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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of November – 2026 - ALTERNATIVE

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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

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People v. Daniel Gerger, 2026 IL App (1st) 240060, September 16, 2026.

The Case: Gerger entered a “club” to meet a friend. A confrontation occurred. After being attacked, Gerger drew his concealed firearm and shot two persons. Was Gerger properly convicted of a Weapons offense and the Reckless Discharge of a Firearm?

FACTS: According to Gerger, he went to “the club” to meet a friend. While in the bar area of the Club, Gerger’s “friend” was making a “woo” sound, which Gerger described as “just having a good time.” Another patron of the restaurant (victim #1) yelled, “Don’t f***in do that again!” The friend made another “woo” sound. Victim #1 stood from his seat, grabbed a pitcher of water from a counter, and walked toward Gerger and his friend. Gerger believed that the victim was going to hit him or his friend. When Gerger raised his hands to protect his friend, the victim punched Gerger in the face, knocking him onto the floor. The victim then kicked Gerger in the side of his body. Gerger drew his concealed 9-millimeter handgun from his waistband, pointed it at the victim, and fired. The victim was struck in the abdomen and walked away. Gerger kept the handgun pointed at the victim, as he feared the victim might turn and attack him again. Multiple people then “jumped” on Gerger. He heard them say, “I’ll kill you mother f***!” and “I’ll choke you out!” The men punched and choked him. Gerger attempted to keep hold of his handgun, fearing they would use it to shoot him. While “[t]here was a struggle for [the] firearm, it discharged again.” A second victim was shot in the leg but managed to take the handgun from Gerger. Gerger waved his hands and the men punching and choking him relented. Gerger then lost consciousness for some time. Gerger was unsure whether he had pulled the trigger when the second victim was shot. He explained, “There were multiple hands on the weapon. By that point, it could have been any one of us.” After it discharged, Gerger felt a stinging pain in the back of his left hand. His hand has a scar from the incident. At the time of the shooting, Gerger possessed a valid firearm owner’s identification (FOID) card and a concealed carry license (CCL). He was aware that, even with a CCL, he could not bring a firearm into a “bar that sells alcohol.” However, he understood that a CCL holder was permitted to bring a firearm into a restaurant that served alcohol. Gerger believed “the club” was such a restaurant since it had a restaurant section in addition to the bar area.

Thereafter, Gerger was charged with attempted first-degree murder, aggravated battery, a weapons violation for carrying a firearm into a place that sold alcohol, and the reckless discharge of a firearm. Following a bench trial, Gerger was found not guilty of Attempted Murder and Aggravated Battery based upon a theory of self-defense. However, he was convicted of violating section 24-1(a)(8) of the Criminal Code (720 ILCS 5/24-1(a)(8), which prohibits the knowing possession of a firearm in a place licensed to sell intoxicating beverages and the Reckless Discharge of a Firearm. [Gerger’s “reckless act” was bringing the firearm into the bar.] This appeal followed.

ISSUE #1: Was Gerger properly convicted of illegally possessing a firearm in a bar in violation of Section 24-1(a)(8) of the Criminal Code?

ARGUMENTS: On appeal, Gerger argued that he was improperly convicted of his Weapons violation. Specifically, Gerger argued that as a Concealed Carry Licensee, he was immune from such a Weapons violation.

THE LAW: Section 24-1(a)(8) of the Criminal Code prohibits the knowing possession of a firearm in a place licensed to sell intoxicating beverages. The CCL Act contains a comparable provision prohibiting a CCL licensee from knowingly carrying a firearm on or into “[a]ny building, real property, and parking area under the control of an establishment that serves alcohol on its premises, if more than 50% of the establishment’s gross receipts within the prior 3 months is from the sale of alcohol.” 430 ILCS 66/65(a)(9). A violation of the Carry Act’s prohibition is a Class B misdemeanor (id. § 70(e)), while a violation of the UUW statute is a Class 4 felony (720 ILCS 5/24-1(b)). The Carry Act, however, provides that a CCL licensee “convicted or found guilty of a violation of [the Carry Act] *** shall only be subject to the penalties under [the Carry Act] and shall not be subject to the penalties under *** paragraph (4), (8), or (10) of subsection (a) of Section 24-1 *** of the Criminal Code.” 430 ILCS 66/70(f).

