



Christie Gets a Pass In Supreme Court's Refusal To Hear Jersey Gun Case

By Betsy McCaughey

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Governor Christie dodged a political bullet, when the United States Supreme Court declined to hear the National Rifle Association's challenge to New Jersey's highly restrictive gun law. The justices' decision not to hear the case, *Drake v. Jerejian*, leaves Second Amendment law in disarray.

Federal appeals courts around the nation are ruling in conflicting ways, some upholding restrictions like New Jersey's, and others ruling such restrictions are unconstitutional. "No other constitutional right has been so left to fend for itself in the lower courts," warns a Cato Institute brief in the case.

Monday's decision allows New Jersey's restrictive law to stand for now and helps Mr. Christie, who's considered a contender for the GOP presidential nomination in 2016, to avoid a shooting match with pro-gun voters in his own party.

The decision also leaves John Drake, a New Jersey retiree with no way to defend himself, even though he bought and manages for income 50 automated teller. Because he had to carry thousands of dollars of cash to fill the machines, he applied in 2010 for a handgun permit. New Jersey turned him down. Mr. Drake took his case to the Supreme Court, demanding his Second Amendment right to "bear" arms, with backing from the NRA, 19 states' attorneys-general, 26 members of Congress, and the Cato Institute think tank.

John Hoffman, acting attorney general of New Jersey and a Christie appointee, defends the state's highly restrictive law, which requires that permit applicants show "the urgent necessity for self-protection, as evidenced by specific threats or previous attacks which demonstrate a special danger to the applicant's life that cannot be avoided by means other than issuance of a permit to carry a handgun." New Jersey's attorney general cites similar laws in Maryland and New York.

Mr. Drake told a local newspaper that "it seems unreasonable to me to have to wait until you're beaten up or shot at to get a permit." Gun advocates say, if the Constitution guarantees the right

to have a gun, why do you have to show need at all? Do you have to show need to get a parade permit or practice your religion freely, rights also guaranteed by the Constitution?

“If the government can force you to provide a reason to exercise your right, then it’s no longer a right,” warns civil rights lawyer Alan Gura.

In a sign that Second Amendment jurisprudence is in chaos, the federal appeals court that ruled against Drake said it is “unsettled” whether “the individual right to bear arms for the purpose of self-defense extends beyond the home.” Really? The word “bear” would not have been used, if the right extended only to keeping a gun in your home.

And the right is guaranteed within the context of a citizens militia, something you don’t find in the kitchen. Federal appeals courts in California and Illinois have ruled that the right to bear arms includes carrying them outside the home.

The federal appeals court in New Jersey that ruled against Mr. Drake said the legislature could restrict the right to carry, so long as the restrictions are rationally connected with the goal of promoting public safety. But Mr. Drake’s lawyers, and several other federal appeals courts, take the opposite view, arguing that when a constitutional right is at stake, the legislature must meet a higher test than mere rationality. The legislature must show there is no other way to achieve the goal.

This case isn’t about assault weapons or background checks, hot button issues, but it goes to the fundamental meaning of the right to firearms. In 2008, the Supreme Court struck down a Washington D. C. local law banning handguns altogether, ruling that the Second Amendment protects the right to “possess and carry weapons in case of confrontation.”

Since then, many lower federal courts have rubber stamped restrictions on that right, leaving it in tatters. The high court’s decision on Monday to duck the issue is unfortunate, but it’s a godsend to Mr. Christie, who didn’t need another bridge to cross just yet.