

**Opinion, Case No.23840 State of West Virginia ex rel.
The West Virginia Division of Natural Resources, et al.
v. Hon. Danny O. Cline, et al.**

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

January 1997 Term

No. 23840

**STATE OF WEST VIRGINIA EX REL.
THE WEST VIRGINIA DIVISION OF NATURAL RESOURCES;
CHARLES B. FELTON, JR., DIRECTOR,
WEST VIRGINIA DIVISION OF NATURAL RESOURCES; AND
JAMES D. FIELDS, CHIEF, LAW ENFORCEMENT DIVISION,
WEST VIRGINIA DIVISION OF NATURAL RESOURCES,**

Relators

V.

**HONORABLE DANNY O. CLINE,
JUDGE OF THE CIRCUIT COURT OF BRAXTON COUNTY;
SHELLY L. DEMARINO,
PROSECUTING ATTORNEY FOR GILMER COUNTY; AND
ERNEST V. MORTON, JR.,
PROSECUTING ATTORNEY FOR WEBSTER COUNTY,**

Respondents

PETITION FOR WRIT OF PROHIBITION

WRIT GRANTED.

Submitted: January 14, 1997

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JUSTICE DAVIS delivered the Opinion of the Court.

Justice Maynard dissents and reserves the right to file a dissenting opinion.

SYLLABUS BY THE COURT

1. "'The police power is the power of the state, inherent in every sovereignty, to enact laws, within constitutional limits, to promote the welfare of its citizens. The police power is difficult to define precisely, because it is extensive, elastic and constantly evolving to meet new and increasing demands for its exercise for the benefit of society and to promote the general welfare. It embraces the power of the state to preserve and to promote the general welfare and it is concerned with whatever affects the peace, security, safety, morals, health and general welfare of the community. It cannot be circumscribed within narrow limits nor can it be confined to precedents resting alone on conditions of the past. As society becomes increasingly complex and as advancements are made, the police power must of necessity evolve, develop and expand, in the public interest, to meet such conditions.' Syl. pt. 5, *State ex rel. Appalachian Power Co. v. Gainer*, 149 W. Va. 740, 143 S.E.2d 351 (1965)." Syllabus point 3, *State ex rel. City of Princeton v. Buckner*, 180 W. Va. 457, 377 S.E.2d 139 (1988).

2. "The West Virginia legislature may, through the valid exercise of its police power, reasonably regulate the right of a person to keep and bear arms in order to promote the health, safety and welfare of all citizens of this State, provided that the restrictions or regulations imposed do not frustrate the constitutional freedoms guaranteed by article III, section 22 of the *West Virginia Constitution*, known as the 'Right to Keep and Bear Arms Amendment.'" Syllabus point 4, *State ex rel. City of Princeton v. Buckner*, 180 W. Va. 457, 377 S.E.2d 139 (1988).

3. The provisions of W. Va. Code 20-2-5(10) (1994) (Repl. Vol. 1996) prohibiting the vehicular transportation of a loaded firearm do not violate the right to keep and bear arms for lawful hunting purposes enunciated in W. Va. Constitution Article III, Section 22.

Davis, Justice:

In this original proceeding for a writ of prohibition, the relator, the West Virginia Division of Natural Resources [hereinafter W. Va. DNR or DNR],⁽¹⁾ requests that we vacate an order entered June 12, 1996, by the respondent judge, the Honorable Danny O. Cline, of the Circuit Court of Braxton County, ruling that W. Va. Code 20-2-5(10) (1994) (Repl. Vol. 1996), which prohibits the carrying of loaded firearms in or on any vehicle, is an unreasonable restriction of the rights contained in W. Va. Constitution Article III, Section 22. Article III, Section 22 of the W. Va. Constitution permits a person to keep and bear arms "for lawful hunting and recreational use." The relator further requests that we prohibit the respondents, Shelly L. DeMarino, Prosecuting

Attorney for Gilmer County, and Ernest V. Morton, Jr., Prosecuting Attorney for Webster County, from refusing to enforce violations of W. Va. Code 20-2-5(10). We issued a rule to show cause. We grant the writ of prohibition.

I.

