



## LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

### *DISTRICT OF COLUMBIA V. HELLER* (2008) MONDAY, SEPTEMBER 22, 2008

#### OVERVIEW

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The Supreme Court handed down a landmark ruling at the end of last year's term with the case *District of Columbia v. Heller*. Richard Heller challenged the District's law banning virtually all handguns on Second Amendment grounds. The Court agreed with Heller, finding the ban unconstitutional and holding that the Second Amendment protects an individual right to keep suitable weapons at home for self-defense unconnected to militia service. The impact of this decision will continue to be analyzed for many years.

#### RESOURCES

- <http://constitutionbee.org/user/StudentGuide.aspx?id=791>
- [http://www.oyez.org/cases/2000-2009/2007/2007\\_07\\_290/](http://www.oyez.org/cases/2000-2009/2007/2007_07_290/)
- <http://www.law.cornell.edu/supct/html/07-290.ZS.html>
- [http://fora.tv/2008/07/25/Winning\\_the\\_DC\\_Gun\\_Ban\\_Case\\_The\\_Attorneys\\_Discuss](http://fora.tv/2008/07/25/Winning_the_DC_Gun_Ban_Case_The_Attorneys_Discuss)

#### ACTIVITY

In 2008, the Supreme Court did something it had not done in seventy years: it ruled on the meaning of the Second Amendment. Furthermore, *District of Columbia v. Heller* (2008) was the first time the Supreme Court interpreted the Second Amendment in terms of what it meant for an individual's right to possess weapons for private uses such as self-defense.

The District of Columbia had one of the strictest gun laws in the country. It included a ban on virtually all handguns. Furthermore, long guns had to be kept unloaded, and disassembled or trigger-locked. Richard Heller believed the law made it impossible for him to defend himself in his home. He also believed that the law violated the Second Amendment.

The District of Columbia argued that the opening phrase of the amendment, "A well regulated militia, being necessary to the security of a free state," known as the prefatory clause, limited the "right of the people" to have weapons only in connection with militia service. The city also pointed out that the law did not ban all guns, and that it was a reasonable way to prevent crime.

The Court agreed with Heller and overturned the District's law. The Court reasoned that the prefatory clause gave one reason for the Second Amendment, but it did not limit the right listed in the operative clause—the second part of the amendment—to own weapons only for militia service. "The prefatory clause does not suggest that preserving the militia was the only reason Americans valued the ancient right..." The Court also reasoned that elsewhere in the Constitution, such as the First, Fourth, and Ninth Amendments, the phrase "the right of the people" is used only to refer to individual rights—that is, rights held by people as individuals. It is this phrasing that is used in the operative clause of the Second Amendment.

Finally, the Court reasoned that the right to own weapons for self-defense was an "inherent" (in-born) right of all people. "It has always been widely understood that the Second Amendment, like the First and Fourth Amendments, codified a pre-existing right. The very text of the Second Amendment implicitly recognizes the pre-existence of the right and declares only that it 'shall not be infringed.'"

Four of the nine Supreme Court Justices dissented. (They disagreed with the Court's ruling.) Some of the dissenters agreed that the Second Amendment protected an individual right. However, they argued that the scope of that individual right was limited by the amendment's prefatory clause. One dissenter agreed that the Second Amendment protected an individual right, but argued that the District law was a reasonable restriction.



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One thing is certain. Like all other rights in the Bill of Rights (such as freedom of speech and press), the right to keep and bear arms has limits. Working out the limits of the Second Amendment's protection will continue to challenge society.

#### COMPREHENSION AND CRITICAL THINKING QUESTIONS

1. Read the Second Amendment and underline the prefatory clause. Circle the operative clause.

*A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.*

2. Why did Richard Heller challenge the District of Columbia's law banning virtually all handguns?
3. What arguments did the District of Columbia make in support of the law's constitutionality?
4. How did the Supreme Court rule, and what was its reasoning?
5. Do you agree with the Court's ruling? Why or why not?



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### ANSWERS

1. A well regulated militia, being necessary to the security of a free state, (the right of the people to keep and bear arms, shall not be infringed.)
2. Richard Heller believed the law made it impossible for him to defend himself in his home. He also believed that the law violated the Second Amendment.
3. The District argued that the opening phrase of the amendment, known as the prefatory clause, secured the “right of the people” to have weapons only in connection with militia service. The city also pointed out that the law did not ban all guns, and that it was a reasonable way to prevent crime.
4. The Court agreed with Heller and overturned the District’s law. The Court reasoned that the prefatory clause helped explain one reason for but did not limit the right of the people to keep and bear arms; the “right of the people” is used elsewhere in the Constitution to refer to individual rights; the right to own weapons for self-defense is a right all people are born with.
5. Accept reasoned answers.