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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of April – 2019

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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of April - 2019

People v. Markeese Thomas, 2019 IL App (1st) 170474, March 19, 2019 (PART ONE)

The police entered an apartment building and arrested Thomas after they saw him in possession of a firearm.

FACTS: The arresting Officer was on routine patrol with his partner in an unmarked car and in plainclothes, although he wore his police vest bearing his star number, name, and the word, “police.”

The Officers had worked that area many times and made multiple arrests for narcotics, gangs, and drugs. They were patrolling due to the illegal activities of two rival gangs. Around 7:30 p.m., as they drove slowly down a street, from about five feet away, they saw four or five males “loitering on the sidewalk in front” of an apartment building.

At that point, the arresting Officer saw two of the males, later identified as Thomas and his friend Turner, “flee into the building.” At that moment, the arresting Officer did not observe Thomas holding a gun. According to the arresting Officer, Thomas looked in his direction just before fleeing.

After curbing his vehicle, the arresting Officer jumped out and followed the two men. Although he did not announce his office while driving past the building, he did announce it as he left his vehicle on the sidewalk and “gave chase” into the building. At that point Thomas and Turner were already inside, and the arresting Officer lost sight of them for several seconds, as the door closed behind them. The other members of the group simply stood still on the sidewalk.

Subsequently, the arresting Officer “reopened the door,” then stepped inside the building to what he described was the “common area.” Once inside, the arresting Officer saw a hallway, and to the right was a first-floor stairwell, where Thomas and Turner stood. Just after the door closed behind the arresting Officer, both Thomas and Turner looked in his direction. The arresting Officer then saw that Thomas had a firearm, which he promptly handed to Turner before fleeing to the second floor.

At that point, Officer Caribou “probably” said “police, freeze.” Thomas went into an apartment unit on the second floor and closed the door behind him. Turner, who was “locked out,” froze and then threw the handgun on the second-stair landing.

Turner was detained and handed off to the second Officer, who had just arrived inside the building. The arresting Officer recovered the loaded firearm, “a [.]380,” and returned to the locked apartment unit. A female, whom the arresting Officer believed was Thomas's girlfriend, opened the door.

The arresting Officer arrested Thomas, handcuffing him just outside the unit. Thomas was transported to the police station, where he received *Miranda* warnings. Only after that did the Officers learn Thomas did not have a FOID or concealed carry card.

SUPPRESSION HEARING: At a hearing on Thomas’s motion to suppress evidence, the People argued the weapon was recovered in the common area of the apartment building, where Thomas had no privacy interest. Moreover, Thomas was not a resident of the apartment unit, so he had no “standing.” Accordingly, there was no stop, search, or seizure of Thomas that day.

Thomas countered that there was in fact a stop but no reasonable suspicion to support it “from the inception.” That is, the officer's several-second observation of the loitering group did not amount to reasonable suspicion to pursue Thomas. Thomas emphasized the two individuals fled into the building even when officers had not yet announced their office. There was no suggestion that Thomas and Turner knew that the police were in the vehicle or fled at the sight of the officers (a matter Thomas conceded could lead to reasonable suspicion).

Thomas noted it was a crime-ridden area where one might expect flight at the sight of a slow-moving vehicle. In response to the judge's question, Thomas stated that his privacy rights began at the point that he entered the building. He argued that he entered the apartment unit and locked the door behind him, with his girlfriend eventually opening the door, all of which suggested that “would be enough to establish” he “may be a resident of this building.”

Thomas thus argued that he had a reasonable expectation of privacy in the building. Thomas further argued that he was arrested prior to any knowledge as to the lack of a FOID or concealed carry card, so there was no probable cause for the arrest, and no exigent circumstances justifying entry into the building.

The People argued that Thomas had abandoned the weapon before entering the apartment unit. According to the People, even assuming for the sake of argument that Thomas lived in the apartment, he still had no privacy interest in the building's common area. The People further argued that the police had probable cause to arrest Thomas on seeing him expose his gun in public and tender it to someone else, contrary to the concealed carry law.

Thomas, on the other hand, argued such actions, occurring inside a residential apartment complex, did not give rise to probable cause for an arrest without the police first verifying whether Thomas had gun licenses. Instead, he argued that probable cause only arose at the station, and the court agreed.

