gun lobby, this was

written by them. That is their word. I just want to remind everyone, my daughter was born in 2003, when we had an assault weapons ban. They were not common. It ended in 2004. The reason I am working with Brady on a FTC claim right now is to show how these manufacturers abused the ability to produce assault weapons and made them at such alarming rates flooding our streets, meaning to then promote to kids, okay, is so that they could make them common. And now they're using that as an argument. It is a load of BS, my daughter is dead because of the BS, 40,000 other people are going to die this year because of the BS, as has been the past few years in a row. And this decision, it won't stand it can't stand. But we should all be very afraid because it's going to the Supreme Court.

K

Kris Brown 04:12

I obviously agree with everything that Fred said, I did read the decision. And I does read like an audition for the Supreme Court. Oh, and I laugh about it because it's so blatant. And the language is so hyperbolic. That it is- it's unsettling because in the end, Fred, like so many other parents and family members across the country have suffered the worst imaginable thing. You have a federal judge somehow, trying to compare an assault style weapon to a Swiss Army Knife is just a slap in the face to every surviving family member who's lost someone due to gun violence. One more point though, as a lawyer, I found it very troubling when I was reading through it, because the logic that he is using- and this is the same judge who overturned California's restriction on high capacity magazines that the Ninth Circuit then overruled- really would call into question, our ability to have any law that regulates guns in any way. And that's really what's at stake here. It's horrible enough to think about assault weapons, because they are a weapon of choice for mass murderers. It's just a fact. Beyond that, though, we're trying to expand the Brady law right now, right? And if you take some of the dicta, that's the wording that's outside of the ruling and the logic that this judge applies, any public safety law that in any way restricts, even temporarily, access to guns is at risk. And I am very, very worried about that.

K

Kelly Sampson 05:59

But kind of just to add some context here, would love to bring that claim, if you can even call it a claim for straight face that an assault rifle is akin to a Swiss Army Knife over to you, TJ. Give me your experience and background, if you could just help us understand, you know, what, what is an assault weapon?

T

Tim "TJ" Ryan 06:19

Yeah, sure. And I just want to echo a lot of what you know, from an average Joe's

perspective, in all this, a lot of what caught my attention in that article was the verbiage of the judge that had made that decision. And his verbiage struck a chord with me pretty deep, and also really, really confused me. And I felt strongly, very strongly that it was an opinionated statement, decision and wasn't in the best interest of anyone except for, you know, people who are advocating for, you know, their gun rights or whatever the heck, keeping assault rifles. As far as AR is, they're the weapon that is always used by service member in a combat scenario. From the minute that they go into training, basic training, they are assigned an assault rifle, and they learn its components, they learn how to use it, and it becomes, you know, very close to them, they can't go anywhere without it. They're highly accountable for it. And it becomes a second arm to the service member who is fighting our wars overseas against a larger enemy who opposes them. That too, carries weapons, such as the, you know, these war fighting weapons.



Fred Guttenberg 07:43

You know, I gotta say that the craziness of this is when my kids were younger. I used to go camping with both of them. And we were part of the different groups. Every kid and every parent on these camping trips. We all had our Swiss Army knives. We all did. Every kid knew how to use the Swiss Army knife. We did different things with the Swiss Army knives. There was no danger involved in it, that was the purpose of the Swiss Army knife. Had we all been out in the woods, or playing by the lake with our AR 15s that would have looked a little different. And so I just- what drives me really crazy about this decision isn't just that he said it, he chose to say it, it was intentional. He opened up his arguments with it. It was basically to say hey, all you victims of gun violence. Well, you gun safety advocates. You know, it was just horrible.



Tim "TJ" Ryan 08:47

Also, out of the two comments that caught my attention the Swiss Army knife was actually second to the first one where he mentioned how it is easily you know, transferable between a home defense and Homeland Defense. And that one is where I hit a wall and I had such frustration and couldn't understand what that meant. Like what do you- there's no way there's a reason why soldiers don't fight wars here. They fight them over there, you know, and then you have officers who are carrying smaller weapons who are patrolling the streets and you know, like it doesn't make sense in any any way or fashion. And an assault rifle, if I could just tear apart this guy a little bit on an assault rifle inside of a home right to a trained individual is still a conflict. It's called the 3% world, the 3% of what happens if your weapon fails the weapon being the AR right. Entering the room, someone grabs your gun because that barrel is long, if I see you coming in with a bit I'm gonna grab it and pull it down and you got your it's not use anything inside the house.

