Warrantless Seizure of Firearms Belonging to Mental Health Patient Did Not Violate Fourth Amendment

Daigle Law Group
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Recently, we touched on a politically charged area – an ICE warrant execution at a manufacturing plant where over 100 employees were detained and prosecuted for illegally entering the country. Today we touch on another “third-rail” so to speak – gun confiscations. The case today, Rodriguez v City of San Jose, comes to us from the 9th Circuit and looks at the issues concerning an officer’s ability to confiscate firearms at a scene where it is readily apparent that a person is suffering from a mental health emergency.

Now, I certainly understand the 2nd Amendment argument that people have the right to possess firearms, but I’m sure each of us can recount an incident where it was clear that public safety considerations mandated that we secure a person’s firearms for their safety and the safety of their family and the public.

FACTS

Lori Rodriguez called the San Jose Police Department and asked that officers respond to her home to conduct a welfare check on her husband, Edward Rodriguez. Officers were quite familiar with Rodriguez as they had been called to the house on numerous occasions for incidents similar to this one. Officers were also aware that there were firearms at the Rodriguez home.

Upon arrival officers found Mr. Rodriguez pacing around the house mumbling to himself. When the officers engaged Rodriguez in conversation, Rodriguez told them that he was being stalked by the CIA and the Army. Rodriguez also claimed that people were following him and that he had a “safe full of guns” and mentioned “shooting up the school”. Officers then asked Rodriguez if he had any thoughts of hurting himself and Rodriguez responded by trying to break his own thumb.

Based on this information officers decided to have Rodriguez transported to the hospital for an evaluation under California Code 5150. Similar to statutory language in most if not all states, the statute allows officers to take a person into custody and place them in a medical facility for up to 72 hours when the officer has probable cause to believe the person is suffering from a mental disorder and is a danger to himself or others. Rodriguez was restrained and transported to the hospital by ambulance.
The officers advised Lori Rodriguez that they would need to confiscate the weapons pursuant to California law. Under California Code 8102 officers “shall” seize any weapon in possession of a person that the officers have detained for a Section 5150 evaluation. Mrs. Rodriguez provided the code and keys to the gun safe and the officers confiscated 12 firearms including 1 firearm that Mrs. Rodriguez claimed was hers. While Mrs. Rodríguez did not object to the confiscation of Mr. Rodriguez’s guns, she did object to the confiscation of her handgun.

Mr. Rodriguez remained in the hospital for a week. One month after the weapons had been confiscated the City filed a petition seeking an order of forfeiture for the guns. The City claimed that allowing Mr. Rodriguez to claim the guns would endanger the Rodríguezes and the general public. The case wound its way through the California trial and appellate courts where each case was decided in favor of the City. Lori Rodriguez then completed paperwork to have all of the guns transferred to her but again the City refused to relinquish the firearms. Lori Rodriguez then filed a Section 1983 claim in Federal District Court claiming violations of her 2nd, 4th, 5th, and 14th Amendment protections. The district court granted the defendants motion for summary judgment finding there was no 4th Amendment violation and the 2nd Amendment claims were litigated in the state courts. This appeal followed.

9th Circuit Findings

Since Rodriguez’s 2nd Amendment claims were precluded and her 5th Amendment claims were addressed in another proceeding, we will only be looking at the 4th Amendment claims related to the initial seizure by the officers. Rodriguez claims that the initial seizure by the officers violated her 4th Amendment rights since officers did not seek a warrant to seize the weapons and there was no exigency. The circuit court disagreed, finding that the community caretaking function, much like the emergency exception, allows officers to respond to an “immediate threat to community safety”. The court opined that the same factors found under the emergency doctrine have relevance to the community caretaking function as it applies to seizures within the home. Those factors include:

- The public safety interest;
- The urgency of the public interest; and
- Balancing the individual’s property, liberty and privacy interests.

Applying those factors to the facts of this case, the court determined that the balancing test weighed in favor of the officers. Mr. Rodriguez was clearly suffering from an acute mental health incident, officers had been called to the house for similar conduct on multiple occasions, he was threatening to shoot up a school and the officers could not reasonably know when Rodriguez would return home. As the court noted “Under these circumstances, the urgency of a significant public safety interest was sufficient to outweigh the significant privacy interest in personal property kept in the home and a warrant was not required.”
WRAP UP

A number of states are considering so-called “red-flag” laws that would allow officers to seize firearms under certain conditions. In a time when we are finding that many, if not the majority, of our calls for service involve mental health issues, I think it makes sense and enhances officer safety to allow officers to remove weapons for even a short time while things get worked out. Certainly, the California statute leaves no room for a judgment call on the part of the officers. The statute requires officers to seize any firearm in the house when a person is deemed to be a danger to themselves or others.

I’m sure this debate over gun confiscation will continue and many of you may not agree with the findings of the court in this case. However, at Daigle Law Group, our number one concern is officer safety and under the circumstances presented here in this case I believe the actions taken by the officers, and ultimately approved by the 9th Circuit may have saved an officer from harm.

1 Rodriguez v City of San Jose, 2019 US App LEXIS 21897 (9th Cir CA July 2019)

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