Syllabus

DISTRICT OF COLUMBIA ET AL. *v.* HELLER

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 07–290. Argued March 18, 2008—Decided June 26, 2008

District of Columbia law bans handgun possession by making it a crime to carry an unregistered firearm and prohibiting the registration of handguns; provides separately that no person may carry an unlicensed handgun, but authorizes the police chief to issue 1-year licenses; and requires residents to keep lawfully owned firearms unloaded and disassembled or bound by a trigger lock or similar device. Respondent Heller, a D. C. special policeman, applied to register a handgun he wished to keep at home, but the District refused. He filed this suit seeking, on Second Amendment grounds, to enjoin the city from enforcing the bar on handgun registration, the licensing requirement insofar as it prohibits carrying an unlicensed firearm in the home, and the trigger-lock requirement insofar as it prohibits the use of functional firearms in the home. The District Court dismissed the suit, but the D. C. Circuit reversed, holding that the Second Amendment protects an individual's right to possess firearms and that the city's total ban on handguns, as well as its requirement that firearms in the home be kept nonfunctional even when necessary for self-defense, violated that right.

Held:

1. The Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home. Pp. 576–626.

(a) The Amendment's prefatory clause announces a purpose, but does not limit or expand the scope of the second part, the operative clause. The operative clause's text and history demonstrate that it connotes an individual right to keep and bear arms. Pp. 576–595.

(b) The prefatory clause comports with the Court's interpretation of the operative clause. The "militia" comprised all males physically capable of acting in concert for the common defense. The Antifederalists feared that the Federal Government would disarm the people in order to disable this citizens' militia, enabling a politicized standing army or a select militia to rule. The response was to deny Congress power to abridge the ancient right of individuals to keep and bear arms, so that the ideal of a citizens' militia would be preserved. Pp. 595–600.

Syllabus

(c) The Court's interpretation is confirmed by analogous arms-bearing rights in state constitutions that preceded and immediately followed the Second Amendment. Pp. 600–603.

(d) The Second Amendment's drafting history, while of dubious interpretive worth, reveals three state Second Amendment proposals that unequivocally referred to an individual right to bear arms. Pp. 603–605.

(e) Interpretation of the Second Amendment by scholars, courts, and legislators, from immediately after its ratification through the late 19th century, also supports the Court's conclusion. Pp. 605–619.

(f) None of the Court's precedents forecloses the Court's interpretation. Neither *United States* v. *Cruikshank*, 92 U. S. 542, 553, nor *Presser* v. *Illinois*, 116 U. S. 252, 264–265, refutes the individual-rights interpretation. *United States* v. *Miller*, 307 U. S. 174, does not limit the right to keep and bear arms to militia purposes, but rather limits the type of weapon to which the right applies to those used by the militia, *i. e.*, those in common use for lawful purposes. Pp. 619–626.

2. Like most rights, the Second Amendment right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose: For example, concealed weapons prohibitions have been upheld under the Amendment or state analogues. The Court's opinion should not be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms. *Miller*'s holding that the sorts of weapons protected are those "in common use at the time" finds support in the historical tradition of prohibiting the carrying of dangerous and unusual weapons. Pp. 626–628.

3. The handgun ban and the trigger-lock requirement (as applied to self-defense) violate the Second Amendment. The District's total ban on handgun possession in the home amounts to a prohibition on an entire class of "arms" that Americans overwhelmingly choose for the lawful purpose of self-defense. Under any of the standards of scrutiny the Court has applied to enumerated constitutional rights, this prohibition—in the place where the importance of the lawful defense of self, family, and property is most acute—would fail constitutional muster. Similarly, the requirement that any lawful firearm in the home be disassembled or bound by a trigger lock makes it impossible for citizens to use arms for the core lawful purpose of self-defense and is hence unconstitutional. Because Heller conceded at oral argument that the D. C. licensing law is permissible if it is not enforced arbitrarily and capriciously, the Court assumes that a license will satisfy his prayer for relief and

Syllabus

does not address the licensing requirement. Assuming he is not disqualified from exercising Second Amendment rights, the District must permit Heller to register his handgun and must issue him a license to carry it in the home. Pp. 628–636.

478 F. 3d 370, affirmed.

SCALIA, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, THOMAS, and ALITO, JJ., joined. STEVENS, J., filed a dissenting opinion, in which SOUTER, GINSBURG, and BREYER, JJ., joined, *post*, p. 636. BREYER, J., filed a dissenting opinion, in which STEVENS, SOUTER, and GINSBURG, JJ., joined, *post*, p. 681.

Walter Dellinger argued the cause for petitioners. With him on the briefs were *Peter J. Nickles*, Attorney General for the District of Columbia, *Linda Singer*, former Attorney General for the District of Columbia, *Alan B. Morrison*, *Todd S. Kim*, Solicitor General, *Donna M. Murasky*, Deputy Solicitor General, *Lutz Alexander Prager*, *Robert A. Long, Jr.*, *Jonathan L. Marcus*, *Thomas C. Goldstein*, *Matthew M. Shors*, and *Mark S. Davies*.

Alan Gura argued the cause for respondent. With him on the brief were *Robert A. Levy* and *Clark M. Neily III*.

Former *Solicitor General Clement* argued the cause for the United States as *amicus curiae* urging affirmance. With him on the brief were *Acting Solicitor General Garre*, *Assistant Attorney General Fisher*, *Acting Assistant Attorney General Bucholtz*, *Malcolm L. Stewart*, and *Stephen R. Rubenstein*.*

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*Briefs of *amici curiae* urging reversal were filed for the City of Chicago et al. by *Andrew L. Frey*, *David M. Gossett*, *Benna Ruth Solomon*, *Patrick J. Rocks*, and *Lee Ann Lowder;* for the American Academy of Pediatrics et al. by *Bert H. Deixler* and *Lary Alan Rappaport;* for the American Bar Association by *William H. Neukom*, *Robert N. Weiner*, and *John A. Freedman;* for the American Jewish Committee et al. by *Jeffrey A. Lamken*, *Allyson N. Ho*, *D. Randall Benn*, *Jeffrey L. Kessler*, *William C. Heuer*, *Robert E. Cortes*, and *Sayre Weaver;* for the Brady Center to Prevent Gun Violence et al. by *John Payton*, *Jonathan G. Cedarbaum*, *Dennis A. Henigan*, *Brian J. Siebel*, and *Jonathan E. Lowy;* for the DC Appleseed Center for Law and Justice et al. by *Jonathan S. Franklin;* for