

Introduction

On June 26, 2008 the United States Supreme Court issued a decision in the case of *District of Columbia vs. Heller* (2008). The Supreme Court affirmed that the Second Amendment protects a pre-existing, private, individually-held right, to keep arms and to bear arms, without regard to a person's relationship to a militia. ^(ok) This was the first time since 1939 that the Second Amendment to the United States Constitution has been interpreted by the Supreme Court. Since the decision and interpretation of the high court, there have been multiple suits filed against other cities with gun laws similar to that of the District of Columbia setting an ongoing precedence for future gun control battles.

Background

In 1791 ⁽¹⁾ a series of articles known as the Bill of Rights were ratified and became the first ten amendments to the United States Constitution. Following the signing of the Constitution many Americans were not satisfied and wanted to see more restrictions on the federal government and their ability to interfere with the rights of the people. ~~It did not state anywhere in the Constitution where it prohibited the government's regulation of religion, speech, press, and assembly. There was nothing guaranteeing the right to own weapons.~~ ^{Nowhere did} (Hornberger, 2000) ⁽²⁾ The Bill of Rights was put into place in order to ensure the basic fundamental rights of the people of the United States of America. Among these amendments was 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." (Bill of Rights)

The case of *District of Columbia vs. Heller* (2008) stems from Mr. Dick Anthony Heller and five other individuals challenging various sections of the District of Columbia's Firearms Control Regulation Act of 1975. The sections that were challenged included D.C. Code § 7-2502.02(a)(4), which generally bans the registration of handguns (with an exception for retired D.C. police officers); D.C. Code § 22-4504(a), which prohibits carrying a pistol without a license, insofar as that provision would prevent a registrant from moving a gun from one room to another within his or her home; and D.C. Code § 7-2507.02, which requires that all lawfully owned firearms be kept unloaded and disassembled or bound by a trigger lock or similar device.

(*Parker v. District of Columbia*, 2007)

Mr. Heller was employed as a special police officer in the District of Columbia, and carried a handgun while on duty in the Federal Judicial Center and wished to keep a handgun in his home for self defense. The District denied his request and so he and the other five appellants filed suit against the District in the District court system in the case of *Parker vs. District of Columbia* (2004). The District Court ruled in favor of the District of Columbia and held ~~revealed~~ that an individual's right to bear arms is only rested when linked to a militia such that of the National Guard, and the outcome was a dismissal of the case. (*Parker v. District of Columbia*, 2004)

The case then was appealed ~~went~~ to The United States Court of Appeals for the District of Columbia Circuit where the court ~~the court~~ ruled that the District of Columbia's Firearms Control Regulations Act of 1975 was unconstitutional. The Court stated, "the activities the Amendment protects are not limited to militia service, nor is an individual's enjoyment of the right contingent upon his or her continued or intermittent enrollment in the militia."

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The final decision was to reverse the dismissal set by the lower District Court. The court also ruled that all appellants other than Heller lack standing and named Heller to be the only appellant to have standing to challenge only D.C. Code § 7-2502.02(a)(4), under which he applied for, and was denied, a handgun permit. A petition for rehearing was filed by the District of Columbia to the Court of Appeals, and was denied. The case of *Parker v. District of Columbia* (2007) now became *District of Columbia v. Heller* (2008). (*Parker v. District of Columbia*, 2007)

After petitions for hearing were filed to the United States Supreme Court by both the defendants and plaintiffs, the Court agreed to hear the case. In a 5-4 decision, the Supreme Court upheld the decision of the Appeals Court in favor of Heller, ruling the District's gun ban law to be unconstitutional. (*District of Columbia v. Heller*, 2008)

Analysis

For decades the interpretation of the Second Amendment has been an endless controversy between gun control advocates and supporters of the Second Amendment. Since 1939 the United States Supreme Court has heard and decided on many cases, but somehow has avoided cases involving the interpretation of the Second Amendment. Finally after almost five decades, the Supreme Court has given an updated interpretation of the Second Amendment. Both sides in *District of Columbia vs. Heller* (2008) had very different interpretations of the Second Amendment. The dissenting Justice's interpretation of the Amendment was to give an individual the right to bear and keep arms only when directly involved or related to a militia service. The final Court interpretation stated "The Second Amendment protects an individual right to possess a

firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home," and "that the District's ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense." (*District of Columbia v. Heller*, 2008) The Court made clear that the interpretation was not intended for, nor grants firearm privileges to felons or those that are mentally ill. It is also not intended to replace established laws that prevent the possession of firearms in places such as schools or government buildings, or the qualifications required in order for a person to sell firearms commercially.

The recent decision of the Supreme Court has triggered such organizations as the National Rifle Association, which is a Second Amendment advocate, to file multiple lawsuits against cities with laws which prohibit the possession of firearms. The day following the Supreme Court's decision five lawsuits were filed by the National Rifle Association against San Francisco, CA, Chicago, IL, Evanston, IL, Morton Grove, IL, and Oak Park, IL. (NRA-ILA, 2008) Although these cases may not reach the Supreme Court, they clearly show that the fight between gun control stances will be on the forefront for years to come.

Conclusion

Every law abiding citizen has a right to keep and bear firearms without regards to a militia established by the United States Constitution. The United States Supreme Court's decision affirmed this right and paved the way to rid cities throughout the country of erroneous gun control laws. There is no doubt that gun control is a necessity in this

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day and age, however it is not obtained by completely eliminating the right of the people to own and operate firearms. Gun control is keeping illegally owned weapons out of the hands of criminals and those who have forgone their constitutional right of the Second Amendment.

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