

IN THE SUPREME COURT OF THE STATE OF NEVADA

VIRGINIA C. MURPHY,  
INDIVIDUALLY, AND AS THE  
ADMINISTRATOR OF THE ESTATE  
OF THOMAS J. MURPHY; JOHN T.  
MURPHY; AND ERIN F. MURPHY,  
Appellants,  
vs.  
THE AMERICAN GUN CLUB,  
Respondent.

No. 43068

**FILED**

MAY 17 2006

JANET M. BLOOM  
CLERK OF SUPREME COURT  
*J. Bloom*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

Appeal from an order granting partial summary judgment for the American Gun Club in a wrongful death action. Eighth Judicial District Court, Clark County; David Wall, Judge. In this order, we conclude that the Brady Act, 18 U.S.C. § 922 (2004), applies to the rental of a handgun at an indoor shooting range. However, because the decedent here is not within the category of persons to be protected under the Brady Act, we affirm the district court's order granting summary judgment.

The American Gun Club is a licensed federal firearm dealer that also rents firearms for use at its indoor range. Appellants Estate of Thomas Murphy, John T. Murphy, and Erin F. Murphy brought a wrongful death action alleging that the Gun Club was negligent and negligent per se in the suicide death of Thomas Murphy, wherein the decedent rented a handgun from the Gun Club for use in its indoor shooting range and fatally shot himself in the head.<sup>1</sup> It is undisputed that

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<sup>1</sup>We have recited only those facts that are necessary to our disposition of appellants' contentions.


the Gun Club did not perform a background check or wait three days before transferring the firearm to the decedent.

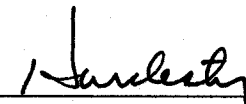
On appeal, the Estate alleges that the Brady Act provision requiring a background check through the National Instant Criminal Background Check System or a three-day waiting period before any sale, transfer, or delivery of a firearm applies to the rental of a firearm at a shooting range. We agree. Nothing in the Brady Act explicitly excludes the rental of a firearm for use at an indoor shooting range from the ambit of the statute.

Nevertheless, we affirm the district court's order. We note that violation of the Brady Act would only create a duty to those persons contemplated to fall within the class of persons sought to be protected under our prior cases concerning negligence per se. A decedent who committed suicide with the weapon in question is not within the category of persons to be protected under the Brady Act.<sup>2</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. David Wall, District Judge  
Murdock & Associates, Chtd.  
Stephenson & Dickinson  
Clark County Clerk

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<sup>2</sup>We do not reach the question of whether the Brady Act would apply to claims by third parties injured by the transferee under the statute.