

Texas judge rules gun ban for felony defendants is unconstitutional

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A federal judge in West Texas has deemed a law which prohibits those with felony indictments from owning a gun to be unconstitutional.

Trump appointed judge David Counts rejected a federal indictment against Jose Gomez Quiroz who had been charged under the federal ban.

Counts wrote in his ruling that Quiroz was under a state burglary indictment when he attempted to buy a .22-caliber semiautomatic handgun. Quiroz was then challenged on his indictment by the gun dealer.

In his 25-page ruling Counts acknowledged “this case’s real-world consequences — certainly valid public policy and safety concerns exist,” but Counts said that a recent Supreme Court ruling has instead “framed those concerns solely as a historical analysis.”

“Although not exhaustive, the Court’s historical survey finds little evidence that ... (the federal ban) — which prohibits those under felony indictment from obtaining a firearm — aligns with this Nation’s historical tradition,” Counts said.

Therefore, Counts deemed the ruling to unconstitutional as the “Second Amendment is not a “second class right,” as noted in a 2008 Supreme Court ruling.

“No longer can courts balance away a constitutional right,” Counts wrote. After the New York case, “the Government must prove that laws regulating conduct covered by the Second Amendment’s plain text align with this Nation’s historical tradition. The Government does not meet that burden.”

In the recent New York case, their high court voted 6-3 that Americans have a right to carry firearms in public for self-defense.

Justice Clarence Thomas wrote at the time that the Constitution is there to protect “an individual’s right to carry a handgun for self-defense outside the home.” That right is not a “second-class right. We know of no other constitutional right that an individual may exercise only after demonstrating to government officers some special need.”