TRIAL COURT FINDING: The trial court agreed with Thomas and noted that there was no evidence of criminal activity from the outset “to suggest that this defendant should be stopped in any way.” The court found that outside the apartment complex, Thomas was not committing any crime, and there was no reason to believe he was committing a crime, yet the police chased him anyway. The court stated that it was during the “pursuit” that the police observed a weapon.

However, given the laws permitting the public to possess guns outside the home via a FOID card and concealed carry license, the court ruled that when the police observed Thomas with a handgun, they did not have probable cause to stop, seize, and then arrest him. The court noted that the gun was not fully exposed but rather found that “a moment in time in your hand should be partially concealed.”

The court, accordingly, found the arrest was unlawful and, further, that the gun recovered “subsequent to the violation of this defendant's constitutional rights” had to be suppressed under the exclusionary rule. The court granted defendant's motion to quash his arrest and suppress evidence. The People then brought this appeal.

ISSUE: Did the Officers violate Thomas’s Fourth Amendment rights?

APPELLATE COURT FINDINGS: On appeal, the Court noted that the question of law at issue in this case is whether a Fourth Amendment violation occurred when the police entered an unlocked multiunit apartment building without a warrant and, once inside the common area, saw Thomas hand his friend a gun just before both fled upstairs, with defendant entering his purported apartment unit while the friend then discarded the gun.

The Court noted that the People argued that, for a variety of reasons, Thomas had no reasonable expectation of privacy here and there was no Fourth Amendment violation in this case. The Court also noted that Thomas had the burden of proving his arrest was illegal.

1. **Initial Encounter: Reasonable Suspicion and Flight.** The Court noted that although the trial court's ruling suggested the police officers were unjustified at the outset in chasing Thomas and Turner, an individual's

unprovoked flight on seeing police in an area known for crime is suggestive of wrongdoing and may justify the police suspecting that individual of criminal activity, which warrants further investigation.

The Court held that Thomas's flight from police was susceptible to an innocent explanation does not eliminate the officer's right to detain that him to resolve any ambiguity.

According to the Court, the determination of reasonable suspicion must be based on commonsense judgments and inferences about human behavior, and due weight must be given to the reasonable inferences the officer is entitled to draw from the facts in light of his experience.

Here, the Court determined that the most rational inference from the arresting Officer's testimony was that the police presence and potential encounter was what prompted Thomas's flight, giving rise to reasonable suspicion. While Thomas suggested that he and Turner could have mistaken the unmarked police vehicle for a potential drive-by shooter, for example, this innocent explanation did not lessen the officers' objective in resolving any ambiguity under the law.

Consequently, the appellate court held that contrary to the trial court's finding, there was no Fourth Amendment stop or seizure implicated by the officers' pursuit of Thomas, where there was no real encounter.

2. *Police Entry into Unlocked Apartment Building: Privacy Interest in Apartment Common Area.* The People argued there was no reasonable expectation of privacy in the common area of the unlocked apartment building, which the police were permitted to enter. The People further argued that it was in this common area that police observed Thomas "committing a criminal offense" and, as such, there was no "search" at issue.

The appellate court agreed. According to the Court, Illinois courts have found that there is no reasonable expectation of privacy in common areas of apartment buildings that are accessible to others. Here Thomas failed to produce evidence showing the officers' investigation took place in a constitutionally protected area or one where he had a reasonable expectation of privacy, or that it resulted in an unlicensed physical intrusion.

Here, the arresting Officer entered the unlocked apartment building at a reasonable hour and stepped into what he described was the "common area" of the building. The Court then noted that the Illinois Supreme

Court has expressly stated that the “term ‘common area’ suggests an area left open for common or public use,” which necessarily negates any expectation of privacy.

The Court then noted that Thomas did not present any testimony that the unlocked multiunit building was customarily locked or had a “no trespass” sign posted outside such that he might have an expectation of privacy there.

Although the arresting Officer did not testify in detail about the building's entryway and composition, the only logical inference from his testimony is that he had a legal right to be there, just as any other tenant, landlord, delivery person, or member of the public.

Consequently, the Court rejected Thomas's contention on appeal that the location where the arresting Officer observed the gun hand-off was curtilage, *i.e.*, the area immediately surrounding and associated with the home.

