



Iowa General Assembly

2008 Legal Updates

Legislative Services Agency – Legal Services Division

<http://www.supremecourtus.gov/opinions/07pdf/07-290.pdf>

Purpose. *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

HANDGUN BAN IN DISTRICT OF COLUMBIA

Filed by the United States Supreme Court

June 26, 2008

District of Columbia v. Heller

No. 07-290

<http://www.supremecourtus.gov/opinions/07pdf/07-290.pdf>

Summary. A District of Columbia law banned handgun possession by making it a crime to carry an unregistered firearm and by prohibiting the registration of handguns. The law also provided that no person could carry an unregistered handgun, authorized the chief of police to issue one-year licenses, and required residents to keep lawfully owned firearms unloaded and disassembled or bound by a trigger lock or similar device. The respondent in this case, Dick Heller, a security guard at the Federal Judicial Center and a District of Columbia resident, applied to register a handgun he intended to keep in his home for self-defense but the District declined his application. Mr. Heller sued seeking to enjoin the District from enforcing the ban on handgun registration. The Federal District Court for the District of Columbia dismissed the suit but the Court of Appeals for the District of Columbia Circuit reversed, holding that the Second Amendment to the United States Constitution protects an individual's right to possess firearms and that the District of Columbia handgun ban, including the requirement that firearms kept in the home be kept nonfunctional even in cases of self-defense, violated the Second Amendment as well.

Issue: Whether a District of Columbia prohibition against the possession of usable handguns in a private residence violates the Second Amendment to the United States Constitution.

Analysis: Writing for the 5-4 majority court, Justice Antonin Scalia examined both the plain language and the history of the Second Amendment that specifically states that "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 Court engaged in an extensive analysis and considered two very different interpretations of the language in the Second Amendment. The petitioners argued that the Second Amendment protects only the right to possess and carry a firearm in connection with militia service based upon the collective right of states to assemble a militia. The respondent argued that the Second Amendment protects an individual's right to possess a firearm, unconnected with militia service, for traditionally lawful purposes such as self-defense in a private home.

The Supreme Court agreed with the respondent and found that the District of Columbia ban on handgun possession in the home violates the Second Amendment as "the inherent right of self-defense has been central to the Second Amendment right." The Court also struck down the requirement that firearms in private residences be kept unloaded and disassembled or bound by a trigger lock or similar device. The Court further stated that the rights secured by the Second Amendment are not unlimited and cautioned that "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms."

Dissent: Two dissenting opinions were filed in this case. Justice Paul Stevens disagreed with the majority on whether the right to bear arms is a collective or individual right. He noted that historically, the only real meaning of the right to bear

arms involved the states' power to organize militias. He also stated that the decision leaves the matter to the courts to decide the details of the right to bear arms but that states should make this decision. Justice Stephen Breyer questioned the majority's failure to fully consider the use of handguns in high-crime urban areas such as the District of Columbia and suggested an interest-balancing test to provide guidance on how to determine the reasonableness of a handgun ban.

Impact and Applicability to Iowa Law: The Supreme Court's decision interprets the Second Amendment's "right of the people to keep and bear arms" and is limited in application to the District of Columbia's total ban on handgun possession in a private District of Columbia residence. The case involved only federal law, so the Court's decision does not apply directly to the states. Although the Court did caution that the Second Amendment right is not unlimited as gun possession by felons and mentally ill persons may be prohibited, for example, the Court did not specify or give guidance on what such limitations are or should be in regard to State or local gun laws. The exact scope of permissible firearm regulations by the states is thus left unsettled.

Iowa Code Chapter 724 contains limited qualifications and restrictions on a citizen's right to carry handguns. Under Iowa law, a qualified applicant must apply for a permit to carry weapons to the sheriff of the county where the applicant resides and the sheriff may decide whether or not to issue the permit to carry to the applicant.

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