KEY CASE: **People v. Harvey, 2024 IL 129357.** In *Harvey*, the People charged Harvey with carrying a firearm on a street without a CCL. The People had argued that it could prove Harvey did not possess a CCL by simply proving that he did not present his CCL to the Officer when asked. The *Harvey* Court rejected this argument by noting, “A licensee convicted or found guilty of a violation of this Act who has a valid license and is otherwise eligible to carry a concealed

firearm shall only be subject to the penalties under this Section and shall not be subject to the penalties under *** paragraph *** (10) of subsection (a) of Section 24-1 *** of the Criminal Code of 2012.” Id. § 70(f). In section 70(f) of the Carry Act, the legislature specifically exempted any person who has a valid CCL from prosecution under section 24-1(a)(10) of the UUW statute. It follows, therefore, that the only individuals who could potentially face liability under section 24-1(a)(10) of the UUW statute are those persons who do not have a valid CCL. Thus, it was not enough for the State to show that Harvey did not present a CCL at the time of the stop. To establish liability under section 24-1(a)(10) and to meet its burden of showing that the concealed carry exception did not apply, the State had to show that Harvey had not been issued a valid CCL.”

FINDING: The Court of Appeals agreed with Gerger’s argument that he was improperly convicted of violating Section 24-1(a)(8) of the Criminal Code. **REASONING:** The appellate court found *Harvey* controlling. According to the Court, it was undisputed that Gerger had a valid CCL license at the time he was alleged to have violated subsection (a)(8) of the UUW statute. Since that offense is enumerated in section 70(f), Gerger was exempt from prosecution under subsection (a)(8) of the UUW statute. Accordingly, the Court concluded that it must vacate his conviction for possession of a firearm in a place licensed to sell intoxication beverages.

ISSUE #2: Could the appellate court reduce Gerger’s conviction to a violation of section 65(a)(9) of the Carry Act? [That way, Gerger would receive at least a Class B Misdemeanor conviction.] **CONCLUSION:** (No). The Court concluded that under the circumstances of this case, it could not. **REASONING:** According to the Court, Gerger was not charged with a CCL violation, and (2) the People did not prove that more than 50% of the Club’s gross receipts in the three months preceding this occurrence derived from alcohol sales. Consequently, Gerger could not legally be convicted of an uncharged and unproven criminal offense. **NOTE:** The Prosecutor in this case decided not to risk also charging Gerger with a CCL violation in order to avoid a lesser conviction. That decision prevented Gerger from being convicted of that offense.]

ISSUE #3: Gerger drew his firearm while in the Club. Could not this act of openly carrying the firearm constitute a weapons violation? **CONCLUSION:** (No). **REASONING:** The appellate court rejected the People’s argument that the Carry Act was made irrelevant once Gerger produced his firearm from concealment, exposing Gerger to criminal liability for the offenses exempted by section 70(f). Based on the language in *Harvey*, the Court reasoned that Gerger’s valid CCL alone exempted him from prosecution for those offenses. In addition, it observed that the Carry Act’s prohibitions on carrying a firearm in certain places did not distinguish between a concealed or unconcealed firearm. The Carry Act simply states: “A licensee under this Act shall not knowingly carry a firearm on or into” the prohibited areas. Thus, the Court concluded that a CCL licensee is subject to the Carry Act’s prohibition on carrying a firearm in specified places regardless of whether their firearm remains concealed. Thus, according to this Court, the mere fact that a CCL Licensee pulls a firearm from a concealed location in a restricted area does not constitute a weapons violation; a felony offense. It only constitutes a CCL violation; a Misdemeanor violation.