The corners are tight, all that stuff. So where would you use a AR in a home defense weapon, maybe be shooting down at a concert or something like that, you know, that's maybe where you might use an AR but that's not that's not frickin home defense. And that's not Homeland Defense. You know, that's terrorists. That's terrorism right there. You know, this guy is trying to- when you go to the Swiss Army knife, I hear him saying like, oh, it was just a metaphor, just a metaphor, it was taken too literal. Well okay, so let's say Swiss Army knife. What are the different uses? Right? They have mostly uses scissor this one, one, one? What is the ARs multiple uses? And what did you mean by the frickin Swiss Army knife? Is the AR- there's only one use murder. That's all it is, when I'm over there using it. My intent is to murder. Right? So what what other uses mass murder, or, you know, murdering from a distance, what like, it makes no sense to me. And I think this guy is just is way off his rocker. And way too opinionated to be sitting in any kind of position that makes heavyweight decisions like this.

K

Kris Brown 10:56

I do want to ask TJ question really quickly, because Brett and I were on the news over the weekend, TJ being asked questions about this ruling. And one of the points that I made when I was talking about this ruling is that the AR 15 is actually designed on the same chassis, the same system as the M 16. And that it is used by soldiers in battle. And I had a whole host of people claiming that's just not true. Kris, you don't know what you're talking about. So I decided to just do a little research on something they call the internet. Ad nauseum some details about why what I'm saying is correct. But in a I'm not a combat veteran, thank you for your service. I would like to have give the floor to you to explain what we really mean by this because I also read some reports of trauma surgeons, TJ, talking about the difference in what happens to a body when you're hit with a bullet from a handgun versus an assault style weapon because the velocity is so much faster. It literally pulverizes flesh, it leaves exit wounds, the size of oranges or grapefruits. Could you comment on that a little bit? And Fred, of course, it's so horribly painful, but whatever you?

F

Fred Guttenberg 12:20

Well, listen, one of the doctors who actually treated a bunch of the Parkland victims, Dr. Cher, wrote a piece about what the bullet wounds looked like. And what the AR 15 did to these bodies. Listen, my daughter got hit with one shot. One. Okay. So I there's, been a lot of people have talked about what these weapons do to the body. It's not made up stuff. It's just not. And Kris, you and I spoke over the weekend about some of the things people were saying to you. And I remember sending you a couple of things. Yeah, but yeah, it's like, you know, folks, like TJ in the military, you've used these weapons, everyone else

needs to shut up.

T

Tim "TJ" Ryan 13:10

Yeah, that's right. The experience, even the folks that own a lot of these weapons, haven't even used them, probably. And then the ones who have used them use them at a gun range probably extremely inappropriately. I don't trust anyone besides someone who's received the trainings, such as myself, you know, along those lines with that weapon. I don't so like bottom line? I don't trust anyone I see walking around. That's for sure. So getting to the question. Yeah, you're absolutely right, Kris, about the whole, AR comparative, like, it's the same thing as a point to two three round being the same as 556. You know, the NATO version. I mean, it's, it's the same thing, these are the AR. What they're probably trying to claim is that in the military, the bottom of the receiver is what carries the serial number. So they're assuming that we're speaking that you're they're probably just trying to get at you as far as like you're getting straight, they don't come straight from the military is like, it's not what we're talking about. So like I can see like, where those less informed folks are, are coming from and then the the points of the let's talk about distance of the AR right at a max effective range 500 to 600 meters, right? I can effectively hit somebody in the body for about five football fields. All right, put it in that perspective, from one from end zone to end zone, I pretty sure with at least three shots can hit you in the chest, hands down, right. So that's what that is. There's no need for that kind of technology in the home. It makes no sense and it's useless. What it does to the body that round does leave wounds that are, that are unbearable, and it does ricochet to a point that is very powerful, more so then how a small around 45 of nine millimeter would be slowed down within the body. The way that the smaller caliber bullets cause any harm is if they happen to you know, ricochet the correct way across certain things, right. But the, that weapon I can shoot straight through your chest and it'll come it most likely will do an in and out exit wound, if not, it'll hit that key bone, and it'll go straight up into something that will cut you off. It's very unfortunate. Yeah, so there's, there's a lot more death and deadly consequences when it comes to a long rifle, the ability that someone has with a long rifle is not something that should be designed to be within, you know, our nation's homes, unless they're bored out and posted up on a wall or some kind of whatever, but they're not firing anymore. You know, that'd be the only really I could see it.

K

Kris Brown 15:57

I think it's, it's really important for people in our movement, who are talking about these things, not to feel that they can't defend their position or bullied by individuals who instantly want to come out and say, "You don't know what you're talking about". I knew

what I was saying was right. But I think also having people like you, TJ, who are very familiar with these weapons and understand the impact they have, and tragically, dads like Fred, and others who've lost family members, their children, this way. People don't want to talk about this and recognize it. But we have to, we have to understand the deadly nature of these guns and be able to defend our position because too often people on the other side are just trying to sort of use hyper technical kind of arguments to undermine the confidence of our position, we can't let that happen. So I just wanted to make sure we could correct the record and make sure everyone understands the AR 15 are the weapon of choice for soldiers in combat in today's military, that's the reality of it, full stop.



