



SCOTUS Could Expand Gun Rights Protections in 2nd Amendment Case, Rifle & Pistol Assoc. vs NYC

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On Dec. 2, the U.S. Supreme Court heard arguments for the first time in 10 years regarding gun control and Second Amendment rights. The case involves a challenge to a New York regulation that prohibits gun owners from transporting their locked, unloaded weapons to shooting ranges or to a second residence out of state.

The New York Rifle & Pistol Association challenged the regulation in court, in the appellate court, and at the high court. In those earlier legal challenges, the City of New York held fast, arguing that the regulation was constitutional and necessary.

But when faced with the Supreme Court review, New York officials suddenly changed their mind and decided to allow gun owners to transport their guns out of state. They also submitted to the high court a brief, "Suggestion of Mootness," arguing that the case did not merit a review.

The Supreme Court, however, decided to hear the case.

In its legal brief, the New York Rifle & Pistol Association said, "The simple truth is that the City's draconian regime is antithetical to the right enshrined in the Second Amendment, has no grounding in text, history, or tradition, and plainly flunks any meaningful form of means-ends scrutiny."

In its brief for mootness, the City of New York claimed that "there is no longer a case or controversy because the changes in state and municipal law give petitioners all they seek." They also said the Rifle & Pistol Association's desire to continue with the case was unmerited.

However Paul Clement, who is the representative of the New York Rifle & Pistol Association, said the issue goes to the City's view of gun ownership in general. Clement contends that New York City does not acknowledge the individual right to keep and bear arms in the Second Amendment.

"The City still views firearm ownership as a privilege and not a fundamental right and is still in the business of limiting transport and denying licenses for a host of discretionary reasons," Clement told AP News.

Several liberal Democrats – Sens. Sheldon Whitehouse (D-R.I.), Mazie Hirono (D-Hawaii), Richard Blumenthal (D-Conn.), Dick Durbin (D-Ill.), and Kirsten Gillibrand (D-N.Y.) also filed a brief with the court.

They argue that the case is political and should not be reviewed, especially because two of President Trump's picks are on the high court: Neil Gorsuch and Brett Kavanaugh.

“Courts do not undertake political ‘projects,’” reads the brief. “Or at least they should not. Yet this is precisely—and explicitly—what petitioners ask the Court to do in this case, in the wake of a multimillion-dollar advertising campaign to shape this Court’s composition, no less, and an industrial-strength influence campaign aimed at this Court.”

“Indeed, petitioners and their allies have made perfectly clear that they seek a partner in a ‘project’ to expand the Second Amendment and thwart gun-safety regulations,” claim the senators.

Commenting on the City’s position, Clark Neily, vice president for criminal Justice at the Cato Institute, said, “The mootness issue is particularly significant in this case because it involves such a clear attempt by a government litigant to obtain favorable rulings in the lower courts (which have been generally—but not uniformly—supportive of gun regulations in Second Amendment challenges) while denying the Supreme Court the opportunity to reverse those rulings and order the lower courts to stop rubber-stamping gun regulations and apply a more searching level of judicial scrutiny.”

Alan Gottlieb, founder of the Second Amendment Foundation, said, “We’re hopeful the High Court sees through New York’s attempt to moot this case by changing the law. The only reason that change was made is because the Court accepted the case for review earlier this year, and everybody knows it. That maneuver suggests the city knew all along its restriction would not pass constitutional muster, but only changed the law in an effort to prevent a court ruling that smacked it down.”

“We will be watching this case closely,” said Gottlieb. “The City of New York, and any other government body for that matter, should not be allowed to trample on a constitutional right and then change a law at the last minute to avoid being penalized for their demagoguery.”

The Supreme Court’s decision is expected by June.