

Arms Defender Not Just 'Hired Gun'

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O'Melveny provided Michel with a benchmark for his current practice.

"I worked with some of the best lawyers, not only in the state but in the country," Michel said of his association with O'Melveny. "When I was there, I saw some of the best work product there is. It gave me a standard to strive for."

To launch his current practice, Michel began advertising his specialty. "I started giving speeches on self-defense at gun shows and activist meetings and community meetings and pretty soon I got a reputation as somebody who did a lot of this kind of work," Michel said.

He parlayed his interest in the movement into, among other things, a lifetime membership in the National Rifle Association. He also chairs the legal committee for the California Rifle and Pistol Association, a 65,000-member group that is the California branch of the NRA.

In this capacity, Michel is responsible for "educating" cities on pertinent statutes relating to firearms regulation, particularly in relation to concealed weapons permits.

According to the CRPA's executive director, Jim Erdman, "Chuck is very articulate and knowledgeable and does his homework for gun rights issues." Erdman added that Michel "has both feet on the ground."

As legal committee chair for the CRPA, Michel keeps abreast of city ordinances that attempt to curtail the use of firearms. When an ordinance is being considered that runs contrary to his group's beliefs or the law, he contacts city council members to tell them they may be running afoul of the law.

In other words, "I remind [cities] to be fair," Michel said.

But if you take a look at Michel's specialty practice thus far, it has gone beyond merely providing cities with gentle reminders about gun ordinances that he believes go too restrictive.

As a private practitioner at Michel & Associates, Michel has found himself embroiled in several controversial cases, including defending William Masters, who provoked a public maelstrom for shooting two young Latino men in January 1993, killing one, at a freeway overpass where the two were spraying graffiti.

After Masters wrote down the license plate number of their car, the men apparently demanded that he surrender the paper and his wallet. One allegedly brandished a screwdriver, after which Masters shot him in the buttocks and shot his friend in the back. David Hill, the shooting victim who survived, admitted to holding a screwdriver but denied using it in a threatening manner.

Despite public anger in many sectors of the community, Masters was not charged with manslaughter or murder. Instead, prosecutors concluded that he had acted in self-defense. He was convicted of carrying a concealed weapon in public and carrying a loaded weapon in public and sentenced to spend 30 days

in jail. Ironically, it has worked closely with the Los Angeles City Council in its ban on so-called Saturday night specials — a ban that Michel has opposed.

Paul Krikorian, who chairs the Guns and Violence Committee, said he has learned to peacefully coexist with his apparent nemesis. "Chuck is a very strong advocate for his position," Krikorian said. "I disagree with him almost all the time, but I respect him."

"He represents an organization that I find detestable," Krikorian said, referring to Michel's NRA membership. Krikorian added, however, that Michel's presence on the committee "ensures lively debate."

Michel is also appealing the West Hollywood ordinance that bans the possession of so-called Saturday night specials. A number of other cities have approved or are considering similar ordinances. His argument basically is one of preemption — that cities don't have the authority to enact such laws. Last month, state Attorney General Dan Lungren filed an amicus curiae brief to the Court of Appeal on behalf of the CRPA and NRA saying that its Saturday night special law was preempted.

"At public hearings he's said he's going to sue every single city and county if they pass a junk-gun ban," said Barrie Becker, executive director of the Legal Community Against Violence, based in San Francisco.

Michel counters by claiming that the law is on his side. According to Michel, approximately 22 cities have considered enacting similar bans after a trial judge ruled that the West Hollywood statute was legal. Only three of these cities have passed similar laws since then, Michel said. The other 19 haven't — including San Diego and Long Beach. Furthermore, Michel said, the threat of litigation is only a small part of his argument to local governments.

"It's only one of about 10 reasons I give for not adopting these types of ordinances," Michel said. "We educate cities point by point."

The NRA is pleased with his efforts thus far.

"To be effective [in this area], you have to have some grasp of the subject," said Steve Hensley, chief lobbyist for the NRA in California. "He has strong ears. He listens well. In the process, he's learning and getting a good grasp on the issue."

More recently, Michel has become actively involved in Monrovia's new bounty program. Under the program, the Monrovia police department will give \$100 to any person who reports someone illegally carrying a gun in a public place.

Along with other Second Amendment attorneys, Michel filed a Public Records Act request for documents pertaining to Monrovia's issuance of concealed-weapon permits. Michel said he has discovered that the city issued one permit to a judge and about a dozen other permits to reserve police officers in Monrovia. As yet, Michel has been unable to determine how many applications for permits were denied. The matter is still unresolved, and Michel is still in talks with the Mon-

rovia police department.

Michel can get used to this treatment. "If I'm going to be disliked because of my beliefs, then so be it," Michel said.

Like many gun rights activists, Michel believes that current gun control laws violate the Second Amendment, which states: "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." Gun control advocates insist the Second Amendment merely permits states to keep organized militias, like the National Guard. But gun rights activists believe it guarantees the right of every individual person to bear arms.

