

Where Does the Supreme Court Stand on Gun Control? *District of Columbia v. Heller*

by Donald Scarinci

The recent tragedy in Sandy Hook, Connecticut, has reignited the debate over the most effective means to deter gun violence. As the President Obama and Congress begin to tackle the [controversial issue of gun control](#), they will undoubtedly look to the U.S. Supreme Court's interpretation of the Second Amendment. It states, in relevant part: "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."

While the U.S. Supreme Court had addressed the [Second Amendment](#) several times in the course of our country's history, its more recent decision in *District of Columbia v. Heller* will likely carry the most weight. The landmark case was the first to consider an individual's right to keep and bear arms.

The Facts of the Case

The case involved a gun law in the District of Columbia that made it a crime to carry an unregistered firearm and prohibited the registration of handguns, thereby essentially banning them. It further required requires residents to keep their lawfully owned firearms, such as registered long guns, "unloaded and disassembled or bound by a trigger lock or similar device" unless they were located in a place of business or are being used for lawful recreational activities.

After his application to register a handgun to keep at home was denied, Dick Heller, a D.C. special policeman, filed the lawsuit. He challenged the regulatory scheme on Second Amendment grounds, arguing that it prohibited the use of "functional firearms within the home."

The Supreme Court's Decision

The majority ultimately concluded that 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. In reaching their decision, the justices examined the language of the Second Amendment in great detail. They concluded, "The Amendment's prefatory clause announces a purpose, but does not limit or expand the scope of the second part, the operative clause. The operative clause's text and history demonstrate that it connotes an individual right to keep and bear arms."

In support of its conclusion, the Court cited the Second Amendment's drafting history, contemporaneous state constitutions and interpretations by scholars, courts, and legislators. It specifically noted, "Antifederalists feared that the Federal Government would disarm the people in order to disable this citizens' militia, enabling a politicized standing army or a select militia to

rule. The response was to deny Congress power to abridge the ancient right of individuals to keep and bear arms, so that the ideal of a citizens' militia would be preserved."

Based on this reasoning, the Court concluded that the District of Columbia's ban was unconstitutional. It noted that the "total ban on handgun possession in the home amounts to a prohibition on an entire class of 'arms' that Americans overwhelmingly choose for the lawful purpose of self-defense" and, therefore fails to pass constitutional muster. It similarly held that the requirement that any lawful firearm in the home be disassembled or bound by a trigger lock "makes it impossible for citizens to use arms for the core lawful purpose of self-defense and is hence unconstitutional."

The Supreme Court, however, was also quick to note that Second Amendment has its limits. As explained by the Court, "It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose: For example, concealed weapons prohibitions have been upheld under the Amendment or state analogues. The Court's opinion should not 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."