

Bauer gun case gets day at Supreme Court

By Andrew Binion

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OLYMPIA — The fight over whether the owner of a gun that was stolen and injured a girl when it was dropped at a Bremerton elementary school in 2012 reached the state Supreme Court on Tuesday.

Douglas L. Bauer, 51, had asked the court to reverse decisions by lower courts, which said the felony assault case could go forward.

The case started when the 9-year-old son of Bauer's then girlfriend took a gun from Bauer's house. While at Armin Jahr Elementary School, the gun inadvertently discharged, hitting another student. Amina Kocer-Bowman was severely injured and underwent several surgeries.

Bauer had several pistols and a shotgun accessible at his house in Allyn. He also kept a pistol in the glovebox of his car, court documents said.

The boy and other children who lived in or stayed at the house were told not to touch the weapons, as they were loaded.

If the state's highest court sides with lower courts, Bauer's prosecution will proceed. If convicted, he will be prohibited from possessing firearms and might face jail time.

The charge says, in part, that a person is guilty of third-degree assault if, with criminal negligence, he or she "causes bodily harm to another person by means of a weapon."

Bauer has contended that the third-degree assault charge did not apply to his situation and that the Legislature has not moved to write a law specifically making gun owners responsible for crimes committed with their stolen firearms.

His attorney, Wayne Fricke, drew a comparison to an adult having alcohol in his or her fridge, and then leaving car keys on the counter.

"Are you liable then for vehicular homicide because the kids drinks, and its reasonable to expect that when a kid drinks and gets in your car he might kill somebody?"

Fricke also said case law or statutes could "tread" into Second Amendment provisions.

Jeremy Morris, deputy prosecutor, contended that there is a stark difference between leaving a knife on a kitchen counter and allowing access to more dangerous objects, and the facts of each particular case had to be taken into consideration.

In questions about a person's ability to see the potential in allowing children to come into the presence of weapons or other dangerous objects, "We don't require clairvoyance," he said.

A decision by the court is expected in coming months.



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