Concerning any claim of a physical intrusion, the Court noted that no extra-sensory aids were used to observe Thomas's hand-off of what the police later discovered was an unlicensed handgun. The police did not exceed the scope of their license to be there.

Accordingly, there was no Fourth Amendment search implicated simply by the police officers' entry into the common area of this unlocked building. That was because a search implies prying into hidden places for concealed items, and it is not a search to observe that which is in open view. Likewise, the Court held that there was no seizure of Thomas's person, since police had not then restrained defendant's liberty.

According to the Court, it was Thomas's burden to show there was a search or seizure and that it violated his Fourth Amendment rights. The Court declared that Thomas did not fulfill that burden.

The issues concerning the: *Firearm Presence and Probable Cause to Arrest; Abandonment of the Firearm and Arrest;* and *Defendant's Expectation of Privacy in the Apartment Unit* will be analyzed in the May Training Case of the Month.

QUIZ QUESTIONS FOR THE MONTH OF APRIL – 2019

People v. Markeese Thomas, 2019 IL App (1st) 170474, March 19, 2019 (PART ONE)

1. In this case, Thomas argued that his Fourth Amendment rights were violated by the police. In such cases, the People bear the burden of proving that their conduct did not violate the Fourth Amendment.
 - a. True.
 - b. False.

2. In this Case, the Officers attempted to stop Thomas and question him about his possession of a firearm. Could they do so without violating the Fourth Amendment?
 - a. Yes.
 - b. No.

3. Here, Thomas fled after first spotting the Officers. Did the Court of Appeals find that the Officer acted reasonably by chasing him?
 - a. Yes.
 - b. No.

4. The arresting Officer spotted Thomas in a common area inside the apartment building. The appellate court held that Thomas had a legal expectation of privacy in this common area.
 - a. True.
 - b. False.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF APRIL – 2019

People v. Markeese Thomas, 2019 IL App (1st) 170474, March 19, 2019 (PART ONE)

1. In this case, Thomas argued that his Fourth Amendment rights were violated by the police. In such cases, the People bear the burden of proving that their conduct did not violate the Fourth Amendment.

b. **False.** The Court held: “To prevail on a motion to suppress evidence at the trial level, the defendant bears the burden of producing evidence and establishing a *prima facie* case that the search and seizure was unreasonable. People v. Martin, 2017 IL App (1st) 143255, People v. Carodine, 374 Ill. App. 3d 16, (2007). ¶ 15.

2. In this Case, the Officers attempted to stop Thomas and question him about his possession of a firearm. Could they do so without violating the Fourth Amendment?

a. **Yes.** The Court held: “Reasonableness under the fourth amendment generally requires a warrant supported by probable cause. People v. Johnson, 237 Ill. 2d 81, (2010). A limited exception to the warrant requirement under Terry v. Ohio, 392 U.S. 1, (1968), permits a police officer to briefly stop (and therefore necessarily seize) a person for temporary questioning if he reasonably believes the person has committed, or is about to commit, a crime. Johnson, 237 Ill. 2d at 89. ¶ 16.

3. Here, Thomas fled after first spotting the Officers. Did the Court of Appeals find that the Officer acted reasonably by chasing him?

a. **Yes.** The Court held that: “Although the trial court's ruling suggests the police officers were unjustified at the outset in chasing defendant and Turner, and defendant certainly set forth this argument below, an individual's unprovoked flight on seeing police in an area known for crime is suggestive of wrongdoing and may justify police suspecting that individual of criminal activity, which warrants further investigation. See Illinois v. Wardlow, 528 U.S. 119, (2000); People v. Timmsen, 2016 IL 118181; Thomas, 198 Ill. 2d at 113. ¶ 19.

4. The arresting Officer spotted Thomas in a common area inside the apartment building. The appellate court held that Thomas had a legal expectation of privacy in this common area.

b. **False.** The Court held: “Illinois courts have found that there is no reasonable expectation of privacy in common areas of apartment buildings that are accessible to others. Martin, 2017 IL App (1st) 143255, ¶ 25.

LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of April - 2019 - ALTERNATIVE

People v. Isiah J. Webb and Ronald A. Greco, 2019 IL 122951, March 21, 2019

The police arrested Webb and Greco, in separate cases, for possessing concealed stun guns in public.

