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HEADLINE: Judge rejects gun suit; She concludes weapon lacking childproof device not defective; 'A pretty horrible case'; Manufacturer, dealer sued by mother in death of 3-year-old

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BODY:

Turning aside claims that a handgun without childproof safety features is defective, a Baltimore Circuit Court judge threw out yesterday a lawsuit alleging that a gun manufacturer and a store that sells pistols were responsible for the death of a 3-year-old child.

The suit against Sturm, Ruger & Co. of Connecticut and On Target Inc., a Severn gun dealer, was filed by Melissa M. Halliday of Baltimore. Her son, Jordan Garris, found his father's handgun hidden under a mattress, loaded it and shot himself in the head on June 6. He died a few days later at a local hospital.

In court yesterday afternoon, attorney Andrew D. Freeman argued for Halliday that the gun manufacturer and On Target Inc. were liable for the child's death because the gun was not childproof.

"I am in no way standing here trying to excuse Mr. Garris' actions," Freeman argued. "Mr. Garris knows he was negligent in the way he stored that gun, and he will suffer those consequences for the rest of his life. But just as if Mr. Garris had properly stored the gun, Jordan Garris would still be alive, if Sturm, Ruger and On Target had made the gun childproof, he would still be alive."

Paul F. Strain, who represented Sturm, Ruger & Co. yesterday, said the boy's father, Cliff Garris, was given ample warnings that his 9 mm semiautomatic handgun should be kept away from children. Strain referred several times to a 35-page instruction manual included with the gun that said it was dangerous and should be kept away from children. Furthermore, Strain said, Garris was given a lock box with a padlock in which to store the gun but kept it under his mattress.

" This is a child-resistant lock," Strain said, holding up a lock box. "Just like a bottle of medicine, if the cap is off, the childproof cap doesn't protect any child."

James E. Gray, who represented On Target, said Garris was negligent because of the way he stored the gun. Under Maryland and Baltimore law, it is a misdemeanor to leave an unloaded firearm near ammunition if an unsupervised minor could gain access to the weapon. Jordan Garris loaded the gun before shooting himself.

Responsibility

"He made a conscious effort to misuse the product, and the only person under Maryland law that is responsible for the child's death is Mr. Garris. It is certainly not Sturm, Ruger, and it is certainly not On Target."

Judge Evelyn Omega Cannon agreed.

After listening to the three attorneys argue their cases for nearly 90 minutes, Cannon took a brief recess to make her ruling.

"This is really a pretty horrible case," Cannon said after deliberating for about 10 minutes. "It's horrible in the sense of being representative of our society at this point and time."

She said that if Sturm, Ruger & Co. had put a childproof device on the gun, "that child would still be here." But at the heart of the matter, she said, was "whether their failure to do so made the gun defective under the product liability law."

'A very dangerous product'

She went on to say " it's also clear that the child's father knew this was also a very dangerous product."

After Cannon ruled on the motion to dismiss the case, Freeman said he will appeal.

"We're disappointed," he said afterward. "We certainly share Judge Cannon's sentiments that guns should not be made so that 3-year-olds can shoot them, but she obviously felt constrained by existing precedents, and we will go to the Court of Appeals and try to get that precedent changed."

Freeman said he knew "it was a close case" but thinks the law "should impose liability" on manufacturers who don't childproof their guns.

Freeman wouldn't say whether the judge's ruling would make people less likely to file similar lawsuits, which have been popping up around the country in recent years.

Neither would Strain or Gray.

"Judge Cannon applied Maryland law very thoughtfully and very properly," Strain said. "Sturm, Ruger has, I believe, done everything in the right way, and I expect if there is an appeal, the appellate court will agree with Judge Cannon as well."

'Smart gun' legislation

In recent months, Gov. Parris N. Glendening has been trying to have Maryland become the first state to adopt "smart gun" legislation. National gun rights organizations and the firearms industry are determined to keep such legislation off the books.

Cannon's ruling comes two days after the American Jewish Congress launched a national campaign to get a million signatures on petitions asking Congress to enact stronger gun laws, and it comes a day after a public hearing of the Governor's Task Force for Childproof Handguns at which many urged stronger gun-control legislation.

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