



NevadansCAN files Injunction Lawsuit to prevent Red Flag Law from taking effect on January 1, 2020

NevadansCAN asserts that Nevada's new Red Flag Law is unconstitutional, and violates citizens' right to due process and Second Amendment rights

CARSON CITY, NEVADA, UNITED STATES, December 5, 2019 /EINPresswire.com/ -- December 3, 2019: NevadansCAN (Citizens Action Network), a grassroots citizen's organization, has filed an injunction lawsuit to prevent Assembly Bill 291 (AB291) from becoming law on January 1, 2020. The new law contains a "Red Flag" provision, which NevadansCAN asserts is unconstitutional, violating citizens' right to [due process](#) and the [Second Amendment](#) right to keep and bear arms. The "Red Flag" amendment was a last minute addition to the bill which was rushed through the Legislature in the final hours of the session.

"The Red Flag provision violates both the Constitution of the United States and the Nevada State Constitution by giving judges the power to take away an individual's right to keep and bear arms based on the accusation that the individual is dangerous and should not have a firearm," said Julie Chen Hereford, co-plaintiff in the suit. The suit contends that a Supreme Court of Nevada decision issued in September 2019 invalidates the "red flag" provision in the new law.

The Supreme Court held in *Andersen v Eighth Judicial District Court* that if an individual is charged with the offense of "misdemeanor of battery constituting domestic violence," the right to a jury trial is triggered, meaning that a decision to bar gun ownership is for a jury to decide and the "say so" of a single judge is not sufficient to deprive citizens who do not have criminal histories of the right to possess guns. The "Red Flag" provision of AB 291 allows for a secret process in which a judge can issue orders of gun seizure from individuals who have not been accused or convicted of violating any laws. The new law provides that upon the filing of a petition claiming a person is a danger to himself or others, a judge alone can order that person's firearms be confiscated. There is no role for a jury, contrary to the ruling in *Andersen*.

Co-Plaintiff Mary Rooney stated: "A person accused of being a danger may not even be aware of the court action against him, and his guns can be forcibly taken by law enforcement and his premises searched. Due process never enters into it."

"Red Flag laws are unconstitutional, and we will not stand for this government power grab in Nevada," Hereford said. "NevadansCAN will work to defend our rights as citizens to the fullest extent of the law." Red Flag laws, also known as Extreme Risk Protection Orders (ERPO), have been passed into law in 18 states, including Nevada.

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