FACTS: Defendant Webb was charged by misdemeanor complaint with violating section 24-1(a)(4) of the UUCW statute (720 ILCS 5/24-1(a)(4)) after he was discovered carrying a stun gun in his jacket pocket while in his vehicle on a public street.

Defendant Greco was charged by misdemeanor complaint with violating section 24-1(a)(4) after he was found carrying a stun gun in his backpack in a forest preserve, a public place.

Both defendants filed motions to dismiss the charges, arguing section 24-1(a)(4) operated as a complete ban on the carriage of stun guns and tasers in public and was, for this reason, unconstitutional under the Second Amendment.

The trial court agreed with the defendants, in separate but identical orders. Citing *Caetano v. Massachusetts*, 577 U.S. —, 136 S. Ct. 1027, 194 L.Ed.2d 99 (2016) (*per curiam*), the trial court first concluded that stun guns and tasers were bearable arms entitled to the protection of the Second Amendment.

The court then rejected the People's argument that, when read together with the Firearm Concealed Carry Act (Carry Act) (430 ILCS 66/1 *et seq.*, section 24-1(a)(4) of the UUCW does not impose a complete ban on stun guns and tasers but, instead, created a constitutionally permissible regulation.

Finally, the trial court concluded that section 24-1(a)(4)'s complete ban was unconstitutional under the Supreme Court's decisions in *People v. Aquilar*, 2013 IL 112116, and *People v. Mosley*, 2015 IL 115872.

The court explained: "Given the similarities in the nature and purpose of firearms and stun guns or tasers as instruments of personal self-defense, * * * stun guns/tasers are entitled to a least as much protection under the Second Amendment as that afforded firearms, particularly since stun guns are by their specific nature far less lethal than firearms."

The court then held that, “because stun guns and tasers are akin to firearms for purposes of Second Amendment analysis, because the Firearm Concealed Carry Act does not apply as a defense to stun gun or taser possession, and because the constitutional analysis in Aguilar and Mosley applies to the similar language of the offense at issue here, * * * the portion of 720 ILCS 5/24-1(a)(4) relating to the ban on stun guns and tasers constitutes an unconstitutional infringement of the rights of citizens to bear arms under the Second Amendment.”

The court also found the portion of section 24-1(a)(4) held unconstitutional to be severable from the rest of the statute. These appeals were taken before the Illinois Supreme Court.

ISSUE: Was the weapons statute that prohibits the possession of stun guns in public unconstitutional?

FINDINGS: This case deals with the constitutionality of that portion of section 24-1(a)(4) of the UUC statute relating to stun guns and tasers. That provision states, “(a) A person commits the offense of unlawful use of weapons when he knowingly: * * * (4) Carries or possesses in any vehicle or concealed on or about his person except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm, except that this subsection (a) (4) does not apply to or affect transportation of weapons that meet one of the following conditions: * * * (iv) are carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act[.]” 720 ILCS 5/24-1(a)(4)(iv).

The Court then declared that statutes are presumed to be constitutional, and courts must construe legislative enactments so as to affirm their constitutionality if reasonably possible.

Further, the party challenging the validity of a statute has the burden of clearly establishing its constitutional invalidity.

According to the Court, the Second Amendment provides, “A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” The Supreme Court of the United States held that the Second Amendment secures for individuals the right to keep and bear arms and that, through the Fourteenth Amendment, this right is fully applicable to the states.

However, the Court also explained that like most rights, the right secured by the Second Amendment is not unlimited. The Court made clear that an individual does not have a right to keep and carry any bearable arm “whatsoever in any manner whatsoever and for whatever purpose.”

Specifically, the Court stated that the Second Amendment protects only the sorts of weapons that are in common use and “typically possessed by law-abiding citizens for lawful purposes.”

In determining whether a statutory provision violates the Second Amendment, the Court ruled that it must first consider whether the provision imposes a burden on conduct that falls within the scope of the Amendment. If it does not, then the Court’s analysis comes to an end. Otherwise, the Court would move to the second step of the inquiry, in which it must determine and apply the appropriate level of constitutional scrutiny.

In this case, the People conceded that stun guns and tasers are bearable arms that fall within the protection afforded by the Second Amendment.

The Supreme Court agreed. According to the Court, the United States Supreme Court has rejected the idea that the Second Amendment extends only to “those arms in existence in the 18th century.” Instead, according to the Court, the Second Amendment extends to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding.