FACTUAL AND PROCEDURAL HISTORY

The facts underlying this original jurisdiction proceeding are not in dispute. At approximately 4:50 p.m. on December 8, 1994, an officer of the W. Va. DNR charged Hubert Neel with carrying a loaded gun in his vehicle in violation of W. Va. Code 20-2-5(10).⁽²⁾ Following this incident, Neel was convicted, in the Magistrate Court of Braxton County, of violating this statute. Neel then filed a petition for writ of prohibition in the Circuit Court of Braxton County challenging the constitutionality of his conviction pursuant to W. Va. Constitution Article III, Section 22.⁽³⁾ Following a hearing, the respondent judge, the Honorable Danny O. Cline, entered an order on June 12, 1996, ruling, in part, "[t]he provisions of Chapter 20, Article 2, Section 5 (10) is [*sic*] not a reasonable restriction on the rights granted by the constitutional provisions contained in Article 3, Section 22" and ordering, in part, "the said ticket issued to the Petitioner [Neel] on December 8, 1994, be, and the same is hereby, dismissed with prejudice as being violative of the rights guaranteed to the Petitioner by Article 3, Section 22 of the West Virginia Code [*sic*]."

In response to Judge Cline's ruling, Daniel B. Dotson, III, Assistant Prosecuting Attorney for Webster County,⁽⁴⁾ prepared a memorandum dated June 18, 1996, informing the Department of Natural Resources, the West Virginia State Police, the Webster County Sheriff's Department, the Webster Springs Police Department, and the Cowen Police Department of the above-described order invalidating W. Va. Code 20-2-5(10). Mr. Dotson further stated, "[b]ased upon the holding of the Hon. Judge Cline, I do hereby instruct all law enforcement officers in Webster County, that this office no longer will prosecute any violation(s) of having a loaded gun in a vehicle, based upon the constitutional ruling of Judge Cline's order."⁽⁵⁾

Shortly thereafter, on June 24, 1996, the respondent Shelly DeMarino, Prosecuting Attorney for Gilmer County, authored a similar memorandum directed to the Department of Natural Resources, the West Virginia State Police, the Gilmer County Sheriff's Department, the Glenville City Police, and the Glenville State College Campus Police. In this correspondence, respondent DeMarino described Judge Cline's decision and "instruct[ed] all law enforcement officers in Gilmer County, that this office no longer will prosecute any violation(s) of having a loaded gun in a vehicle, based upon the constitutional ruling of Judge Cline's order."

Finally, on September 17, 1996, Dotson sent a second memorandum addressed to all law enforcement officers. In this writing, Dotson reiterated that "this [the Webster County Prosecuting Attorney's] office will no longer prosecute that violation of Chapter 20 that deal [*sic*] with a loaded gun in a vehicle during hunting season pursuant to the law in this Circuit as promulgated by the enclosed order [of Judge Cline entered June 12, 1996]." Dotson additionally stated, "it is my interpretation that should an officer write a ticket to a person for having a loaded gun in the vehicle that the individual would open himself up to a suit of abuse of process in his individual capacity, as well as that officers [*sic*] agency."

Given respondent Judge Cline's ruling that W. Va. Code 20-2-5(10) is unconstitutional and the refusal of respondents DeMarino and Morton to enforce violations of this statute, the W. Va. DNR recognized the potential for inconsistent enforcement of this statutory provision throughout the various counties of this State. Accordingly, the DNR filed a petition for writ of prohibition requesting this Court determine the constitutionality of W. Va. Code 20-2-5(10) with regard to W. Va. Constitution Article III, Section 22.

II.

DISCUSSION

In this original proceeding, we are asked to determine whether W. Va. Code 20-2-5(10) violates the constitutional right to bear arms set forth in W. Va. Constitution Article III, Section 22. Although we have previously reviewed this constitutional amendment, *see, e.g., State v. Daniel*, 182 W. Va. 643, 391 S.E.2d 90 (1990); *State ex rel. City of Princeton v. Buckner*, 180 W. Va. 457, 377 S.E.2d 139 (1988), we have never before addressed the validity of the statute at hand. We will begin our discussion with a brief explanation of the applicable standard of review. Then, we will proceed to evaluate the constitutionality of W. Va. Code 20-2-5(10).

III.

