



Written by [Raven Clabough](#) on October 26, 2012

Court Upholds Handgun Sale Ban for Those Under 21

The 5th U.S. Circuit Court of Appeals has ruled that it is not unlawful to ban licensed firearms dealers from selling handguns to people under the age of 21. The decision proved to be a blow for the National Rifle Association, who brought the issue to court. The court's decision upheld a September 2011 ruling by District Judge Sam Cummings in Texas.



The ban in question permits individuals under age 21 to possess handguns they've received as gifts, or purchased from private owners, but prohibits licensed firearm dealers from selling weapons to those under 21.

According to the National Rifle Association, the ban presents a violation of constitutional rights, but the court disagreed.

Reuters [reports](#), "The 5th U.S. Circuit Court of Appeals in Houston rejected the NRA's argument that 18 to 20 year olds had a right to buy the guns under the Second Amendment to the U.S. Constitution, as well as the equal protection clause of the Fifth Amendment."

The three-judge panel ruled unanimously in favor of the 1968 ban that was adopted to minimize violent crimes. According to the panel, the Founding Fathers as well as 19th century courts and commentators believed that restricting certain groups from having firearms is not in violation of the Second Amendment.

In 1968, law enforcement official Sheldon Cohen [testified](#) before a congressional subcommittee that "the greatest growth of crime today is in the area of young people, juveniles, and young adults. The easy availability of weapons makes their tendency toward wild, and sometimes irrational behavior that much more violent, that much more deadly."

Judge Edward Prado, author of the 41-page opinion for the panel, claimed that the handgun ban has roots in Founding-Era restrictions that prohibited gun ownership by children, those who were deemed mentally ill, and loyalists.

Judge Prado indicates, "Like the federal bans targeting felons and the mentally ill, the federal laws targeting minors under 21 are an outgrowth of an American tradition of regulating certain groups' access to arms for the sake of public safety."

"It appears that when the fledgling republic adopted the Second Amendment, an expectation of sensible gun safety regulation was woven into the tapestry of the guarantee," he wrote.

Much later, lawmakers "restricted the ability of minors under 21 to purchase handguns because Congress found that they tend to be relatively immature and that denying them easy access to handguns would deter violent crime," he said.



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But according to David Thompson, who represented the NRA in the case, young adults were permitted to purchase firearms 200 years ago.

“The reality is that 18-year-olds were required to keep and bear arms and to furnish those arms for themselves,” he said, though he contends the Fifth Circuit wholly ignored evidence of that.

“Congress was focused on a particular problem: young persons under 21, who are immature and prone to violence, easily accessing handguns,” mainly from licensed dealers.

“The present ban appears consistent with a longstanding tradition of age- and safety-based restrictions on the ability to access arms,” he added.

The case was first brought up in 2010 by the NRA on behalf of several firearms dealers and other individuals against the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The lawsuit came two years after the Supreme Court ruled in *D.C. v. Heller* that the Second Amendment protects an individual’s right to possess a firearm.

Plaintiffs included Andrew Payne, 19, who said that he regularly visits shooting ranges with his father and wanted to own his own handgun; Rebekah Jennings, 19, a competitive pistol shooter who asserts that the law prevents her from owning a gun for practice; and Brennan Harmon, 19, who lives alone in a San Antonio apartment where “there have been shooting incidents” and wanted a gun for protection.

Prado determined that while the *Heller* decision prohibits an outright ban on handguns, it allows for gun regulation that does not qualify as an outright ban.

Prado also “cited FBI crime data showing 18 to 20 year olds account for more than 19 percent of all murders and 24 percent of all robbery arrest, even though they are only 4.3 percent of the population,” [reports](#) the *Houston Chronicle*.

The 5th Circuit’s ruling upholds the [2011 ruling](#) issued by U.S. District Judge Samuel Cummings. In a 17-page ruling, Cummings dismissed the challenge to the law.

“The Court is of the opinion that the ban does not run afoul of the Second Amendment to the Constitution,” the ruling stated. “The right to bear arms is enjoyed only by those not disqualified from the exercise of the Second Amendment rights.”

“It is within the purview of Congress, not the courts, to weight the relative policy considerations and to make decisions as to the age of the customer to whom those licensed by the federal government may sell handguns and handgun ammunition.”

In bringing the case to the 5th Circuit, the NRA asked that the court apply “strict scrutiny” in considering the ban.

But the court said that a less strict review would be acceptable as the law does not prevent those under aged 21 from using guns in self-defense, and that the ban would no longer be applicable once the individuals turn 21.

“The government has satisfied its burden of showing a reasonable means-ends fit between the challenged federal laws and an important government interest,” Prado wrote.

The National Rifle Association has indicated that it is considering filing another appeal against the court’s decision.

“We are disappointed,” said David Thompson, managing partner at Cooper & Kirk in Washington, who



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represents the NRA. “The ruling is inconsistent with the Supreme Court’s opinion in *Heller*, and we are considering all of our appellate options.”

But gun control advocates like the Brady Center to Prevent Gun Violence celebrates the decision as a victory.

“We are pleased that this court has affirmed that the Second Amendment allows for common-sense gun laws restricting teens from buying handguns from gun dealers,” said [Jon Lowy](#), Director of the center’s Legal Action Project. “Eight children and teens are shot to death every day in America. We are better than this.”



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