The Court concluded that stun guns and tasers may be taken into one's hands and used both for defense or “to cast at or strike another.” For these reasons, the Court declared that stun guns and tasers are bearable arms within the meaning of the Second Amendment.

Therefore, the Court held that any attempt by the People to rebut the presumption of the Second Amendment protection afforded stun guns and tasers on the grounds that the weapons were uncommon or not typically possessed by law-abiding citizens for lawful purposes would be futile.

Accordingly, the People conceded that stun guns and tasers are bearable arms that fall within the scope of the Second Amendment.

Despite this concession, the People nevertheless contended that the trial court erred in declaring section 24-1(a)(4) unconstitutional. According to the People, the trial court's error was in finding that section 24-1(a)(4) imposes a complete ban on the carriage of stun guns and tasers in public.

The People contended that the statute did not impose such a ban but, instead, merely regulated stun guns and tasers in a way that was constitutionally permissible under the Second Amendment. In support of this contention, the People pointed to the interplay between section 24-1(a)(4)(iv) of the UUW statute and the Carry Act (430 ILCS 66/1 *et seq.*).

The Court noted that Section 24-1(a)(4)(iv) of the UUW statute stated that the prohibition set forth in that provision does not apply to weapons “carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act.” 720 ILCS 5/24-1(a)(4)(iv).

The Carry Act provided, in part, that an applicant shall be issued a license to carry a “concealed firearm” if certain conditions are met. 430 ILCS 66/10. A “concealed firearm,” in turn, meant “a loaded or unloaded handgun carried on or about a person completely or mostly concealed from view of the public or on or about a person within a vehicle.”

Finally, a “handgun” is defined as “any device which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas, or escape of gas that is designed to be held and fired by the use of a single hand. However, the Court noted that “handgun” does not include a stun gun or taser

The People conceded that, under the plain language of the Carry Act, a person cannot be issued a concealed carry license for a stun gun or taser. However, they argued that this fact was not important. They contended that, if a person is issued a concealed carry license for a handgun (*not* a stun gun or taser) and then carries his stun gun or taser in a completely or partially concealed manner and otherwise complies with any restrictions enumerated in the Carry Act, then he is carrying or possessing the stun gun or taser “in accordance” with the concealed carry law and, therefore, doing so legally under the UUW statute.

In this way, according to the People, the UUW statute merely regulates the carriage of stun guns and tasers in public, as opposed to banning such carriage completely. The Supreme Court disagreed.

According to the Court, subparagraph (iv) of section 24-1(a)(4) excludes from the offense of UUW only those weapons that are carried or possessed “in accordance” with the Carry Act by a person who has been issued a concealed carry license. To be “in accordance” with a statute means to agree with or be in conformance with that law.

The Court concluded that the most natural reading of the requirement that weapons be carried or possessed “in accordance” with the Carry Act is that the weapons, themselves, are of the type for which a valid concealed carry license may be issued under the Carry Act.

The Court held that any other reading would lead to absurd results. Under the People's reading of the statute, as long as a person has a concealed carry license for a handgun, that person may carry any other weapon, including a rifle or shotgun, and still be acting “in accordance” with the Carry Act, even though the Carry Act is specifically limited to handguns and does not allow for the concealed carry of rifles or shotguns. The Court rejected this interpretation.

It ruled that its conclusion that stun guns and tasers cannot be carried or possessed “in accordance” with the Carry Act because a concealed carry license cannot be issued for those weapons was further supported by section 24-2(a-5) of the UUW statute.

According to the Court, this provision stated that section 24-1(a)(4) of the UUW statute does not “apply to or affect any person carrying a concealed pistol, revolver, or handgun and the person has been issued a currently valid license under the Firearm Concealed Carry Act at the time of the commission of the offense.” 720 ILCS 5/24-2(a-5) When read together with section 24-1(a)(4), section 24-2(a-5) makes clear that only those weapons that can be licensed under the Carry Act are meant to be excluded from the reach of the UUW statute. Since stun guns and tasers cannot be licensed under the Carry Act, they were not excluded from the reach of the UUW statute.

CONCLUSION: For these reasons, the Supreme Court rejected the People's argument that section 24-1(a)(4) was merely a regulation of stun guns and tasers. Rather, that provision constituted a comprehensive ban that categorically prohibited possession and carriage of concealed stun guns and tasers in public.