STANDARD OF REVIEW

The relators are before this Court pursuant to their petition for writ of prohibition. Typically, we limit our exercise of original jurisdiction through prohibition because "[m]andamus, prohibition and injunction against judges are drastic and extraordinary remedies. . . . As extraordinary remedies, they are reserved for really extraordinary causes." *State ex rel. Suriano v. Gaughan*, ___ W. Va. ___, ___, ___ S.E.2d ___, ___, slip op. at 9 (No. 23555 Dec. 5, 1996) (citations omitted). With specific reference to the writ of prohibition, we have noted that "[t]he rationale behind a writ of prohibition is that by issuing certain orders the trial court has exceeded its jurisdiction, thus making prohibition appropriate." *State ex rel. Allen v. Bedell*, 193 W. Va. 32, 36, 454 S.E.2d 77,

81 (1994) (Cleckley, J., concurring). Accordingly, in order " [t]o justify this extraordinary remedy, the petitioner has the burden of showing that the lower court's jurisdictional usurpation was clear and indisputable and, because there is no adequate relief at law, the extraordinary writ provides the only available and adequate remedy." *Id.*, 193 W. Va. at 37, 454 S.E.2d at 82. In the case presently before us, we find that the relators have satisfied this burden and may properly challenge, by way of prohibition, the circuit court's invalidation of W. Va. Code 20-2-5(10) as unconstitutional.

Having determined that prohibition is appropriate in this instance, we turn now to our previous decisions addressing W. Va. Constitution Article III, Section 22. Our prior decision in *State ex rel. City of Princeton v. Buckner* examined the constitutionality of W. Va. Code 61-7-1 (1975) (Repl. Vol. 1989), requiring an individual to possess a license in order to carry a dangerous or deadly weapon, in light of the "Right to Keep and Bear Arms Amendment," W. Va. Constitution Article III, Section 22. We concluded that the licensing provision violated Section 22 because it impermissibly infringed upon an individual's right to bear arms. 180 W. Va. at 462-63, 377 S.E.2d at 144-45. In reaching this conclusion, we determined that Section 22 should be applied, not construed, because its language is clear and unambiguous. 180 W. Va. at 462, 377 S.E.2d at 144. We further ascertained:

the right to keep and bear arms guaranteed by *W. Va. Const.* art. III, 22 is not unlimited. The individual's right to keep and bear arms and the State's duty, under it [*sic*] police power, to make reasonable regulations for the purpose of protecting the health, safety and welfare of its citizens must be balanced.

180 W. Va. at 466-67, 377 S.E.2d at 148-49 (citation omitted).

Attempting to clarify the State's police power, we noted:

"[t]he police power is the power of the state, inherent in every sovereignty, to enact laws, within constitutional limits, to promote the welfare of its citizens. The police power is difficult to define precisely, because it is extensive, elastic and constantly evolving to meet new and increasing demands for its exercise for the benefit of society and to promote the general welfare. It embraces the power of the state to preserve and to promote the general welfare and it is concerned with whatever affects the peace, security, safety, morals, health and general welfare of the community. It cannot be circumscribed within narrow limits nor can it be confined to precedents resting alone on conditions of the past. As society becomes increasingly complex and as advancements are made, the police power must of necessity evolve, develop and expand, in the public interest, to meet such conditions."

Syl. pt. 3, *State ex rel. City of Princeton v. Buckner*, 180 W. Va. 457, 377 S.E.2d 139 (quoting Syl. pt. 5, *State ex rel. Appalachian Power Co. v. Gainer*, 149 W. Va. 740, 143 S.E.2d 351 (1965)).

We further considered the permissible regulation of firearms in other jurisdictions, such as prohibiting persons previously convicted of a felony from possessing handguns and restricting one's ability to carry a concealed weapon, *see* 180 W. Va. at 465, 377 S.E.2d at 147, and concluded:

[t]he West Virginia legislature may, through the valid exercise of its police power, reasonably regulate the right of a person to keep and bear arms in order to promote the health, safety and welfare of all citizens of this State, provided that the restrictions or regulations imposed do not frustrate the constitutional freedoms guaranteed by article III, section 22 of the *West Virginia Constitution*, known as the "Right to Keep and Bear Arms Amendment."

Syl. pt. 4, *State ex rel. City of Princeton v. Buckner*, 180 W. Va. 457, 377 S.E.2d 139. However, as a final note of caution, we admonished:

a governmental purpose to control or prohibit certain activities, which may be constitutionally subject to state regulation under the police power, may not be achieved by means which sweep unnecessarily broadly and thereby invade the realm of protected freedoms, such as the right to keep and bear arms guaranteed in our State Constitution.

