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Jews for the Preservation of Firearms Ownership
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re: *Bonar, R. Scott. adv. State*
Indictment No. 08-04-1079-E
File No. 2085

Dear JPFO:

I represent a young man named R. Scott Bonar. On April 29, 2008, Scott was indicted by the State of New Jersey for allegedly shooting his friend and is now facing over ten years in prison with a substantial period of parole ineligibility. What makes this case particularly interesting is that the State of New Jersey is attempting to limit our rights as individuals and punish gun owners. In Scott's case, the facts alleged are as follows.

Back in March of 2008, Scott and his best friend, Nate, were target shooting with Scott's .22 caliber rifle behind Scott's home. At the time, both Scott and Nate were firing the .22 caliber rifle utilizing Super Colibri powderless rounds (which are designated for indoor use with .22 caliber handguns). Nate posed to Scott what it would feel like to be shot and Nate asked that Scott shoot him with the .22 caliber Super Colibri round utilizing the .22 long rifle. In preparation for the event, Nate donned two hoodies (sweatshirts with hoods) and walked about one hundred yards away. Nate then turned so his back faced Scott, put his head down, and Scott fired toward Nate, arcing the round so it would make the one hundred yard distance.

The small projectile from the Super Colibri round did end up hitting Nate. When he was hit, Nate dropped to his knees. The boys looked at the location of the bullet strike but only believed it to be a welt. A few days later, after the welt did not diminish, Nate spoke with Scott and they examined the location. It was at that point that they concluded that the Super Colibri .22 round had actually entered Nate's back just below the skin.

Nate went to the local hospital, Atlantic City Medical Center, where they easily removed the small round from his back. However, because it involved a bullet, no matter how small, the hospital reported it to the police. The Atlantic City police then contacted the Margate Police, where Scott lived, who then proceeded to conduct an investigation. Margate's investigation culminated in a number of charges as against Scott, including possession of a weapon for an unlawful purpose,

aggravated assault, and pointing of a dangerous weapon with extreme indifference to the value of human life. As noted previously, Scott was indicted on April 29, 2008 for the previously mentioned charges.

A Motion to Dismiss the Indictment was filed by this office alleging, among other things, that Nate had consented to the activity and, based on that consent, Scott should not be facing over ten years in prison. Further, we argued that people have the right to consent to activities when fully and fairly apprised of the dangers involved in these activities.

What the State alleges is that people cannot consent to these type of activities; though, it is apparent that what they are referring to are those activities involving guns and other weapons. It is not difficult to foresee the State charging a hunter with similar types of weapon offenses should something occur while hunting (though not necessarily resulting in injury; e.g. fourth degree aggravated assault for pointing a weapon at another). Likewise, since the Juvenile Justice Code offenses mirror those for adults, minors may be charged as delinquents or waived to adult court under similar circumstances—charges which will follow them for a lifetime or may require imprisonment with adult offenders.

The fact is that people make mistakes and that kids and young adults do dumb things. This may be everything from BBs to paintballs to, as here, Super Colibri .22 caliber rounds fired out of a small caliber long rifle.

As I noted before, we filed a Motion to Dismiss the Indictment; however, we were unsuccessful. The trial judge found that the evidence set forth above was sufficient to subject Scott to potentially more than ten years in prison. Further and though the officer involved did not provide much testimony, if any, regarding the Super Colibri bullets, the trial court found, again based on the above facts, that Scott's pointing of the .22 long rifle loaded with Super Colibri powderless rounds was under circumstances manifesting extreme indifference to the value of human life. As you can imagine, we have not accepted these results and we have applied to the Appellate Division for relief. Presently, we are waiting to hear if the Appellate Division will accept this matter.

It is unfortunate that Nate was hurt. It is even more unfortunate that Scott is now facing over ten years in prison for something two consenting adults agreed to do. Kids and adults do dumb things, no matter the warning or the instruction, whether it be with BB's, paintballs, or powderless .22 caliber rounds. It just seems ridiculous that this young man is facing a prison term which is greater than if he had raped a woman or killed a child while drunk driving. That is the unfortunate action of the State in prosecuting this young man.

We are not asking for contributions to his defense; rather we are seeking parties who have an interest in protecting the rights of and precluding a potential punitive harm to their members. As noted, the matter is currently on appeal, we are asking for your voice to be heard and an *amicus* brief filed with the Appellate Division and potentially the New Jersey Supreme Court.

Thank you in advance.

Very truly yours,

s/RDH

Robert D. Herman, Esq.

cc: Mr. R. Scott Bonar

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