

Supreme Court strikes down D.C. gun ban

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WASHINGTON - In its first decision on gun control in 70 years, the Supreme Court Thursday declared a District of Columbia handgun ban unconstitutional.

The case began when Anthony Heller, an armed security guard, applied to register a handgun to keep at his home but was refused. He argued that this violated his right to keep and bear arms.

In a 5-4 vote, the court found that the handgun ban violates the Second Amendment.

The essential question in the case was whether the right to bear arms protects an individual right or a collective right.

The amendment reads: "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."

The majority opinion interpreted the text to include not just state militias, but individual rights as well.

"The prefatory clause does not suggest that preserving the militia was the only reason Americans valued the ancient right; most undoubtedly thought it even more important for self-defense and hunting," Justice Antonin Scalia wrote in the opinion.

Justices John Paul Stevens and Stephen G. Breyer each wrote dissenting opinions, which were joined by Justices David H. Souter and Ruth Bader Ginsburg. Stevens read parts of his and Breyer's dissents from the bench, which justices do only when they have particularly strong feelings about a case.

They maintained that the Second Amendment was intended to protect only the right to maintain a state militia, not individuals.

"It is the collective action of individuals having a duty to serve in the militia that the text directly protects," Stevens wrote.

The D.C. law applied only to handguns, but also required that legal firearms such as rifles and shotguns kept at home be disassembled or bound by a trigger lock at all times, rendering them inoperable.

This, Scalia wrote, deprived residents of a critical right to self-defense at home.

"The handgun ban amounts to a prohibition of an entire class of 'arms' that is overwhelmingly chosen by American society for that lawful purpose," Scalia wrote.

D.C. officials called the decision disappointing and said the city will write new regulations to be as strict as possible.

"It is impossible for us to be naïve, given what we have seen happen for too long in the cities of this country, and so that's why we are disappointed with the ruling," District of Columbia Mayor Adrian Fenty said at a press conference.

Rep. Paul C. Broun, R-Ga., a member of the National Rifle Association and Gun Owners of America, said in a statement that the court's decision was a "strong move" for individual gun rights.

"As an avid hunter, sports-shooter and constitutionalist, I am a strong supporter of the Second Amendment right to bear arms," Broun said. "I vigorously oppose all attempts to restrict that right and I believe that any law, whether at the local, state, or federal level, which restricts or infringes upon law-abiding citizens' ability to own a firearm is unconstitutional."

The only other case dealing with the Second Amendment was *United States v. Miller* in 1939, in which the Supreme Court held that the right to keep and bear sawed-off shotguns is not protected by the Second Amendment.

The majority opinion emphasized that, as held in *Miller*, the constitutional right to keep and bear arms is not unlimited. It remains illegal to carry firearms in sensitive places, including schools or government buildings, or for felons or the mentally ill to own firearms. The licensing requirement for D.C. guns will remain in effect.

In his separate dissenting opinion, Breyer noted the implications of the court's decision.

"The decision threatens to throw into doubt the constitutionality of gun laws throughout the United States," Breyer wrote.

But according to Georgetown University law professor Randy Barnett, any application of Thursday's ruling to states would have to be decided in a future court case, which would work its way up through the lower courts over a long time.

"Unless the right to keep and bear arms is applied to the states by the 14th Amendment, this case doesn't have anything to say about state laws," Barnett said.

Barnett added that because the D.C. gun ban was one of the most restrictive gun laws in the country, Thursday's decision will be more important in preventing future strict gun laws than in overturning laws already in place in other areas.