Id., 180 W. Va. at 467, 377 S.E.2d at 149 (citation omitted).

More recently, we reviewed the constitutionality of W. Va. Code 61-7-11 (1989) (Repl. Vol. 1992), making it unlawful to brandish or otherwise use a firearm in a threatening manner, with regard to Article III, Section 22 of the W. Va. Constitution. *State v. Daniel*, 182 W. Va. 643, 650, 391 S.E.2d 90, 97 (1990). In *Daniel*, we concluded that the challenged statute was, in fact, a "legitimate exercise of [the State's] police power." *Id.* Explaining our decision, we stated that a "citizen still has the right to bear and keep the firearm in question, assuming that it does not violate a properly enacted state regulation. However, nothing in that constitutional amendment gives that citizen the right to use that weapon unlawfully[.]" *Id.* Thus, *Daniel* represents a valid exercise of the State's police power in the regulation of firearms as contemplated by *Buckner*. *See also State v. Ivey*, 196 W. Va. 571, 474 S.E.2d 501 (1996) (approving State's exercise of police power by upholding W. Va. Code 20-2-57 (1991) (Repl. Vol. 1996) which classifies as misdemeanor negligent shooting, wounding, or killing of another while hunting).

IV.

CONSTITUTIONAL ANALYSIS

We turn now to the issue presented in this case.⁽⁶⁾ W. Va. Code 20-2-5(10) (1994) (Repl. Vol. 1996), which sets forth "[u]nlawful methods of hunting," directs:

Except as authorized by the director, *it is unlawful at any time for any person to:*

....

(10) *Have in his possession a loaded firearm or a firearm from the magazine of which all shells and cartridges have not been removed, in or on any vehicle or conveyance, or its attachments, within the state, except as may otherwise be provided by law or regulation. Except as hereinafter provided, between five o'clock postmeridian of one day and seven o'clock antemeridian, eastern standard time of the day following, any unloaded firearm, being lawfully carried in accordance with the foregoing provisions, shall be so carried only when in a case or taken apart and securely wrapped. During the period from the first day of July to the thirtieth day of September, inclusive, of each year, the foregoing requirements relative to carrying certain unloaded firearms shall be permissible only from eight-thirty o'clock postmeridian to five o'clock antemeridian, eastern standard time[.]*

(Emphasis added). Moreover, W. Va. Constitution Article III, Section 22 provides:

A person has the right to keep and bear arms for the defense of self, family, home and state, and for lawful hunting and recreational use.

(Emphasis added).

In *Buckner*, we concluded that because the language of Section 22 is clear, its provisions should be applied rather than construed. 180 W. Va. at 462, 377 S.E.2d at 144. A strict application of this constitutional provision indicates that a person may keep and bear arms with regard to hunting only if such hunting is lawful. Section 20-2-5(10) specifically denotes that carrying a loaded firearm in a vehicle is an *unlawful* manner of hunting. Thus, applying Section 22 to the statute in question demonstrates that there is no conflict between the two provisions since transportation of a loaded firearm is not a lawful method of hunting with firearms. As an unlawful manner of hunting, the transportation of a loaded firearm is not subject to constitutional protection.

Despite the strict application of Article III, Section 22, it is also necessary to determine whether section 20-2-5(10) is a valid exercise of the State's police power. In *Buckner*, we determined that the legislature could reasonably regulate an individual's right to keep and bear arms, but cautioned that a "legitimate governmental purpose in regulating the right to bear arms cannot be pursued by means that broadly stifle the exercise of this right where the governmental purpose can be more narrowly achieved." 180 W. Va. at 464, 377 S.E.2d at 146 (citation omitted). A review of W. Va. Code 20-2-5(10) indicates

that it is a reasonable and narrow restriction of a person's right to bear arms.

