District of Columbia v. Heller From Wikipedia, the free encyclopedia

a.k.a. Parker v. District of Columbia (at Appellate Court)

Background

In 2002, Robert A. Levy, a Senior Fellow at the Cato Institute, began vetting plaintiffs with Clark M. Neily III for a planned Second Amendment lawsuit that he would personally finance. Although he himself had never owned a gun, as a Constitutional scholar he had an academic interest in the subject and wanted to model his campaign after the legal strategies of Thurgood Marshall, who had successfully led the challenges that overturned school segregation.[2] They aimed for a group that would be diverse in terms of age, race, and economic background. They eventually picked Shelly Parker, Tom Palmer, Gillian St. Lawrence, Tracey Ambeau, George Lyon and Dick Heller. Before the case, Levy knew only Tom Palmer, a colleague from the Cato Institute, and none of the six knew each other.[3]

Previous federal caselaw pertaining to the question of an individual's right to bear arms included *United States v. Emerson*, 270 F.3d 203 (5th Cir. 2001).

District Court

In February 2003, the six residents of Washington, D.C. filed a lawsuit in the District Court for the District of Columbia, challenging the constitutionality of provisions of the Firearms Control Regulations Act of 1975, a local law (part of the District of Columbia Code) enacted pursuant to District of Columbia home rule. This law restricted residents from owning handguns, excluding those grandfathered in by registration prior to 1975 and those possessed by active and retired law enforcement officers. The law also required that all firearms including rifles and shotguns be kept "unloaded and disassembled or bound by a trigger lock."[4] The District Court dismissed the lawsuit.

Court of Appeals

The court's opinion first addressed whether appellants have standing to sue for declaratory and injunctive relief in section II (slip op. at 5–12). The court concluded that of the six plaintiffs, only Heller—who applied for a handgun permit but was denied—had standing.

Henderson's dissent

In dissent, Judge Henderson stated that Second Amendment rights did not extend to residents of Washington D.C., writing:

> “ To sum up, there is no dispute that the Constitution, case law and applicable statutes all establish that the District is not a State within the meaning of the Second Amendment.

> Under *United States v. Miller*, 307 U.S. at 178, the Second Amendment's declaration and guarantee that "the right of the people to keep and bear Arms, shall not be infringed" relates to the Militia of the States only. That the Second Amendment does not apply to the District, then, is, to me, an unavoidable conclusion.[6]

The Supreme Court's decision

The defendants petitioned the United States Supreme Court to hear the case. The plaintiffs did not oppose but, in fact, welcomed the petition. The Supreme Court agreed to hear the case on November 20, 2007.[8] The court rephrased the question to be decided as follows:

> “ The petition for a writ of certiorari is granted limited to the following question: Whether the following provisions, D.C. Code §§ 7-2502.02(a)(4), 22-4504(a), and 7-2507.02, violate the Second Amendment rights of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes?

Amicus curiae briefs

Because of the controversial nature of the case, it garnered much attention from many groups on both sides of the gun rights issue. Many of those groups filed *amicus curiae* (friend of the court) briefs, about 47 urging the court to affirm the case and about 20 to remand it.[10]

A majority of the members of Congress[11] signed the brief authored by Stephen P. Halbrook advising that the case be affirmed overturning the ban on handguns not otherwise restricted by Congress.[12] Vice President Dick Cheney joined in this brief, acting in his role as President of the United States Senate, and breaking with the George W. Bush administration's official position.[11] Then Democratic candidate and Illinois Senator Barack Obama did not sign it.[13]

A majority of the states signed the brief of Texas Attorney General Greg Abbott advising that the case be affirmed

Decision

On June 26, 2008, by a 5 to 4 decision, the Supreme Court upheld the federal appeals court ruling, striking down the D.C. gun law. Justice Antonin Scalia, writing for the majority, stated, "In sum, we hold 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 ... We affirm the judgment of the Court of Appeals."[31] This ruling upholds the first federal appeals court ruling ever to void a law on Second Amendment grounds.[32]

The Court based its reasoning on the following grounds:

- that the operative clause of the Second Amendment—"the right of the people to keep and bear Arms, shall not be infringed"—is controlling and refers to a pre-existing right of individuals to possess and carry personal weapons for self-defense and intrinsically for defense against tyranny, based on the bare meaning of the words, the usage of "the people" elsewhere in the Constitution, and historical materials on the clause's original public meaning;
- that the prefatory clause, which announces a purpose of a "well regulated Militia, being necessary to the security of a free State", comports with the meaning of the operative clause and refers to a well-trained citizen militia, which "comprised all males physically capable of acting in concert for the common defense", as being necessary to the security of a free polity;
- that historical materials support this interpretation, including "analogous arms-bearing rights in state constitutions" at the time, the drafting history of the Second Amendment, and interpretation of the Second Amendment "by scholars, courts, and legislators" through the late nineteenth century;
- that none of the Supreme Court's precedents forecloses the Court's interpretation, specifically *United States v. Cruikshank* (1875), *Presser v. Illinois* (1886), nor *United States v. Miller* (1939);
- that the right to keep and bear arms is not unlimited and the decision does not cast doubt on the longstanding legislative prohibitions against possession by felons and the mentally ill, carrying weapons in sensitive places and regulations regarding the sales of firearms;[33] and
- that handguns are the most popular weapons chosen by Americans for self-defense.[34]

Therefore, the District of Columbia's handgun ban is unconstitutional, as it "amounts to a prohibition on an entire class of 'arms' that Americans overwhelmingly choose for the lawful purpose of self-defense". Similarly, the requirement that any firearm in the home be disassembled or bound by a trigger lock is unconstitutional, as it "makes it impossible for citizens to use arms for the core lawful purpose of self-defense".

Issues addressed by the majority

The core holding in *D.C. v. Heller* is that the Second Amendment is an individual right intimately tied to the natural right of self-defense.

Dissenting opinions

In a dissenting opinion, Justice John Paul Stevens stated that the court's judgment was "a strained and unpersuasive reading" which overturned longstanding precedent, and that the court had "bestowed a dramatic upheaval in the law".[39] Stevens also stated that the amendment was notable for the "omission of any statement of purpose related to the right to use firearms for hunting or personal self-defense" which was present in the Declarations of Rights of Pennsylvania and Vermont.[39]