

Amendment gets day in court

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On Tuesday, the United States Supreme Court will begin hearing oral arguments in *District of Columbia v. Heller* (known as *Parker v. District of Columbia* in the lower court), the most important case concerning the Second Amendment to come before the court in nearly 70 years.

Allow me to give a very brief history of this case. A challenge was filed on behalf of six residents of the District of Columbia in February 2003 against a 1976 law that effectively banned firearms inside the city and required that any guns owned before the ban be registered and "unloaded, disassembled, or bound by a trigger lock or similar device" inside the home. The lawsuit was filed in hopes that the courts would throw out the ban and that Second Amendment rights would be restored inside the District.

The District of Columbia has defended the law on grounds of home rule and echoed a familiar notion from the anti-gun crowd, which is that the Second Amendment only applies to militias and there is no individual right to own a firearm for any purpose. Other supporters of the ban have argued that since DC is not a state then the right would not apply there, an argument that is laughable considering the push last year to give DC a vote in Congress.

On March 9, 2007, the DC Court of Appeals determined in an opinion written by Judge Laurence Silberman "that the Second Amendment protects an individual right to keep and bear arms," that the "activities it protects are not limited to militia service" and "that handguns are 'Arms' referred to in the Second Amendment, it is not open to the District to ban them." However, the appellate court also acknowledged that the right is not absolute and is subject to reasonable regulation.

The city asked for a full review of the case by the appellate court. The request was denied, prompting the city to appeal directly to the Supreme Court, which has accepted the case on the question of whether or not a total ban on guns violates the individual rights of gun owners who are not part of any state militia.

In an op-ed to the Washington Post, DC Mayor Adrian Fenty wrote that the "obvious purpose" of the Second Amendment was settled by the Supreme Court in *United States v. Miller*, a flawed case in which the attorney for Jack Miller did not appear for oral arguments and where Associate Justice James McReynolds focused only on the militia clause of the amendment in his opinion and did not remotely address the explicitly stated "right of the people" to keep and bear arms.

The true purpose of the Second Amendment, as noted by Judge Silberman in his opinion in the appellate court, is to ensure that we the people would have the means to protect our inalienable rights, among those rights are life, liberty and our individual pursuit of happiness, against an oppressive government. And if our government were to violate our social contract, the people would have a moral obligation "to throw off such Government, and to provide new Guards for their future security."

Speaking at the Cato Institute on the *Heller* case, Robert Levy - who is funding the case and is also one of the lawyers representing the plaintiffs - debunked the militia view and, ostensibly, the collective rights interpretation, of the Second Amendment.

"Correctly interpreted, the main clause of the Second Amendment, 'the right of the people to keep and bear arms shall not be infringed,' that's what defines and secures the Second Amendment right. The subordinated clause, 'a well regulated militia, being necessary to the security of a free

state,' helps explain why it is, one reason that we have that right," said Levy. "So membership in a well regulated militia is a sufficient, but it is not a necessary condition of the exercise of our right to keep and bear arms."

To emphasize his point, Levy continued, "Imagine if the Second Amendment said in the syntax of this sentence, 'A well educated electorate, being necessary to self-governance in a free state, the right of the people to keep and read books shall not be infringed.' No one would suggest that only registered voters, and that is the members of the electorate, would have a right to read. And yet that is precisely the effect that the Second Amendment is interpreted to apply only to members of a militia."

Mayor Fenty even had the audacity to claim that the gun ban has "saved countless lives," a notion that is completely contrary to the facts. The evidence shows the reverse is true; violent crime has increased significantly overall. In 1976, the murder rate per 100,000 inhabitants inside the District was 26.8. Since the ban was enacted, the murder rate has only dropped below that rate once, in 1985. It peaked in 1991 at 80.6 murders per 100,000 inhabitants.

The National Institute of Justice has estimated that 1.5 million Americans use guns for defensive purposes each year. However, thousands of law-abiding citizens in the District of Columbia have been deprived means to protect themselves or their property and have fallen victim to criminals and thugs making Washington, DC, the poster child of the failed gun control movement.

To learn more about the *Heller* case, please visit <http://www.DCGunCase.com>. To learn more about the failures of gun control, please watch the documentary *Michael & Me* by Larry Elder, and to learn more about gun laws in Georgia, please visit <http://www.GeorgiaCarry.org>.