

California's open carry ban has been ruled unconstitutional by the 9th Circuit Court of Appeals in *Baird v. Bonta*. The ruling was published on January 2, 2026.

Don't start openly carrying in public places like Starbucks just yet. The decision is from a three-judge panel and could face further review. California may seek en banc rehearing by the full Ninth Circuit or appeal to the Supreme Court. The ban remains in effect until any injunction is issued or appeals resolve.

This represents a major victory for Second Amendment rights, expanding public carry options in a state with some of the nation's strictest gun laws.

In a 2-1 decision, the United States Court of Appeals for the Ninth Circuit partially affirmed and partially reversed a district court's summary judgment in favor of California Attorney General Rob Bonta. The case challenges California's restrictions on openly carrying firearms in public under the Second Amendment.

Plaintiff Mark Baird, a law-abiding resident of rural Siskiyou County, sought to openly carry a holstered handgun for self-defense statewide, including in populous urban areas.

The majority opinion was authored by Judge Lawrence VanDyke, joined by Judge Kenneth K. Lee, with Judge Lee concurring separately. Senior Judge N. Randy Smith concurred in part and dissented in part.

The panel applied the Supreme Court's framework from *New York State Rifle & Pistol Association v. Bruen*, which requires gun regulations to align with the nation's historical tradition of firearm regulation.

As Judge VanDyke wrote: "Open carry is unquestionably part of our Nation's history and tradition of 'the right to keep and bear arms.' The clear protection for open carry, stretching back to the Founding, means that under *Bruen* we do not reach the 'nuanced approach' in evaluating California's broad ban on open carry."

He further stated: "The historical record makes unmistakably plain that open carry is part of this Nation's history and tradition. It was clearly protected at the time of the Founding and at the time of the adoption of the Fourteenth Amendment."

California generally prohibits open carry of firearms in public, loaded or unloaded handguns. In counties with populations over 200,000, covering about 95% of residents, including major cities like Los Angeles and San Francisco, open carry is completely banned with no licensing option.

In rural counties under 200,000 population, open carry licenses are theoretically available under a shall-issue system where general self-defense desire suffices as good cause.

Concealed carry is permitted statewide via shall-issue licensing, as post-*Bruen* reforms removed discretionary good cause requirements.

Baird raised facial and as-applied challenges to the outright ban on open carry in populous urban counties and the licensing requirements for open carry in rural counties.

The court reversed in part, ruling California's ban on open carry in populous counties unconstitutional under the Second Amendment. It remanded with instructions to enter judgment for Baird on this claim.

The majority stated: "California's urban open-carry ban that flatly prohibits all open carry in the areas of the state where 95% of the people live is thus unconstitutional."

The court affirmed in part, upholding the rural open-carry licensing scheme. Baird waived his as-applied challenge through inadequate briefing on appeal, and his facial challenge failed because it is a permissible shall-issue regime consistent with *Bruen*.

Under Bruen's text-and-history test, the Second Amendment's plain text covers openly carrying handguns for self-defense in public. The government bears the burden to show historical analogs. Historical evidence from the Founding and Reconstruction eras shows open carry was widely permitted and often preferred. The majority noted, citing *Nunn v. State* from 1846: "a prohibition against bearing arms openly, is in conflict with the Constitution, and void."

Many 19th-century courts struck down open carry bans, while some restricted concealed carry as deceptive.

California identified no distinctly similar historical regulation justifying broad bans in populated areas. Modern urban density or safety concerns do not suffice without historical analogs.

The court rejected channeling arguments that banning open carry is okay if concealed is allowed, as history did not support eliminating open carry, the traditional norm.

VanDyke emphasized that constitutional rights do not hinge on a Where's Waldo quiz of county population thresholds.

Additionally, he wrote: "For most of American history, open carry has been the default manner of lawful carry for firearms."

And: "Under Bruen, this is a straightforward case. California is attempting to address a general societal problem through materially different means than were used during either the Founding or Reconstruction."

Baird waived his as-applied challenge to the rural scheme. Facially, the rural system is shall-issue where self-defense suffices, which Bruen suggested is constitutional.

Judge Lee's concurrence highlighted California's subterfuge: The state admitted no record of any open-carry license ever issued in rural counties, despite the law's theoretical availability.

Judge Lee's concurrence agreed with the majority but emphasized broader implications, accusing California of misleading citizens about rural open-carry options.

Judge Smith's partial dissent agreed the rural scheme is constitutional but dissented on the urban ban, arguing states may eliminate open carry if concealed carry remains available. Historical concealed-carry bans could justify modern channeling for safety.

This ruling invalidates California's effective ban on open carry for about 95% of residents, potentially permitting unlicensed open carry in urban areas, pending appeals.

The ban stays in force for now. Attorney General Bonta's office is reviewing the opinion and considering all options, committed to defending commonsense gun laws.

Governor Newsom criticized the ruling sharply, warning of a return to Wild West conditions.

The decision aligns with post-Bruen expansions of carry rights but upholds concealed-carry licensing and rural distinctions.

It deepens circuit splits on whether states can prefer concealed over open carry, increasing chances of Supreme Court review. Lower courts continue developing Bruen applications, providing the Court a broader record for nationwide guidance.