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Supreme Court throws out NY gun case – first Second Amendment case in 10 years

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The U.S. Supreme Court decided on Monday to toss out a case brought against New York City over a law barring the transportation of firearms that was enacted and later repealed.

The plaintiffs argued the since-repealed law would have barred them from transporting their firearms to shooting ranges, competitions and even homes outside of the city. The high court ruled in a 6-3 decision to reject the case, *New York State Rifle & Pistol Association v. City of New York, New York*, on the opinion that the issue is moot since New York City repealed the law.

Since its repeal, the question has been up in the air as to whether the Supreme Court would render a full decision on the gun laws. As the case advanced up the Supreme Court, the parties in the case were advised to prepare arguments as to whether the case should continue despite the repeal. If it had agreed to render a full decision, the court would have effectively ruled as to whether transporting firearms would be enshrined within the Second Amendment.

The case would have been the first Second Amendment case since *McDonald v. City of Chicago* in 2010. The court has appeared reticent to address any laws regarding gun rights since that decision.

While the court found the central issue of the case, the gun laws, moot, the plaintiffs noted they had argued their case based on the most pressing issues at the time, and that other issues including damages remain. In this case, the majority ruled in favor of remanding the case to lower courts to decide and develop the record further, indicating much about the complaint remains unsettled even with the repeal of the law.

“Our ordinary practice in disposing of a case that has become moot on appeal is to vacate the judgment with directions to dismiss,” the majority opinion stated, “. . . However, in instances where the mootness is attributable to a change in the legal framework governing the case, and where the plaintiff may have some residual claim under the new framework that was understandably not asserted previously, our practice is to vacate the judgment and remand for further proceedings in which the parties may, if necessary, amend their pleadings or develop the record more fully.”

Justice Samuel Alito, in a dissenting opinion joined by Justices Clarence Thomas and Neil Gorsuch, argued that “By incorrectly dismissing this case as moot, the Court permits our docket to be manipulated in a way that should not be countenanced.”

Alito noted that New York City continued to defend its laws throughout the lower court proceedings, but that it repealed the law once the Supreme Court decided to grant its review.

“But once we granted certiorari, both the City and the State of New York sprang into action to prevent us from deciding this case,” Alito wrote. “Although the City had previously insisted that its ordinance served important public safety purposes, our grant of review apparently led to an epiphany of sorts, and the City quickly changed its ordinance.”

Alito also noted several efforts by New York City and New York, to head off the case before it could proceed. He also noted a brief, filed by four Democratic U.S. Senators, which suggested that if the Supreme Court did not reject the case it would suggest to the public that the court is “motivated mainly by politics, rather than by adherence to the law,” and would be cause for legislative reprisal.

Justice Brett Kavanaugh was among the majority decision finding the central issue of the case moot, but also shared concerns held by the dissenting justices that states are not adhering the existing precedents regarding gun rights, provided by the Supreme Court. Kavanaugh suggested that while the court would not render a decision in the case of *New York State Rifle & Pistol Association v. City of New York, New York*, they should consider persistent Second Amendment issues coming up in other upcoming cases.

“I share JUSTICE ALITO’s concern that some federal and state courts may not be properly applying *Heller* and *McDonald*, Kavanaugh wrote. “The Court should address that issue soon, perhaps in one of the several Second Amendment cases with petitions for certiorari now pending before the Court.”

Gun control groups have expressed relief at the court’s decision.

“The Supreme Court declined the invitation to adopt the NRA’s extreme and dangerous interpretation of the Second Amendment,” Eric Tirschwell, the managing director of Everytown Law, said in a statement reported by the Associated Press. Everytown Law is the legal arm partnered with the Everytown for Gun Safety gun control group.

Ilya Shapiro of the libertarian Cato Institute said New York City “effectively hoodwinked the Supreme Court” by repealing their laws mid way through the court process. Shapiro issued an argument similar to Kavanaugh’s concurrence with the majority opinion, arguing that the court should not leave issues of the Second Amendment unaddressed and that it is “a moral imperative” to render a decision on another pending gun rights case.