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Supreme Court Rules Against D.C. Gun-control Law

Speaking for the majority, Justice Antonin Scalia said that the Constitution does not permit “the absolute prohibition of handguns held and used for self-defense in the home.”

The decision will very likely be seen as a victory by most Second Amendment defenders because it will set a precedent challenging some of the most oppressive gun-control laws in our nation’s urban areas. The majority opinion also provided some valuable lessons to Americans (including other courts). Justice Scalia observed that the individual right to bear arms is supported by “the historical narrative” both before and after the Second Amendment was adopted. While the *Heller* case dealt with a use for firearms most familiar to modern Americans — “self-defense in the home” — the majority opinion also addressed a more fundamental reason why our Founders drafted the amendment: “There are many reasons why the militia was thought to be ‘necessary to the security of a free state.’... When the able-bodied men of a nation are trained in arms and organized, they are better able to resist tyranny.”



Yet, defenders of the Second Amendment may be concerned that, while the decision expediently removes some of the worst effects of recent abuses against the right to keep and bear arms, it may also compromise the integrity of the amendment. One contradiction is apparent: in one place, the majority opinion correctly states: “The Second Amendment, like the First and Fourth Amendments, codified a *pre-existing* right. The very text of the Second Amendment implicitly recognizes the pre-existence of the right and declares only that it ‘shall not be infringed.’ ” (Emphasis in original.) However, shortly thereafter the opinion contradicts itself by stating that the amendment conferred a right: “There seems to us no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms.”

Another statement of concern is: “We therefore read [the precedent-setting case *United States v. Miller* to say only that the Second Amendment does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes, such as short-barreled shotguns.” Traditionally, strict constructionists have held that the amendment guarantees the right to keep and bear all weapons, without exception.



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