

Nurdyke Argument



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On Jan. 15, 2009 California gun rights advocate Donald Kilmer argued a vital case before the federal court of appeals for the Ninth Circuit, the nation's largest federal appellate court (CA, OR, WA, AZ, NV, etc). At issue in the case is the crucial question of whether the Second Amendment right to arms should be applied against state and local governments. (Last year the Supreme Court held that it protects individuals against federal gun bans. The current case would extend that protection so state and local governments could not ban guns.)

The precise issue in the case is Alameda County, CA's hitherto successful effort close down gun shows by banning the display of guns on the county fairgrounds. This battle has so far lasted ten years, bankrupting the gun show and running it out of business. After that occurred, San Jose Attorney Kilmer has been handling the case at his own expense for nearly nine years. (The NRA has paid me to help him and some of the expenses have been defrayed by Calguns, the Madison Society and California Rifle & Pistol Assoc, among other groups. But for nine years Don Kilmer has worked entirely without pay and has paid for many of the expenses himself.)

Normally there is not much of an audience at arguments before the appellate courts. But this case is so important, and gun community interest in it is so great, that the audience filled the entire courtroom plus an over-flow courtroom which had been assigned to hold it. C-Span asked for and received permission to tape and broadcast the case.

It is always hazardous to try to predict a case's outcome from the oral argument. But Kilmer fielded all the court's questions and it appeared to go very well.

At one point, Judge Alarcon asked the county's attorney whether its position really was that gun shows could be conducted without guns. The audience briefly laughed and clapped and the judges did not attempt to silence them.

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