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Gun ban dominoes poised for big fall

Comments

March 3, 2010

Does the Second Amendment apply outside the home?

On Tuesday the Supreme Court considered the question of whether the Second Amendment applies outside jurisdictions controlled by the federal government. The court will almost certainly say yes, and soon it may consider a question that should be equally easy to answer: whether the Second Amendment applies outside of the home.

In 2008, the first time the Supreme Court explicitly declared that the Second Amendment protects an individual right to "keep and bear arms," it ruled that the District of Columbia's handgun ban violated that right. Since the Chicago handgun ban at issue in the case the court heard Tuesday is virtually identical, it will be overturned if the court concludes that the Second Amendment binds states and cities as well as the federal government. And since the court has ruled that almost all of the other guarantees in the Bill of Rights apply to the states, it would be very strange if the fundamental right to armed self-defense did not make the cut.

Assuming the court strikes down Chicago's handgun ban, what other forms of gun control could be vulnerable? Since the Second Amendment protects the right to "bear" arms as well as the right to "keep" them, restrictions on carrying guns in public are a ripe target.

Forty-one states either do not require handgun carry permits or issue them to anyone who satisfies a few criteria, which generally include firearms training and lack of a criminal record. Seven states let local officials decide whether to issue permits, while Illinois, Wisconsin, and Washington, D.C., do not allow even that option.

Last summer, Tom Palmer, a plaintiff in the D.C. gun ban case, filed a federal lawsuit that challenges the district's prohibition on carrying guns in public. Palmer, a scholar at the Cato Institute, knows from personal experience that such restrictions can be deadly: He vividly recalls how brandishing a handgun on a Northern California street saved him from a group of thugs who shouted anti-gay slurs and threats at him on a summer night in 1982.

District officials predictably warn that chaos would ensue from allowing law-abiding people to carry guns in public. But that has not happened in any of the states with nondiscretionary carry permit policies.

Although the crime-reducing benefits of such policies remain controversial, the blood-soaked visions of doomsayers who imagined routine arguments regularly culminating in gunfire have not transpired in the two decades since Florida started the trend toward liberalization. In fact, data from Florida, Texas, and Arkansas indicate that permit holders are far less likely to commit gun crimes than the general population.

The experiences of these jurisdictions show there is no safety benefit from prohibiting public carrying of guns that could possibly outweigh the Second Amendment interests at stake. Palmer and his co-plaintiffs concede that a city or state may bar guns from "sensitive places such as schools and government buildings" or regulate the manner in which they are carried. But they argue that the Second Amendment cannot reasonably be read to allow "a total ban on the exercise of the right to bear all arms, by all people, at all times, for all purposes."

The court said a handgun ban is especially problematic when it extends to "the home, where the need for defense of self, family, and property is most acute." But in his dissent, Justice John Paul Stevens worried that the D.C. ban "may well be just the first of an unknown number of dominoes to be knocked off the table," in light of "the reality that the need to defend oneself may suddenly arise in a host of locations outside the

home." For people like Tom Palmer, the falling of those dominoes will be something to celebrate.

Supreme Court Weighs 2nd Amendment Gun Limitations

From Right Pundits

Handgun Carry Permit Increase in Knoxville

From SayUncle

The views expressed in these blog posts are those of the author and not of the Chicago Sun-Times.

dave4118 wrote:

handguns do not make up the totality of 'arms' available to citizens in the city of chicago. .50 caliber rifles are banned from the hands of citizens, automatic rifles as well.....the city is just regulating the types of firearms available.

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rayh wrote:

EJ, if you remember, the white homeowner was arrested for using an unregistered handgun to defend his home. I don't recall if the black home owner being arrested. We all know that the general public is very ignorant of the law and media is terribly biased. I don't put much stock in what either say.

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ej wrote:

The big question is will the police treat African-Americans somewhat similar to European-Americans? We saw a difference in how the media and the public reacted when a White homeowner used a firearm against a home invasion in Winnetka and was hailed as a hero. Then a few weeks later a middle-class, Black homeowner in Chicago did the same thing and everyone immediately began speculating on what criminal activity this middle-class man was engaged in. To the best of my knowledge, the police treated both cases fairly. Unusual for the police to treat both the same, but in that instance they did appear to do so. The media and the public, however, behaved horribly.

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dave w wrote:

The Anti-gunners are wetting themselves right now with the supreme court ready to strike down gun bans (not only in the city of chicago, but also all across the country), and this is only the start. We fought and won with heller, then we sued for incorporation of the 2nd amendment, then we will file even more lawsuits for the right to open carry our handguns and much, much, more once Mcdonald is over.

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