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Judge Upholds Maine's Use of Gun Laws

The ruling allows Maine to continue to prohibit domestic abusers from ever owning a gun.

By Gregory D. Kesich, Staff Writer

Federal prosecutors in Maine can continue to use gun laws to combat domestic violence, the U.S. Court of Appeals has ruled.

U.S. Circuit Judge Sandra Lynch, sitting in Boston, ruled that John Frechette of Lewiston can be charged with the federal crime of gun possession by a person convicted of a crime of domestic violence, even though his 1996 misdemeanor assault conviction came after he pleaded no contest in a "mass arraignment" in Lewiston District Court.

In 2005, U.S. District Court Judge D. Brock Hornby in Portland had dismissed the indictment against Frechette, saying that his no-contest plea to a misdemeanor domestic violence charge did not qualify as a "knowing and intelligent" waiver of his rights under Maine law. Hornby found that as a result, the 1996 conviction could not be used as the basis of a federal gun-possession case against Frechette.

Hornby's decision raised concerns by gun-control advocates and domestic violence opponents, who feared that it would make it harder to prosecute domestic abusers in federal court.

Most domestic violence prosecutions are for misdemeanor assault charges that carry a penalty of less than one year in jail. Since many Maine courts use group arraignments to inform misdemeanor defendants of their rights, Hornby's decision could have prevented federal prosecutors from using those previous convictions as the underlying offense in illegal gun-possession cases.

But in her opinion, Lynch found that Frechette had been fully informed of his rights, in both the group instruction and in a one-on-one discussion with the judge.

Lynch ordered the indictment restored, and the case sent back to Hornby's court for future action.

Since 2001, U.S. Attorney for Maine Paula Silsby has made extensive use of federal gun laws, which prohibit anyone ever convicted of a felony or misdemeanor domestic violence offense

from ever possessing a firearm. As a result, the District of Maine has been the national leader in the number of federal gun prosecutions, despite having a lower rate of violent crime than other districts.

Frechette's lawyer said his client is considering his options, including appealing the decision to the U.S. Supreme Court, and defending the charges against him in a trial. Attorney J.P. DeGrinney said no court date has been set for Frechette to appear again before Hornby on the restored gun charge.

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