JJ Janflone 17:06

And I'd like to focus on one of the words that keeps coming up here, you know, battle, because it really bothers me that this is being used, you know, why are we prepping for battle at home? Like for example, you know, Jamie didn't sign up to be in a battle, she went to school.



Fred Guttenberg 17:20

So they say battle, but these are 'not military weapons'. I forget the advertisements directly to kids in the military fatigues and talking about that, but these are 'not military weapons'.



Kelly Sampson 17:33

Yeah, good point.



Kris Brown 17:34

Yeah, it's a really good point that some of the advertisements and feature individuals in fatigues and that slogan, get your a man card here. And that kind of very crass marketing has been a hallmark of what manufacturers have been trying to do.



Tim "TJ" Ryan 17:53

The man card crap is a bunch of male toxicity BS that they're trying just to friggin really dig into each and every male out there and try to ping that frickin button that's tied into their upbringing and bring them forward and join their cause. They're really trying hard to

give no one a choice but to follow us otherwise you don't fulfill that masculine identity. That's pretty freakin disgusting on that one right there.

K Kris Brown 18:21
Yeah.

K Kelly Sampson 18:23
I mean, though, I feel like we could pick this decision apart all day. In some ways. It reads like an NRA advertisement.

K Kris Brown 18:31
And I think it's important for maybe the listeners, just to understand if you haven't read the opinion yet, which is actually over 90 pages. If we could just take a second I want to read the first paragraph that we're all talking about, because it's so, it's so mind blowing that I think it needs to be put on the record. He introduces this 90 page decision overturning a 32 year assault weapons ban with the following paragraph. Like the Swiss Army knife, the popular AR 15 rifle is a perfect combination of home defense weapon and Homeland Defense equipment, good for both home and battle. The AR 15 is the kind of versatile gun that lies at the intersection of the kinds of firearms protected under Heller. Yet the state of California makes it a crime to have an AR 15 type rifle. And he goes on to say why that's unconstitutional. The idea that exactly what TJ is saying he is saying with a straight face, that the AR 15 is appropriate both for home defense and battle by by combat trained soldiers is itself so alarming and so disgusting. I don't really quite know what to say about it.

K Kelly Sampson 19:51
And TJ and Fred, we've talked about this before, but how is this for those of you who have obviously experienced exactly what these sorts of firearms can do?

F Fred Guttenberg 20:01
You know, when Jamie was killed, and I started getting involved in all this stuff, the whole gun lobby responded well, the AR 15, that's, you know, that was a bad guy but these are for hunting and sport. They were still trying to give that line of crap just over three years ago, hunting and sport, hunting and sport. That's what they were for. But in just the past three years, we clearly see how they have gone out of their way to make the idea of these

be common, home defense, okay to walk into government institutions with or peaceful rallies with, has become normal in just three years. It is horrifying to me, because it's normalizing even more extreme violence. It's normalizing the inevitability of more people being killed by these weapons. And we're seeing in our politics and our judiciary, where there's really, unfortunately too many people who don't seem to be bothered by that.



Tim "TJ" Ryan 21:16

Yeah, I mean, I feel the same. Actually horrifying is a great word for it in my opinion. Like I hear a lot of the lobbyist talk about rising up, like what if, you know, we have to go to war with the government and whatnot, we're going to be opposed in the military, and they have ARs. And I was like, well, you know, at that point, everything's really gone to shit. So I think that's really a cop out. And then the next thing that is horrifying is I've mentioned that I had been trained to shoot effectively at a distance with this weapon. I'm speaking about these random folks who were not, you know, give them a 30 round mag, and that's 30 lives lost, and probably not what that idiot was shooting at in the first place. You know, so that's extremely concerning. And bottom line is the if we start allowing all these ARs in the street, that is what is going to bring the war on. It's not to prepare, you know that that's what's going to bring the war forward. All right, the AR is being in the streets are being more readily available, easy to grab is going to create war against, you know, whatever, our government, etc, etc. It's not the other way around. So it's, yeah, horrifying is a great word for it.