But the U.S. Supreme Court has never made a definitive ruling on the issue. In the case most often cited by both sides of the debate, *U.S. v. Miller*, 307 U.S. 174 (1939), the court upheld a conviction based on a federal firearms statute, ruling that the Second Amendment did not guarantee the right to keep and bear a "shotgun having a barrel of less than 18 inches in length" in the absence of evidence tending to show that possession or use of the gun has some "reasonable relationship to the preservation or efficiency of a well-regulated militia."

Gun control proponents note that the case upheld a federal law restricting gun ownership. Opponents of gun control, however, focus on the court's reasoning, which implied that gun ownership was guaranteed if it was for purposes of maintaining a militia, and that the "militia," based on debates in the Constitutional Convention, is made up of "all males physically capable of acting in concert for the common defense."

Whatever the result, since 1939 the Supreme Court has not taken up a Second Amendment challenge to a gun control law, rejecting them so frequently that Second Amendment-based claims are rarely, if ever, raised in the modern era.

Justice Clarence Thomas did raise a glimmer of hope for gun rights activists earlier this year when the high court invalidated the power of the federal government to force the states to impose the Brady Act's 10-day waiting period on purchase of firearms. While the case, *Priest v. United States*, 97 D.A.R. 8213, was decided on 10th Amendment state sovereignty grounds, Thomas made a dicta comment in his concurring opinion that the Brady bill raised a "colorable" argument under the Second Amendment. Thomas wrote: "Perhaps, at some future date, this Court will have the opportunity to determine whether Justice Story was correct when he wrote that the right to bear arms has justly been considered, as the palladium of the liberties of a republic."

Until that day, Michel and others will have to wait for a definitive decision on the extent of gun ownership rights. But despite his zeal in the "right to free arms" movement, Michel said he strongly believes that new gun owners should have safety training beyond the course that the state requires.

removing graffiti; placed on three years' probation, and ordered by the judge to relinquish his guns while on probation.

During the trial, Michel said, he and his client were whisked through a rear entrance by marshals to avoid the daily throng of angry protesters, who, according to Michel, "were hanging my client in effigy." Michel, who was contacted by Masters, represented him for free. As Michel explained, "Here was a guy who had a legitimate reason for self-defense. He was prosecuted for trying to save his own life."

Then there's the case of the men who were branded "domestic terrorists" by the Los Angeles Police Department after the department raided their homes in May and seized more than 100 weapons and thousands of ammunition rounds. Among the weapons seized were automatic rifles, night-vision goggles, laser scopes and even a grenade launcher.

As it turned out, the defendants in the case, including Michel's client, Glenn Yee, were charged only with weapons violations, not terrorism. Yee's charges were the most serious — two counts of possession of an automatic weapon and one count of automatic weapon conversion.

Michel is also a member of the Los Angeles County Bar Association's Guns and Violence Committee, which works with local governments to shape gun

policy. Michel has been cordial.

Currently, Michel is working on the appeal of James Dingman, which will be heard shortly before the California Supreme Court. In that case, a state appellate court held that the rifle of the defendant, Dingman, was a prohibited assault weapon under the state assault-weapon statute. The issue that will be decided is, essentially, just what is an assault weapon? According to Michel, it is believed to be the first time that the attorney general's office has filed an amicus brief on behalf of a criminal defendant.

The case probably will be heard sometime in the spring. It will be the first case Michel has argued before the California Supreme Court.

At O'Melveny, where he worked from 1990 to 1994, Michel's legal career began auspiciously. He was a staff counsel for the Christopher Commission, working under Warren Christopher before Christopher was named secretary of State. Previously, he served a one-year clerkship with U.S. District Court Judge William Rea after graduating from Loyola Law School in 1989.

In his progression from Christopher Commission counsel to NRA advocate, Michel has noticed a definite change in attitude from municipal government representatives. "I'm getting more of a cold

Possession of weapons should have its limitations, according to Michel. "I believe in reasonable regulation, but not as a pretext for a political policy movement," said Michel, who emphasized that he doesn't like to hunt because he "isn't particularly thrilled about shooting animals."

It's difficult to pin down Michel on where he would draw the line in gun regulation. He does, however, appear fed up with drawing lines on the other side.

"The reality is that since 1923 in California, the NRA and CRPA have been compromising," Michel said, referring to the year of the Uniform Pistol and Revolver Act, which the NRA drafted and sponsored. The act, which mandates permits for those who wish to carry a concealed weapon in public, was adopted in California among other states.

"The NRA set up the licensing system. They've been drawing lines for 70-odd years," Michel said, adding that only some localities have issued the permits to people who have requested them.

So what if "gun law" business becomes less fruitful in the future? Not to worry. Option No. 2 is already in the works — sort of.

"I'm pretty confident that the government will never be perfect," Michel said. "So if it's not the right to self-defense, there will be some other right that I'll be happy to advocate," Michel said.