The State has a legitimate police power interest in protecting its citizens from the dangers of transporting loaded firearms. Prohibiting the vehicular transportation of loaded firearms is the only manner in which citizens can be protected from the potential discharge of loaded firearms in vehicles. The restriction is reasonable because it does not infringe upon a sportsperson's right to keep and bear arms for hunting purposes. Rather, it merely regulates the manner in which such weapons may be transported.⁽⁷⁾ Likewise, this statute is narrowly tailored to achieve the State's purpose. As noted above, the only manner in which to protect individuals from the accidental discharge of loaded firearms transported in vehicles is to require all such weapons to be unloaded. Thus, we hold that the provisions of W. Va. Code 20-2-5(10) prohibiting the vehicular transportation of a loaded firearm do not violate the right to keep and bear arms for lawful hunting purposes enunciated in W. Va. Constitution Article III, Section 22.

In our decision of this case, we wish to clarify further the nature of the State's police power in the specific context of firearms regulations. Although the facts presently before the Court suggest a rather harmless incident of transporting a loaded gun in a vehicle, the tragic experience of other jurisdictions does not support this interpretation. Rather, the jurisprudence of other states recounts many unfortunate accidents arising from the seemingly innocent practice of transporting a loaded gun in a vehicle. *See, e.g., State Farm Mut. Auto. Ins. Co. v. Partridge*, 10 Cal. 3d 94, 514 P.2d 123, 109 Cal. Rptr. 811 (1973) (passenger paralyzed when driver drove over rough terrain in pursuit of game causing loaded pistol to discharge); *Glen Falls Ins. Co. v. Rich*, 49 Cal. App. 3d 390, 122 Cal. Rptr. 696 (1975) (passenger injured when driver attempted to remove loaded shotgun from under front seat of car during hunting outing); *Kohl v. Union Ins. Co.*, 731 P.2d 134 (Colo. 1986) (two bystanders injured and one bystander killed when loaded rifle discharged while hunter attempted to remove it from gun rack of jeep); *Hutcherson v. Amen*, 98 Idaho 776, 572 P.2d 879 (1977) (driver injured when loaded hunting rifle, resting in camper shell of truck, discharged); *Reliance Ins. Co. v. Walker*, 33 N.C. App. 15, 234 S.E.2d 206, *review denied*, 293 N.C. 159, 236 S.E.2d 704 (1977) (bystander injured when loaded rifle, resting in gun rack of truck, discharged as a result of vibrations from driver or passenger sitting on truck seat or driver's starting of truck engine); *State Farm Mut. Auto. Ins. Co. v. Powell*, 227 Va. 492, 318 S.E.2d 393 (1984) (bystander killed when loaded shotgun in gun rack of truck discharged); *Allstate Ins. Co. v. Truck Ins. Exch.*, 63 Wis. 2d 148, 216 N.W.2d 205 (1974) (driver killed when passenger's loaded rifle discharged while passenger was exiting truck in pursuit of game). *See generally* 1 Windle Turley & James E. Rooks, Jr., *Firearms Litigation: Law, Science, and Practice* 14.01, 14.03 - 14.05 (1988), and cases cited therein.

In fact, one authority proposes "that the universally accepted wisdom on transportation of firearms is that they should *never* be carried loaded inside an automobile." *Id.* at 14.04, p. 503 (emphasis in original; footnote omitted).⁽⁸⁾ It is because of these tragedies

that we condone the legislature's exercise of its police power to regulate the vehicular transportation of firearms for hunting purposes. The police power enables the State "to enact laws, within constitutional limits, to promote the general welfare of its citizen[s]." *State ex rel. City of Princeton v. Buckner*, 180 W. Va. at 464, 377 S.E.2d at 146 (citations omitted). The realistic possibility of fatal accidents arising from the transportation of loaded firearms, supported by the ill-fated narratives of other states, clearly suggests that the prohibition contained in W. Va. Code 20-2-5(10) safeguards the "security, . . . health[,] and general welfare," 180 W. Va. at 464, 377 S.E.2d at 146 (citations omitted), of the citizens of this State. Thus, this statute represents a valid exercise of the State's police power.

V.

CONCLUSION

For the foregoing reasons, we hold that W. Va. Code 20-2-5(10) (1994) (Repl. Vol. 1996) does not violate W. Va. Constitution Article III, Section 22. Accordingly, the writ of prohibition is granted.

Writ granted.

1. The West Virginia Division of Natural Resources is a state agency which functions, in part, to enforce violations of hunting, wildlife, and natural resources regulations. *See* W. Va. Code 20-1-3 (1996) (Supp. 1996), 20-1-13 (1995) (Repl. Vol. 1996).

