

Supreme Court Reviews D.C. Gun Ban

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WASHINGTON (March 18) - Americans have a right to own guns, Supreme Court justices declared Tuesday in a historic and lively debate that could lead to the most significant interpretation of the Second Amendment since its ratification two centuries ago.

Governments have a right to regulate those firearms, a majority of justices seemed to agree. But there was less apparent agreement on the case they were arguing: whether Washington's ban on handguns goes too far.

The justices dug deeply into arguments on one of the Constitution's most hotly debated provisions as demonstrators shouted slogans outside. Guns are an American right, argued one side. "Guns kill," responded the other.

Inside the court, at the end of a session extended long past the normal one hour, a majority of justices appeared ready to say that Americans have a "right to keep and bear arms" that goes beyond the amendment's reference to service in a militia.

Several justices were openly skeptical that the District of Columbia's 32-year-old handgun ban, perhaps the strictest in the nation, could survive under that reading of the Constitution.

"What is reasonable about a total ban on possession?" Chief Justice John Roberts asked.

Walter Dellinger, representing the district, replied that Washington residents could own rifles and shotguns and could use them for protection at home.

"What is reasonable about a total ban on possession is that it's a ban only on the possession of one kind of weapon, of handguns, that's considered especially dangerous," Dellinger said.

Justice Stephen Breyer appeared reluctant to second-guess local officials.

Is it "unreasonable for a city with a very high crime rate ... to say no handguns here?" Breyer asked.

Alan Gura, representing a Washington resident who challenged ban, said, "It's unreasonable and it fails any standard of review."

The court has not conclusively interpreted the Second Amendment since its ratification in 1791. 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 basic issue for the justices is whether the amendment protects an individual's right to own

guns no matter what, or whether that right is somehow tied to service in a state militia.

A key justice, Anthony Kennedy, seemed to settle that question early on when he said the Second Amendment gives "a general right to bear arms." He is likely to be joined by Roberts and Justices Samuel Alito, Antonin Scalia and Clarence Thomas — a majority of the nine-member court.

Gun rights proponents were encouraged.

"What I heard from the court was the view that the D.C. law, which prohibits good people from having a firearm ... to defend themselves against bad people is not reasonable and unconstitutional," National Rifle Association executive vice president Wayne LaPierre said after leaving the court.

Washington Mayor Adrian Fenty said he hoped the court would leave the ban in place and not vote for a compromise that would, for example, allow handguns in homes but not in public places. "More guns anywhere in the District of Columbia is going to lead to more crime. And that is why we stand so steadfastly against any repeal of our handgun ban," the mayor said after attending the arguments.

A decision that defines the amendment's meaning would be significant by itself. But the court also has to decide whether Washington's ban can stand and how to evaluate other gun control laws.

The justices have many options, including upholding a federal appeals court ruling that struck down the ban.

Solicitor General Paul Clement, the Bush administration's top Supreme Court lawyer, supported the individual right but urged the justices not to decide the other question. Instead, Clement said the court should say that governments may impose reasonable restrictions, including federal laws that ban certain types of weapons.

Clement wants the justices to order the appeals court to re-evaluate the Washington law. He did not take a position on it.

This issue has caused division within the administration, with Vice President Dick Cheney taking a harder line than the official position at the court.

In addition to the handgun ban, Washington also has a trigger lock requirement for other guns that raised some concerns Tuesday.

"When you hear somebody crawling in your bedroom window, you can run to your gun, unlock it, load it and then fire?" Justice Antonin Scalia said.

Roberts, who has two young children, suggested at one point that trigger locks might be reasonable.

"There is always a risk that the children will get up and grab the firearm and use it for some purpose other than what the Second Amendment was designed to protect," he said.

On the other hand, he, too, wondered about the practical effect of removing a lock in an emergency. "So then you turn on the lamp, you pick up your reading glasses," Roberts said to laughter.

Dellinger said he opened the lock in three seconds, although he conceded that was in daylight.

While the arguments raged inside, dozens of protesters mingled with tourists and waved signs saying "Ban the Washington elitists, not our guns" or "The NRA helps criminals and terrorists buy guns."

Members of the Brady Campaign to Prevent Gun Violence chanted "guns kill" as followers of the Second Amendment Sisters and Maryland Shall Issue.Org shouted "more guns, less crime."

The City Council that adopted the ban said it was justified because "handguns have no legitimate use in the purely urban environment of the District of Columbia."

Dick Anthony Heller, 65, an armed security guard, sued the district after it rejected his application to keep a handgun at his home for protection in the same Capitol Hill neighborhood as the court.

The last Supreme Court ruling on the topic came in 1939 in U.S. v. Miller, which involved a sawed-off shotgun. Constitutional scholars disagree over what that case means but agree it did not squarely answer the question of individual versus collective rights.

Roberts said at his confirmation hearing that the correct reading of the Second Amendment was "still very much an open issue."

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