

Ninth Circuit Upholds California's Ban on Large-Capacity Firearm Magazines

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ATTORNEYS

California's ban on large-capacity firearm magazines does not violate the Second Amendment.

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In 2016, California voters adopted Proposition 63, which banned the possession of magazines that hold more than ten rounds of ammunition. The state ban requires owners of these large-capacity magazines to either sell their magazines, remove them from the state, turn them over to law enforcement, or modify them to hold ten rounds or fewer. The district court and a three-judge panel of the Ninth Circuit determined that this ban violated the Second Amendment.

Last week in *Duncan v. Bonta*, an eleven-judge panel of the Ninth Circuit reversed, ruling that the state ban is constitutional. The court, applying a two-step framework, concluded that the ban interferes only minimally with the core Second Amendment right to keep and bear arms, and "reasonably supports California's effort to reduce the devastating damage wrought by mass shootings." The court also concluded that the ban is not an unconstitutional Fifth Amendment taking of property because the government is not physically acquiring the magazine, and the ban does not deprive owners of all economic use.

In light of this decision, the state ban, codified at **Penal Code section 32310**, is now enforceable. Violators face a possible criminal fine up to one hundred dollars or imprisonment for up to a year. Law enforcement agencies should also be prepared to accept magazines that are voluntarily turned over by owners.

If you have any questions, or would like more information about how this decision may affect your agency, please contact **Jennifer Petrusis**.