2. W. Va. Code 20-2-5(10) (1994) (Repl. Vol. 1996), describing "[u]nlawful methods of hunting" provides:

Except as authorized by the director, *it is unlawful at any time for any person to:*

....

(10) *Have in his possession a loaded firearm or a firearm from the magazine of which all shells and cartridges have not been removed, in or on any vehicle or conveyance, or its attachments, within the state, except as may otherwise be provided by law or regulation. Except as hereinafter provided, between five o'clock postmeridian of one day and seven o'clock antemeridian, eastern standard time of the day following, any unloaded firearm, being lawfully carried in accordance with the foregoing provisions, shall be so carried only when in a case or taken apart and securely wrapped. During the period from the first day of July to the thirtieth day of September, inclusive, of each year, the foregoing requirements relative to carrying certain unloaded firearms shall be permissible only from eight-thirty o'clock*

postmeridian to five o'clock antemeridian, eastern standard time[.]

(Emphasis added). In 1996, the West Virginia Legislature amended W. Va. Code 20-2-5(10) by adding the following provision to the end of this section: "Provided, That the time periods for carrying unloaded and uncased firearms are extended for one hour after the postmeridian times and one hour before the antemeridian times established above if a hunter is preparing to or in the process of transporting or transferring the firearms to or from a hunting site, campsite, home or other place of abode." W. Va. Code 20-2-5(10) (1996) (Supp. 1996). Despite these subsequent changes, we find that the 1994 version of this statute applies to the instant case since the underlying statutory violation occurred in 1994. We note further that the after-daylight requirements of carrying an unloaded firearm in a case or disassembled do not apply to the facts before us because Neel was apprehended at 4:50 p.m., shortly before compliance with the additional measures would have been required.

3. Article III, Section 22 of the W. Va. Constitution, entitled "Right to Keep and Bear Arms," states:

A person has the right to keep and bear arms for the defense of self, family, home and state, and for lawful hunting and recreational use.

(Emphasis added).

4. Webster County is located within the Fourteenth Judicial Circuit over which Judge Cline presides. The Fourteenth Judicial Circuit also encompasses the counties of Braxton, Clay, and Gilmer.

5. Although Ernest V. Morton, Jr., Prosecuting Attorney for Webster County, is named as a respondent in this matter, it does not appear from the record that he participated in the preparation or distribution of Dotson's memorandum.

6. At the outset, we recognize that several other jurisdictions have constitutional provisions permitting one to bear arms for hunting purposes which are similar to W. Va. Constitution Article III, Section 22. *See* Del. Const. art. I, 20; Neb. Const. art. I, 1; Nev. Const. art. I, 11; N.M. Const. art. II, 6; N.D. Const. art. I, 1. Similarly, the majority of these jurisdictions have statutes prohibiting the vehicular transportation of loaded firearms either with specific regard to hunting or under general circumstances. *See* Del. Code Ann. tit. 7, 708 (1996) (Supp. 1996); Neb. Rev. Stat. 37-501 (1989) (Repl. Vol. 1993); Nev. Rev. Stat. 503.165 (1987) (Main Vol. 1995); N.M. Stat. Ann. 30-7-2 (Michie 1985) (Repl. Pamph. 1994). *But see* N.D. Cent. Code 62.1-02-10 (1985) (Repl. Vol. 1995) (exempting persons engaged in lawful hunting from statute prohibiting carrying loaded firearm in motor vehicle). Nevertheless, we are unable to look to these states for guidance in this area because no other jurisdiction has addressed the constitutional inquiry with which we currently are faced.

7. Because the portion of W. Va. Code 20-2-5(10) (1994) (Repl. Vol. 1996) requiring that unloaded firearms also be contained within a case or disassembled between certain specified hours does not pertain to the facts of the instant case, we decline to rule upon the constitutionality of that portion of the statute.

8. The National Rifle Association of America [NRA] recognizes the dangers involved in transporting a loaded firearm in a vehicle and specifically recommends against this practice. *See, e.g.*, NRA Hunter Services Division, National Rifle Association of America, Firearm Safety and the Hunter (n.d.) (cautioning "[w]hen a gun is being carried in a vehicle . . . follow these rules of safe gun handling: [b]e sure the gun is unloaded"; also advising hunters to "[a]lways unload your gun before entering your vehicle").