ISSUE #4: Was Gerger properly convicted of the Reckless Discharge of a Firearm? **CONCLUSION:** (No). **REASONING:** The circuit court convicted Gerger of this offense after finding that Gerger acted recklessly by bringing the firearm into the Club in the first place. However, the appellate court concluded that to convict a suspect of Reckless Discharge, the discharge itself must have been reckless. In other words, the discharge itself (the act of pulling the trigger) must have been reckless. According to the Court, some other act of recklessness on the part of Geiger (in this case, his act of bringing the firearm into the bar), was insufficient to constitute Reckless Discharge of a Firearm. Under these circumstances, the Court could not conclude that any rational trier of fact would have found beyond a reasonable doubt that Gerger consciously pulled the trigger. According to the Court, it is evident that he was trying to maintain possession of the handgun while others attempted to forcibly take it from him. Gerger’s finger remained next to the trigger, as he had just fired it at the First victim, which was found to be justified as self-defense. Those contesting for control of the handgun could have easily applied sufficient force against Gerger’s finger or the firearm itself to cause the discharge. Given multiple hands on the firearm during a one-minute struggle, the probability of an accidental discharge was substantial, creating reasonable doubt as to recklessness. “An accident is not to be equated with recklessness.”

RESULT: The appellate court reversed both of Gerger’s Weapons and Reckless Discharge convictions.

QUIZ QUESTIONS FOR THE MONTH OF NOVEMBER – 2026 - ALTERNATIVE

People v. Daniel Gerger, 2026 IL App (1st) 240060, September 16, 2026.

1. Is it illegal for a CCL Licensee to carry a firearm into a bar?
 - a. Yes.
 - b. No.

2. A CCL licensee who knowingly carries a firearm into a bar commits both a CCL violation and a weapons violation.
 - a. True.
 - b. False.

3. Gerger argued that he was improperly convicted of illegally carrying a firearm into a bar because he possessed a valid CCL and consequently he was immune from liability for committing such a Felony weapons offense. Did the Appellate Court agree with Gerger's argument?
 - a. Yes.
 - b. No.

4. The Circuit Court concluded that Gerger was properly convicted of the Reckless Discharge of a Firearm based upon Gerger's reckless act of carrying a concealed firearm into a bar. The Appellate court agreed with this finding of the Circuit Court.
 - a. True.
 - b. False.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF NOVEMBER – 2026 - ALTERNATIVE

People v. Daniel Gerger, 2026 IL App (1st) 240060, September 16, 2026.

1. Is it illegal for a CCL Licensee to carry a firearm into a bar?

a. Yes. A CCL licensee who knowingly carries a firearm on the premises of “an establishment that serves alcohol on its premises, if more than 50% of the establishment’s gross receipts within the prior 3 months is from the sale of alcohol”—i.e., a bar, violates both section 65(a)(9) of the Carry Act and section 24-1(a)(8) of the Criminal Code, as such an establishment is also “licensed to sell intoxicating beverages.”

2. A CCL licensee who knowingly carries a firearm into a bar commits both a CCL violation and a weapons violation.

a. True. A CCL licensee who knowingly carries a firearm on the premises of “an establishment that serves alcohol on its premises, if more than 50% of the establishment’s gross receipts within the prior 3 months is from the sale of alcohol”—i.e., a bar, violates both section 65(a)(9) of the Carry Act and section 24-1(a)(8) of the Criminal Code, as such an establishment is also “licensed to sell intoxicating beverages.”

3. Gerger argued that he was improperly convicted of illegally carrying a firearm into a bar because he possessed a valid CCL and consequently he was immune from liability for committing such a Felony weapons offense. Did the Appellate Court agree with Gerger’s argument?

a. Yes. The Court concluded that because Gerger possessed a valid CCL, he was exempt from liability for a weapons violation involving possessing a firearm in a bar.

4. The Circuit Court concluded that Gerger was properly convicted of the Reckless Discharge of a Firearm based upon Gerger’s reckless act of carrying a concealed firearm into a bar. The Appellate court agreed with this finding of the Circuit Court.

b. False. The appellate court rejected this finding by noting that the reckless act that results in a charge of the Reckless Discharge of a Firearm must actually involve the discharge of the firearm. Consequently, even if Gerger’s act of bringing a firearm into the bar did constitute an act of recklessness, that act was insufficient to support a conviction for the offense of the Reckless Discharge of a Firearm.