

# The Washington Times

## Supreme Court set to hear first major gun control case since 2010

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November 30, 2019

The Supreme Court on Monday is set to hear its first major Second Amendment case in nearly a decade, weighing a challenge against a regulation in New York City that prevented licensed firearm owners from taking their weapons into and out of the city.

Gun rights activists brought the legal battle after a federal appeals court upheld a city ordinance that allowed licensed residents to take their firearms outside of their homes to only seven shooting ranges within the city, thus prohibiting them from transporting the weapons to a second home or a gun range outside city limits.

New York City, though, changed the regulation to allow licensed firearm owners to transport their handguns out of the city. Officials contend the change settles the lawsuit and want the court to dismiss the challenge as moot.

The case, however, gives the high court a shot at expanding gun rights. It's the first time since 2010 that the justices will grapple with the reach of the constitutional right to keep and bear arms.

"There's reason to believe that ... they want to take the case because there are enough conservative justices now on the court that they want to reexamine how the court defined gun rights back in 2008," said Robert Spitzer, a professor at State University of New York at Cortland who has written extensively on the politics of gun control.

"To me, they haven't gone through all this trouble just to then brush the case off," he said.

In a 5-4 ruling in 2008 known as the Heller decision, the court held that the Second Amendment guarantees the right to keep and bear arms, striking down a regulation in the District of Columbia restricting the licensing of firearms and requiring gun owners to keep their weapons dismantled inside the home.

Two years later, in another 5-4 ruling, the court extended that protection to the states by striking down gun bans in Illinois.

Although New York officials altered the regulation to appease the challengers, the high court kept oral arguments on the calendar for Monday. The justices told the two sides that they could address whether or not the challenge is now moot.

“I expect the court will dismiss the appeal shortly after oral argument. Also, by arguing the case, it becomes more difficult to add another [Second Amendment] case to the docket this year,” said Josh Blackman, a law professor at South Texas College of Law.

The Supreme Court challenge got attention across the street at the U.S. Capitol. Rep. Bradley Byrne, Alabama Republican, and 119 other members of Congress filed a brief siding with the gun rights activists.

“As duly elected representatives of the people of the United States and members of a co-equal branch of government, members of Congress have an obligation to urge the court to prevent restriction and erosion of that fundamental right,” they argued.

In contrast, Sen. Sheldon Whitehouse of Rhode Island filed a brief with fellow Democratic senators warning that the case could fuel proposals by some 2020 Democratic presidential candidates to add a justice to the high court to rebalance its 5-4 conservative majority.

Ilya Shapiro, the publisher of Cato Institute’s Supreme Court Review, said he doubts the justices want Mr. Whitehouse’s brief to come up during Monday’s arguments.

“It probably rubbed them the wrong way,” he said.

Gun rights advocates, meanwhile, are hoping the high court goes beyond the merits specific to the case and issues another precedent-setting ruling that would expand gun rights beyond what the justices outlined in the Heller decision and McDonald v. City of Chicago.

“I expect, honestly, for the court to rule that the law is unconstitutional. So that’s a win. But [the] big question is how big a win will it be,” said Alan Gottlieb, founder of the Second Amendment Foundation. “This could have great impact for us. That’s why the other side is so scared about the court hearing this case.”

Mr. Spitzer pointed to reports saying former Supreme Court Justice Anthony M. Kennedy insisted on including language in the Heller opinion that made clear that reasonable restrictions on gun ownership are permissible.

Mr. Kennedy, who retired, is succeeded by Justice Brett M. Kavanaugh, whom President Trump nominated last year. Mr. Trump also nominated Justice Neil M. Gorsuch to fill the seat of the late Justice Antonin Scalia, who wrote the majority opinion in Heller.

“I think the final piece of this was the appointment of Brett Kavanaugh,” Mr. Spitzer said. “Now with Kavanaugh replacing Kennedy, Kavanaugh seems to be a Second Amendment absolutist.”

In 2011, Justice Kavanaugh, then a judge on the U.S. Court of Appeals for the D.C. Circuit, wrote a dissent in a major gun case in which he argued that a D.C. ban on certain kinds of semi-automatic rifles went too far and that such weapons were in “common use” by Americans.

Mr. Gottlieb said the issue isn’t necessarily about expanding gun rights beyond the 2008 and 2010 rulings but making lower courts hew more closely to them.

“What we’re hoping for is that the reason why the court is taking and reviewing the case is that they recognize that lower courts have been thumbing their nose at the McDonald and Heller decisions,” he said.

Gun control groups, meanwhile, say an unfavorable ruling from their perspective could jeopardize states’ rights to set restrictions, given Mr. Trump’s reshaping of lower federal courts as well.

“What a bad decision could do in this case is provide language on which lower courts around the country could potentially strike down important gun safety legislation,” said Jonathan Lowy, chief counsel and vice president, legal, at Brady.

“The gun lobby would like that decision about public safety to be decided by a few unelected judges, and that’s wrong and that’s contrary to over 200 years of American history and Supreme Court case law,” Mr. Lowy said. “And it infringes on the most fundamental right of Americans, which is [the right] to live. And that’s what really this is all about.”