

# Despite Missouri mother's plea, mentally ill daughter was sold a gun. She shot her father an hour later.



Janet Delana stands at the grave of her husband, Tex C. Delana, in Lexington, Mo., on Dec. 14, 2016. Tex Delana was shot and killed by his daughter Colby Sue Weathers, who had paranoid schizophrenia. (Christopher Smith / The Washington Post)

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**S**he called the police. Then ATF. After that, the **FBI**.

Janet Delana was desperate to stop her mentally ill adult daughter from buying another handgun.

Finally, Delana called the gun shop a few miles from her home, the one that had sold her daughter a black Hi-Point pistol a month earlier when her last disability check had arrived.

The next check was coming.

Delana pleaded.

Her daughter had been in and out of mental hospitals, she told the store manager, and was diagnosed as a paranoid schizophrenic. She had tried to kill herself. Her father had taken away the other gun, but Delana worried that her daughter would go back.

"I'm begging you," Delana said through tears. "I'm begging you as a mother, if she comes in, please don't sell her a gun."

"Something like what I bought last time," Colby Sue Weathers said to the manager, Derrick Dady.

She seemed nervous, he would recall to police.

Weathers had a diagnosis of mental illness, but she had never been identified as a threat to herself or others by a judge or ordered to an extended mental hospital stay - which meant she could pass the background check for her gun.

The Hi-Point pistol and one box of ammunition cost Weathers \$257.85 at the Odessa Gun & Pawn shop on the main drag of the small Missouri town about 40 miles east of Kansas City.

Weathers headed back to the house the 38-year-old shared with her parents, stopping for a pack of unfiltered cigarettes along the way at a gas station. A firefighter who was an old acquaintance saw her acting skittishly and muttering.

An hour after leaving the gun store, Weathers was back home where her father sat at a computer with his back to her.

She shot.

Weathers planned to kill herself next but told a 911 operator: "I can't shoot myself. I was going to after I did it, but I couldn't bring myself to it."

Delana lost Tex, her husband of nearly 40 years, and her daughter, who was charged with murder. And beneath her anguish, Delana seethed.

The store had made about \$60 profit on the sale, court records would show.

"After everything I did, they still sold her a gun," Delana said recently. "The more I thought about it, the madder I got. I wanted someone to pay."

Delana sued the Odessa Gun & Pawn shop for negligence in the June 2012 sale and won a decision at the Missouri Supreme Court that said that nothing in federal law barred Delana's type of lawsuit.

Under state law, the court ruled that dealers can be held liable if they should have known a buyer was

dangerous. Last fall, with a trial set to start in January in the wrongful death case, the gun shop settled with Delana, saying it had followed the law and done nothing wrong.

"I can't just go by what a phone call says," Dady said during a deposition. "If the person that comes in . . . passes the background check, I can sell them a gun."

The gun shop agreed to pay Delana \$2.2 million.

Gun-control advocates say the state court's decision, combined with Delana's settlement, are significant victories for those who want to reduce gun violence by changing the financial equation for the firearms industry.

The Missouri case, brought with the help of lawyers from the Washington, D.C.-based Brady Center to Prevent Gun Violence, provides a legal road map for similar lawsuits around the country, according to the Brady Center, which said there are at least 10 other civil cases pending, including in Florida, Pennsylvania, Indiana and Texas.

Jonathan E. Lowy, Brady's legal director who argued Delana's case, said it sends a "powerful message to the gun industry nationwide, and to the companies that insure them, that if you supply a dangerous person with a gun, you will pay the price."

Gun rights supporters counter that a 2005 national law that shields gunmakers, distributors and sellers from lawsuits never provided blanket immunity and already has exceptions to cover knowingly illegal sales.

Lawrence G. Keane, general counsel for the National Shooting Sports Foundation, said the lawsuits brought by the Brady Center and others are an effort to impose gun control through litigation instead of legislation. There is "nothing remarkable" about the Missouri settlement, Keane said. "What's remarkable is that the law is functioning just as Congress intended."

Far from Washington, where vast fields of corn and soybeans surround a community of 800 on the bluffs of the Missouri River, the gun debate is personal.

Delana grew up around guns. Her father was an avid hunter. Her husband, the high school sweetheart she married when she was 17, cleaned guns on the porch of their two-bedroom cottage. Their dates included target practice.

A Browning pistol her husband bought still rests in the gun safe next to Delana's bed, as much for sentiment as protection.