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Can the Government ban the possession and/or use of common weapon types?

District of Columbia et al. v. Heller, 554 U.S. 570 (2008).

The District of Columbia has a ban on handguns through a series of laws on registration and prohibition. They first ban the carrying of unregistered handguns. Then they legalize the registration of handguns and require that any legally owned firearm must be unloaded and disassembled or have a trigger lock or equivalent. The police chief is allowed to authorize 1-year licenses for handguns. This groundwork has effectively made the use of any firearm, in any way, for any purpose, illegal, including self-defense. Unsurprisingly, this produced a court case. One of the D. C.'s special policemen, Heller, wishing to keep a handgun at home, applied for registration and was denied. On reasoning from the Second Amendment, he filed a law suit against the city for a halt of the enforcement of the ban on handgun registration and the in-home use restrictions both of which, he believed, prevented the bearing of arms spoke of in the Bill of Rights.

The question of law in this case was: does the Second Amendment protect the 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? The Second Amendment 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. So, the question of interpretation here is, does the second amendment support the use of firearms not for uses not related to state militia.

Initially several individuals sued in the district court for injunction of the code in 2003 but the judge dismissed the suit early in 2004. The plea was then appealed to the Appellate Court for the D. C. Circuit which negated the district court's decision in a 2-1 vote in favor of the plaintiff. The U.S. Supreme Court took up the case in 2007 and upheld the D. C. Court of Appeals verdict in 2008.

The majority opinion was written by Justice Scalia and was based on 3 points of reasoning. (1) Though the Second Amendment states why the citizens are to be allowed to possess arms (for the purpose of a well-regulated militia) it does not limit the possession of arms to that purpose only. This was based on the history of the drafting and early legal decision on the topic and the prior cases *United States v. Cruikshank*, 93 U. S. 542, 553, *Presser v. Illinois*, 116 U. S. 252, 264-265, and *United States v. Miller*, 307 U. S. 174. (2) The Supreme Court is not saying that "the Second Amendment right is ... unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose" see *District of Columbia v. Heller*, 554 U.S. 571. (3) Finally, that "the handgun ban and the trigger-lock requirement (as applied to self-defense) violate the Second Amendment" see *District of Columbia v. Heller*, 554 U.S. 571. Because handguns are the primary "arms" of citizens for the purposes of self-defense in the home the D. C. ban effectively banned the vast majority of arms in the citizenry and the disassembly/trigger lock clause destroyed all chance of use for any purpose.

There were two dissenting opinions written in both of which all four of the dissenting justices joined. The first was written by Justice Stevens and focused primarily on a disagreement on the scope of the Second Amendment rather than whether or not it protected a collective or

individual right. He states: "A conclusion that the Second Amendment protects an individual right does not tell us anything about the scope of that that right" see *District of Columbia v. Heller*, 554 U.S. 636. He goes on to conclude that "that Court, relying upon its view that the Second Amendment seeks to protect a right of personal self-defense, holds that this law [of the District of Columbia] violates that Amendment. In my view, it does not" see *District of Columbia v. Heller*, 554 U.S. 681. Justice Breyer wrote the second dissenting opinion claiming that "the majority opinion is wrong for" the reasons "that the Second Amendment protects militia-related, not self-defense-related, interests [and] the protection the Amendment provides is not absolute." Possibly due to the nature of this case's ruling apparently resting on each of the justice's 'personal' convictions on the proper interpretation of the U. S. Constitution's Second Amendment the Supreme Court ended in casting the close 5-4 vote in favor of Heller's relief.