Fred Guttenberg 22:35

You mentioned how this is preventable. But the next one is also predictable. We know what's gonna happen. And so that's what makes the deviousness, the ugliness, the dishonesty, the the hate of these judges and legislators so despicable. Because they know as well as we do, the next one is predictable. We know there's going to be the random, heck in the hour that we're on this, there's gun violence happen. It's happening. It may not be the big one. But it's happened, somebody in this hour is who's just became a victim of gun violence. Someone's planning a funeral for a victim of gun violence, someone's finishing a funeral for a victim of gun violence, all this hour. And it's gonna repeat itself next hour. And the next big one is around the corner, we know. And we damn well better figure out a way to do something about it.



JJ Janflone 23:36

Kelly, where where do we go from here legally? Can I tag you in, you know, to break this

down for me and listeners without legal degrees.

K

Kelly Sampson 23:43

So this was an appellate court. And so what can happen now is that the state of California has the option to choose to pursue it to appeal this decision and seek what's known as cert for the Supreme Court. And so they can file a brief basically saying why this is wrong, pointing out the fact that this contradicts a lot of other circuits. And therefore that can be the grounds for an appeal. Now, whether or not they do that remains to be seen, especially because the Supreme Court, it doesn't have the best composition right now for an appeal. But that's why this is so troubling, you know, and even if you're someone who cares about gun violence, and you live all the way across the country from California, this is extremely troubling, just because it does have the potential to become a case that can go to the Supreme Court and impact all of us. And then it can also embolden people in other states who may be eyeing this and looking at this and seeing an opportunity for them too, so it has national implications, even though it's specifically talking about California's law.



JJ Janflone 24:46

Thank you. And to our guests, you know, can we expect to see other laws like this challenged, you know, what's, what's going to happen?

K

Kris Brown 24:54

Well, it's hard to speculate, but that's why we're on here. So I'm going to speculate. Obviously, you don't want to push forward with initiatives state by state, if they're going to be undermined by the court system. I think to me, it is still the case that California has among the nation's strongest gun laws. And you know, JJ always talk about California as an incubator for why we need strong federal laws because they've worked. California per capita has among the lowest experience of gun violence in the entire nation. And that's not happenstance. The thing is, it's the system of laws together. If we think about gun violence, like any other public health epidemic, which we should, because that's what it is. It's not any one thing that we should say, what is the one thing that we could do, that would end gun violence in America. When you lose 40,000 people a year to gun violence, when 80,000 more a year, are shot, and have to live with those injuries for the rest of your life, you have to think about a comprehensive approach. And the thing that I'm worried about is an assault weapons ban is a part of that comprehensive approach. The judge seems very informed by NRA talking points about his approach to this, not only to Fred's

point, setting himself up so that this is appealed to the Supreme Court, but also creating a version of the universe in which well, it just doesn't matter, because maybe assault weapons, kill a few people. But we lose so many more to gun violence, and it's not with these weapons. How can a human being actually write something like that, and not allow it to be internalized? Yes, there is no one law, we lose too many people in this country due to gun violence, there is no one law that's going to save all of these people. But you know, what? An assault weapons ban, restriction on a high capacity magazine, decent and robust permitting systems related to who is acquiring and using weapons, which would include training, expanded Brady background laws, those are among the most important combination of laws. And I'm not just saying that, go read Daniel Webster's reports on this, that will save a large number of people. And so I think it's not going to stop us, JJ. We're going to continue to fight every day with every ounce of breath. But it just redoubles my commitment and our efforts for why we need national laws on this. It's a very cynical move with a judge saying there's no evidence this worked, because look at how many different assault weapons there are in California despite the ban. Well, duh, where is California border? Nevada. Yes, that happens. That's why we need a federal assault weapons ban that we had for a decade. And it actually worked the use of assault weapons during that time period, if you look back was significantly reduced. There are people alive today. Jamie Guttenberg could be alive today. If we had kept that ban in place.

F

Fred Guttenberg 28:21

Listen, this judge, this is not the only one of the really worthy California laws that he has gone after and targeted. So what he's systematically, in a very activist way trying to do is target the effectiveness of gun safety and push it to the Supreme Court. That is what he is trying to do. It is ultimately what we should all be most fearful of is the current makeup of that court, because that is what that movement has been working towards for a long time. It's the reason why they invested so much in getting Kavanaugh there and Barrett there and the others. And it we all ought to be concerned because they're trying to push the value of all the good stuff that we do to a place that may end up saying it ain't legal. They may be wrong, but they may say.

K

Kelly Sampson 29:21

Well, I want to thank all of you for what you've done and what you continue to do every day. And listeners will let you know the minute we have more news about the state.



JJ Janflone 29:33

Hey, want to share at the podcast. Listen can now get in touch with us here at Red Blue and Brady via phone or text message. Simply call or text us at 480-744-3452 with your thoughts, questions, concerns, ideas, whatever. Kelly and I are standing by.



Kelly Sampson 29:47

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