

The Virgin Islands Consortium

New Federal Lawsuit Challenges USVI Gun Laws, Seeks Carry Licenses for Nonresident Visitors

A new federal lawsuit argues that the USVI's gun laws unconstitutionally bar nonresidents from applying for local carry licenses, leaving visitors unable to lawfully keep or bear firearms despite holding valid licenses elsewhere in the United States.

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A new lawsuit filed in District Court seeks to strike down portions of the Virgin Islands' firearm licensing system that prevent nonresidents from applying for licenses to carry concealed handguns in the territory.

Sean Dale Henry, Gun Owners of America and Gun Owners Foundation filed the complaint Monday against the Government of the Virgin Islands and V.I. Police Commissioner Mario Brooks. The plaintiffs accuse territorial officials of a “wholesale refusal to allow Americans to exercise their enumerated constitutional right to ‘keep and bear Arms’ unless they have a ‘bona fide residence or place of business’ in the USVI.”

The lawsuit alleges that the territory’s policies violate the Second and Fourteenth amendments by leaving nonresidents without any legal mechanism to carry a firearm in public, even when they hold valid licenses issued elsewhere in the United States.

“As of 2022, the USVI does not recognize the firearm licenses issued by any state or territory,” the civil complaint alleges.

Because the territory also prohibits the open carrying of firearms, “there is no way for nonresidents to ‘bear arms’ in public based on reciprocity,” according to the lawsuit.

Complaint Challenges Residency Requirement

The plaintiffs argue that nonresidents are also prohibited from applying for Virgin Islands licenses to carry handguns.

Similar restrictions apply to firearm possession, according to the complaint, leaving nonresidents largely unable to keep firearms while visiting the territory.

“For the 99.975 percent of Americans who are not residents of the USVI, Second Amendment rights simply do not exist on the islands,” the lawsuit alleges, arguing that “no other provision of the Bill of Rights works this way.”

The complaint cites court decisions from California and New York, along with statutes from Connecticut and Hawaii, in support of its position that the Virgin Islands “represents an extreme outlier in the United States.”

The territory is the country’s only jurisdiction that “has no mechanism for nonresidents to keep or bear arms,” the plaintiffs contend.

Mr. Henry holds a Florida firearms license and a federal firearms license.

Because he does not reside in the Virgin Islands, however, he says he is “statutorily unable to apply for a license to carry a concealed handgun.”

Mr. Henry alleges that he has repeatedly attempted to contact the V.I. Police Department to discuss whether he is eligible to submit a firearms-license application.

Those efforts were unsuccessful, according to the complaint.

“these attempts to reach USVI officials have been to no avail...in fact, Mr. Henry has been unable to get the USVI police to so much as pick up the telephone.”

The alleged lack of response from the department makes his need to carry a firearm for self-defense “all the more vital,” the complaint argues.

Mr. Henry says he intends to visit the Virgin Islands at least twice within the next four months.

Although travelers may declare a handgun at the airport and upon arrival, the lawsuit argues that the declaration procedure does not preserve Mr. Henry's ability to keep the weapon during his visit.

Doing so would require a Virgin Islands firearms license, which Mr. Henry maintains he is ineligible to obtain because he is not a resident.

Organizations Cite More Than Two Million Supporters

The complaint says more than two million "members and supporters" of Gun Owners of America face the same issue.

The organizations contend that members who are licensed to carry concealed firearms elsewhere cannot lawfully carry those weapons while in the Virgin Islands.

They "have been, are being, and will continue to be irreparably harmed by the USVI's blatantly unlawful contravention of their Second and Fourteenth Amendment rights."

The plaintiffs base their constitutional arguments on the U.S. Supreme Court's 2008 decision in *District of Columbia v. Heller*, which recognized an individual right to keep and bear arms.

The complaint also relies on subsequent Supreme Court rulings issued in 2010, 2016 and 2022, which it says guarantee that right to Americans through the Second and Fourteenth amendments, "free from infringement by either federal or state governments."

Plaintiffs Seek Court Orders Against Restrictions

The plaintiffs are asking the District Court to declare unenforceable any territorial law or regulation "that precludes the issuance of licenses to carry handguns to nonresidents."

They argue that such provisions violate the Second and Fourteenth amendments.

The lawsuit also seeks an order declaring that nonresidents must be permitted to apply for and receive licenses to carry concealed handguns in the territory.

A separate requested order would prevent territorial officials from refusing to accept applications from otherwise qualified nonresidents or declining to issue licenses to qualified nonresident applicants.

The new complaint joins two other lawsuits challenging aspects of the territory's firearm licensing system.

A hearing is scheduled for August 19 in a case brought against the Government of the Virgin Islands and the V.I. Police Department by the U.S. Department of Justice.

A separate lawsuit filed by the co-owner of Crown Bay Marina is awaiting an amended complaint, which is due by the end of this month.

That amendment follows the recent enactment of legislation overhauling the territory's gun laws.

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