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Family: New Jersey man serving 7 years for guns he owned legally

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EVERYTHING Brian Aitken was or had worked for was wiped away one winter afternoon after his mother called the police on him.

Separated from his wife, the entrepreneur and media consultant, now 27, had moved back home to New Jersey from Colorado toward the end of 2008 to be closer to their young son.

In between jobs, his well-oiled life was running ragged, and on Jan. 2, 2009, when his ex canceled his visit with their son, he became distraught, muttered something to his mother, and left his parents' home in Mount Laurel, N.J.

"He said something that scared her, things that a guy will only say to his mom, like . . . 'Life's not worth living anymore,'" said Larry Aitken, Brian's father.

Sue Aitken, a trained social worker, decided to play it safe and called police, but she hung up before the 9-1-1 dispatcher could answer. Police traced the call and showed up anyway, and found two handguns in the trunk of Brian's car. And now Brian, her middle child, a graduate student with no prior criminal record, is serving a seven-year prison sentence for weapons charges.

No one blames Sue Aitken for Brian's arrest, except herself maybe, but his father and attorney claim that the Burlington County Prosecutor's Office and the former Superior Court judge who tried the case ignored evidence that proved Brian had the guns legally. The family has asked New Jersey Gov. Chris Christie for clemency and has garnered a great deal of support on a "Free Brian Aitken" Facebook page and among gun-rights advocates.

Aitken and his supporters believe that he had a legal exemption to have the handguns in his car because he was moving from his parents' home to a residence in Hoboken.

"This case is the perfect storm of injustice," said Aitken's attorney, Evan Nappen, of Eatontown,

Monmouth County, who specializes in gun laws.

The Burlington County Prosecutor's Office and former Superior Court Judge James Morley said Aitken and his legal team tried during closing arguments to raise an issue related to Aitken's moving that wasn't presented during the trial, but Morley wouldn't consider it. Aitken remains in prison pending his appeal.

A few weeks after Aitken's trial over the summer, Morley learned that Christie was not going to reappoint him, due in part to a 2009 case in which he dismissed animal-cruelty charges against a Moorestown cop accused of sticking his penis into the mouths of five calves. Morley said there was no way of knowing whether the calves had been "puzzled" or "tormented" by the officer's actions.

Nappen thinks the animal-cruelty case exemplifies poor decision-making by Morley.

"Brian didn't receive oral sex from calves; he only lawfully possessed firearms," Nappen said.

A spokesman for Christie acknowledged that his office had received clemency requests for Aitken, but declined to comment further.

Handguns in a duffel bag

When Mount Laurel police arrived at the Aitkens' home on Jan. 2, 2009, they called Brian - who was driving to Hoboken - and asked him to return to his parents' home because they were worried. When he arrived, the cops checked his Honda Civic and, inside the trunk, in a box stuffed into a duffel bag with clothes, they found two handguns, both locked and unloaded as New Jersey law requires.

Aitken had passed an FBI background check to buy them in Colorado when he lived there, his father said, and had contacted New Jersey State Police and discussed the proper way to transport them.

"He bought them at Bass Pro Shops, for God's sake, not some guy named Tony on the street corner," his father said.

New Jersey and Colorado are on opposite ends of the gun-control spectrum. In Colorado, all he needed was the background check to own the guns.

In the Garden State, Aitken was required to have a purchaser's permit from New Jersey to own the guns and a carry permit to have them in his car.

He also was charged with having "large capacity" magazines and hollow-point bullets, which one state gun-control advocate found troubling.

"What little I can glean about the transportation issue leaves me puzzled, but a person with common sense would not be moving illegal products from one place to another by car," said Bryan Miller, executive director of CeaseFire NJ, an organization devoted to reducing gun violence.

"If Mr. Aitken did the research he said he did, he would not have hollow-point bullets and large-capacity magazines in the vehicle," Miller said. "They are illegal, period."

New Jersey allows exemptions for gun owners to transport weapons for hunting or if they are moving from one residence to another. During the trial, Aitken's mother testified that her son was

moving things out, and his friend in Hoboken testified he was moving things in. A Mount Laurel officer, according to Larry Aitken, testified that he saw boxes of dishes and clothes in the Honda Civic on the day of the arrest.

The exemption statute, according to the prosecutor's office, specifies that legal guns can be transported "while moving." Despite testimony about his moving to Hoboken, a spokesman for the prosecutor said the evidence suggested that Aitken had moved months earlier, from Colorado to Mount Laurel. "Again, there was no evidence that he was then presently moving," spokesman Joel Bewley said.

After Nappen raised the moving-exemption issue, he said, the jury asked Judge Morley for the exemption statute several times and he refused to hand it over to them. Morley, in a phone interview, echoed the sentiments of the prosecutor's office.

"My recollection of the case is that I ruled he had not presented evidence sufficient to justify giving the jury the charge on the affirmative offense that he was in the process of moving," Morley said.

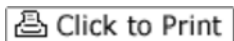
Morley declined to comment further.

Aitken, who did not testify, was convicted and in August sentenced to prison. His father said that his son was involved in an "incident" after arriving in prison but that he doesn't discuss it.

"This is the most normal, everyday, All-American regular kid, and for this to happen to him is a disgrace," Larry Aitken said. "It's a disgrace of society."

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