

## Tara Duginske Discusses Minnesota Supreme Court BB Gun Ruling with *Minnesota Lawyer*

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Briggs and Morgan attorney Tara Duginske and Grant Gibeau of Gregg M. Corwin & Associate Law Office, P. C., discussed their recent Supreme Court victory with *Minnesota Lawyer* in the article A firearm is a firearm, a BB gun is not.

In *State v. Haywood*, the Supreme Court said that a gun that fires projectiles propelled by compressed air is not a firearm within the meaning of the felon-in-possession statute, Minn. Stat. sec. 609.165, subd. 1b. The defendant is serving a 60-month sentence after being convicted in 2014 of violating the statute with a BB gun. The Supreme Court reversed and vacated his conviction. "We do not minimize the concerns of the State and amicus that, regardless of the means of propulsion, a BB gun is capable of producing death or great bodily harm. But that is arguably true of nail guns and other devices that use compressed air, as well. Even so, the question of how to define a 'firearm' is best left to the Legislature," said the unanimous opinion written by Justice Natalie Hudson. Justices Margaret Chutich and Anne McKeig recused.

The decision applies only to the felon-in-possession statute, said Duginske. Referring to the Court of Appeals rationale that "firearm" had developed a "reasonably definite meaning" through case law, she responded that "reasonably definite isn't good enough." Laws that carry severe consequences such as 60 months in prison must be clear, said Gibeau. "The average person doesn't think of a BB gun as a firearm."

In addition to the *Minnesota Lawyer* article, this case received a great deal of media attention. See additional coverage below.

*Star Tribune*

Minnesota's Supreme Court overturns felony conviction, rules that BB gun is not a firearm

*Pioneer Press*

Felon's air-powered BB gun is no 'firearm,' Minnesota Supreme Court rules

*Fox 9*

Minnesota Supreme Court: BB gun doesn't fit definition of gun

*MPR News*

MN Supreme Court: BB guns are not a firearm