



Second Amendment Protects the Right to Carry Arms Outside the Home – FPC

July 9th, 2020

Today, Firearms Policy Coalition (FPC) and Firearms Policy Foundation (FPF) announced the filing of an important brief in the en banc rehearing of *Young v. Hawaii* in support of the right to bear arms. The brief is joined by several professors of Second Amendment law, the Cato Institute, Madison Society Foundation, California Gun Rights Foundation, Second Amendment Foundation, and Independence Institute. The brief is available online at FPCLegal.org.

The issue before the en banc *Young* court is whether the Second Amendment protects the right of law-abiding citizens to openly carry firearms outside the home. In 2016, an en banc panel of the Ninth Circuit held that the Second Amendment does not protect the right to carry a concealed firearm. Thus, a three-judge panel in 2018 held that the Second Amendment's right to bear arms must protect the right to openly carry a firearm. An en banc panel of the court will now reconsider the open carry issue.

“The Founders’ words and actions make indisputably clear that they intended to protect the right of law-abiding citizens to bear arms outside the home through the Second Amendment,” said FPC Director of Research and brief author, Joseph Greenlee. “In the brief, articulate the founding-era understanding of the Second Amendment’s text, demonstrate that the right to carry arms was virtually unrestricted throughout the colonial and founding eras, provide a summary of laws mandating the carrying of arms outside of military service (for example, to attend church and to travel), and provide examples of America’s most influential founders carrying as part of their ordinary lives.”

Background

- This case is a challenge to Hawaii’s prohibition on the open carry of firearms that results in a total prohibition on carry outside the home, since concealed carry licenses are effectively never issued.
- Under Hawaii law, it is unlawful for a citizen to openly carry a firearm unless licensed to do so by a state agency. (See H.R.S. § 139-4).
- Petitioner George Young twice applied for a permit to carry a handgun for the purpose of self-defense and on both occasions was denied because he did not meet the requirements of the statute.
- Young argued the non-permissive regime of licensure violated his constitutionally protected right to bear arms for the defense of his person in public.

- FPC, FPF, and fellow amici filed an amicus brief demonstrating that the founding-era understanding of the Second Amendment protected the right of law-abiding citizens to carry arms in public, unrelated to military service.
- FPC was joined in the brief by several Professors of Second Amendment Law, the Cato Institute, Madison Society Foundation, California Gun Rights Foundation, Second Amendment Foundation, and Independence Institute.
- The brief was authored by FPC's Director of Research, Joseph Greenlee, along with David Kopel of the Independence Institute, and Ilya Shapiro and Trevor Burrus of the Cato Institute.