

Case Summary: *Baird v. Bonta*, No. 24-565 (9th Cir. Jan. 2, 2026)

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Baird v. Bonta, No. 24-565 (9th Cir. 2026) involves Mark Baird, a law-abiding citizen of California seeking to openly carry a firearm in public for self-defense purposes.¹ California Penal Code sections 25850 and 26350 restrict such conduct, criminalizing open carry in any county with a population greater than 200,000 and requiring licenses for open carry in non-urban counties.² Baird filed a civil rights lawsuit against the Attorney General of California, asserting that the firearm restrictions violated the Second and Fourteenth Amendments of the U.S. Constitution.³ The District Court granted summary judgment to California.⁴ Baird appealed to the Ninth Circuit, arguing that the District Court had misapplied the Supreme Court's 2022 decision in *New York State Rifle & Pistol Ass'n v. Bruen*, 597

¹ *Baird v. Bonta*, No. 24-565, slip op. at 5 (9th Cir. Jan. 2, 2026).

² *Id.* at 11; *also id.* at 77 (Smith, J., concurring in part and dissenting in part) ("Sections 25850 and 26350 create criminal penalties for carrying firearms. Section 25850 criminalizes carrying a loaded firearm in any public place or street. Section 26350 criminalized openly carrying an unloaded firearm.").

³ *Id.* at 13 (maj. op.) ("In his opening brief before this court, Baird characterizes the question presented broadly as '[w]hether California Penal Code sections 25850 and 26350, which criminalize the open carriage of handguns for self-defense, violate the Second Amendment.'").

⁴ *Id.* at 15 ("Although the district court acknowledged that Baird's proposed conduct was 'presumptively protect[ed]' under the Second Amendment, it ultimately concluded that California's urban open-carry ban is consistent with the Nation's historical tradition of firearm regulation. . . . The district court thus entered summary judgment in favor of California.").

U.S. 1 (2022).⁵ The Court published its *Baird v. Bonta* opinion on January 2, 2026, affirming in part, reversing in part, and remanding to the District Court.⁶

Judge VanDyke delivered the opinion of the court, reversing and remanding the summary judgment of California’s open-carry ban in urban areas. Referencing the Supreme Court’s *Bruen* methodology, the court determined that the State must demonstrate firearm regulations are consistent with historical traditions when restricting individuals’ conduct covered by the plain text of the Second Amendment.⁷ The court asserted that open carry is a historical practice, and that the “absence of a distinctly similar historical regulation” is evidence that California’s regulation violated the Second Amendment.⁸ An analysis of historical regulations showed open carry was often explicitly protected as self-defense conduct.⁹ Judge VanDyke applied the “straightforward” rather than “nuanced” approach of *Bruen* after concluding the present case lacked relevant technological or societal changes.¹⁰ California’s firearm regulations attempted to address

⁵ *Id.* at 5 (“ . . . Baird argues that the district court erred as a matter of law by incorrectly applying *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022).”).

⁶ *Id.* at 55 (“We therefore affirm the judgment of the district court in part, reverse in part, and remand with the instruction to enter judgment in favor of appellant Baird with respect to his challenge to California’s urban open-carry ban.”).

⁷ *Id.* at 16 (quoting *Bruen*, 597 U.S. at 24) (“If ‘the Second Amendment’s plain text covers an individual’s conduct’ that is proscribed by a firearms regulation, then ‘the Constitution presumptively protects that conduct,’ and [t]he government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.”).

⁸ *Id.* at 17 (citing *Bruen*, 597 U.S. at 26).

⁹ *Id.* at 20 (citing Jonathan Meltzer, *Open Carry for All: Heller and Our Nineteenth-Century Second Amendment*, 123 YALE L. J. 1486, 1511-1512 (2014)) (“The general consensus at the time was that open carry was essential to protect the natural and common law right of self-defense, while ‘those who relied on concealed weapons could not possibly be interested in self-defense, but instead must have an improper, aggressive motive.’”).

¹⁰ *Id.* at 17 (citing *Bruen*, 597 U.S. at 25-27) (“Under *Bruen* many questions are ‘straightforward,’ and when governments are attempting to address ‘general societal problem[s]’ that have persisted since the Founding via regulations with no ‘distinctly similar’ historical counterpart, then there is no

long-present, general social problems using methods inconsistent with tradition, indicating a Second Amendment violation.

The Ninth Circuit affirmed the portion of the District Court’s summary judgment ruling regarding Baird’s challenge of license requirements for non-urban counties. Baird waived his right to this claim by failing to contest the dismissal in his opening brief.¹¹ As a result, the court did not conduct an in-depth analysis of the history of this issue in the majority opinion. Judge Lee wrote a concurrence based upon California’s record showing no indication of ever issuing an open-carry license in less-populated areas. Judge VanDyke joined this concurrence, which was critical of the potentially misleading open-carry licensure application process.¹²

Judge N.R. Smith wrote a separate opinion, concurring in part and dissenting in part.¹³ He agreed with the majority’s decision to affirm the District Court’s grant of summary judgment regarding California’s open-carry licensing policy, concluding it was facially constitutional. However, Judge Smith dissented from the majority’s ruling on California’s urban open-carry restrictions. He interpreted *Bruen* to mean that while a state could not constitutionally ban public carrying of firearms altogether, it could restrict either open-carry or concealed-carry so long as one

need to consider the ‘nuanced approach.’”).

¹¹ *Id.* at 6.

¹² *Id.* at 55 (Lee, J., concurring) (“ . . . California admits that it has no record of even *one* open-carry license being issued. How could this be? One potential reason is that California has misled its citizens about how to apply for an open-carry license.”); *also id.* at 56 (“ . . . California tries to hide the fact that citizens in those counties have a right to open carry their weapon under the law. Our constitutional rights, however, should not hinge on a Where’s Waldo quiz.”).

¹³ *Id.* at 75.

option remained available.¹⁴ He further indicated his belief that Baird’s proposed conduct was not protected by the plain language of the Second Amendment.¹⁵ Overall, Judge Smith believed that the District Court’s grant of summary judgment in favor of the State should have been affirmed in full.

Baird v. Bonta is a significant Second Amendment case post-*Bruen* that utilizes the Supreme Court’s 2022 decision as a framework to evaluate the constitutionality of state restrictions on the public carrying of firearms, specifically in urban areas. This ruling further conveys *Bruen*’s conclusion that a historical analysis must be employed to evaluate contested firearm regulations claimed to address general social problems, and the absence of similar past restrictions indicates inconsistency with the Second Amendment. This case decreases California’s ability to regulate the public carrying of firearms in urban areas, a change likely to be praised by gun rights advocates and potentially criticized by advocates of stricter policies to regulate firearms. The differing interpretations of *Bruen* by Judge VanDyke in the majority opinion and Judge Smith in his separate opinion reflect similar debates occurring more broadly in the legal system. This is a developing indication that the Supreme Court may eventually need to address these discrepancies by issuing a new opinion to clearly delineate the boundaries of the *Bruen* framework.

¹⁴ *Id.* at 79 (citing *Bruen*, 597 U.S. at 24) (“Because California allows concealed carry, California may restrict open carry.”).

¹⁵ *Id.* at 78-79 (“Baird argues that sections 25850 and 26350 unconstitutionally prohibit people from carrying a handgun openly throughout California. Such conduct is not covered by the plain text of the Second Amendment.”).