Further, the People did not contend that stun guns and tasers—which they conceded were bearable arms under the purview of the Second Amendment—may properly be subjected to a categorical ban. Because it concluded that section 24-1(a)(4) constituted a categorical ban on those weapons, the Court ruled that that provision could not stand.

Accordingly, the Court held the portion of section 24-1(a)(4) that prohibits the carriage or possession of stun guns and tasers to be facially unconstitutional under the Second Amendment.

QUIZ QUESTIONS FOR THE MONTH OF APRIL – 2019 - ALTERNATIVE

People v. Isiah J. Webb and Ronald A. Greco, 2019 IL 122951, March 21, 2019

1. In this case, Webb argued that the Illinois weapons statute violated his constitutional right to keep and bear arms. Which constitutional amendment guarantees a person's right to bear arms?
 - a. The First Amendment.
 - b. The Second Amendment.
 - c. The Fourth Amendment.

2. Webb argued that a stun gun or taser was a "bearable arm" and his right to possess it was protected by the United States Constitution. Did the Supreme Court reject this argument?
 - a. Yes.
 - b. No.

3. The United States Constitution only protects its citizen's right to keep and bear arms that are in common use and are typically possessed by law-abiding citizens for lawful purposes.
 - a. True.
 - b. False.

4. The People argued in this case that the Illinois Concealed Carry Statute covered the use of stun guns and tasers. Did the Illinois Supreme Court disagree with this argument.
 - a. Yes.
 - b. No.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF APRIL – 2019 - ALTERNATIVE

People v. Isiah J. Webb and Ronald A. Greco, 2019 IL 122951, March 21, 2019

1. In this case, Webb argued that the Illinois weapons statute violated his constitutional right to keep and bear arms. Which constitutional amendment guarantees a person's right to bear arms?

b. **The Second Amendment.** The Court said: "The second amendment to the United States Constitution provides, "A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const., amend. II. In *District of Columbia v. Heller*, 554 U.S. 570, (2008), and *McDonald v. City of Chicago*, 561 U.S. 742, (2010), the Supreme Court of the United States held that the second amendment secures for individuals the right to keep and bear arms and that, through the fourteenth amendment to the United States Constitution (U.S. Const., amend. XIV), this right is fully applicable to the states." ¶ 8.

2. Webb argued that a stun gun or taser was a "bearable arm" and his right to possess it was protected by the United States Constitution. Did the Supreme Court reject this argument?

b. **No.** The Court declared: "Stun guns and tasers may be taken into one's hands and used both for defense or "to cast at or strike another." Clearly, stun guns and tasers are bearable arms within the meaning of the second amendment. *People v. Yanna*, 297 Mich. App. 137, 824 N.W.2d 241, 244 (2012)." ¶ 11.

3. The United States Constitution only protects its citizen's right to keep and bear arms that are in common use and are typically possessed by law-abiding citizens for lawful purposes.

a. **True.** The Court held: "*Heller* also explained, however, that "[l]ike most rights, the right secured by the Second Amendment is not unlimited." *Heller*, 554 U.S. at 626. The Court made clear that an individual does not have a right to keep and carry any bearable arm 'whatsoever in any manner whatsoever and for whatever purpose.' Specifically, the Court stated that the second amendment protects only the sorts of weapons that are in common use and 'typically possessed by law-abiding citizens for lawful purposes.'"

4. The People argued in this case that the Illinois Concealed Carry Statute covered the use of stun guns and tasers. Did the Illinois Supreme Court disagree with this argument.

a. **Yes.** The Court declared: "Our conclusion that stun guns and tasers cannot be carried or possessed "in accordance" with the Carry Act because a concealed carry license cannot be issued for those weapons is further supported by section 24-2(a-5) of the UUC statute. This provision states that section 24-1(a)(4) of the UUC statute does not "apply to or affect any person carrying a concealed pistol, revolver, or handgun and the person has been issued a currently valid license under the Firearm Concealed Carry Act at the time of the commission of the offense." 720 ILCS 5/24-2(a-5) When read together with section 24-1(a)(4), section 24-2(a-5) makes clear that only those weapons that can be licensed under the Carry Act are meant to be excluded from the reach of the UUC statute." ¶ 19.