The Other Gun (Restriction) Drops

By John Patrick Quigley

Second Amendment Protects Gun Rights of Individuals

“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.” Second Amendment to the U.S. Constitution

In 2008, striking down a District of Columbia gun control ordinance, a U.S. Supreme Court majority (Justice Scalia, writing for Chief Justice Roberts and Justices Kennedy, Thomas and Alito) held that the introductory phrase of the Amendment, referencing a “well regulated Militia,” does not restrict “the right of the people to keep and bear arms,” which they held protects an individual’s common law right to keep handguns in the home for self defense, subject to reasonable limitation (emphasis added). Justices Stevens, Souter, Ginsberg and Breyer felt that the Second Amendment only protected a right to keep arms for service in State militia, and in any event, the ordinance was a reasonable limitation of any individual right. District of Columbia v. Heller, 554 U.S. 570 (2008).

Second Amendment is Also Applicable Against the States

“...No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” Fourteenth Amendment to the U.S. Constitution

In June of this year, the same majority used the Fourteenth Amendment to rule that Heller’s individual gun rights also applied against Chicago and a suburb. Justice Alito (writing for Chief Justice Roberts and Justices Kennedy and Scalia) cited the holdings of prior cases that rights protected by “substantive due

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process” include those “fundamental to our system of ordered liberty” or “deeply rooted in this Nation’s history and tradition”. (p. 3036) A historical analysis included note of a judicial trend toward recognizing all of the rights in the Bill of Rights applied to the states on the same basis as to the federal government.

Justice Thomas concurred, but based his concurrence on the privileges and immunities clause, despite precedent suggesting otherwise, because gun ownership as a privilege of citizenship is a more direct and logical approach than the due process clause.

Justice Breyer’s dissent, joined by Justices Stevens and Sotomayor, disputed the majority’s historical analysis, and objected to both the Heller case (again) and its Fourteenth Amendment “incorporation” in the instant case. Justice Stevens’ dissent argued that due process was defined, not by the Bill of Rights, but by evolving concepts of “liberty.” This view was criticized by Justice Scalia in a separate opinion. 


LOOKING AT THE WEB
Mora Prestinary

You can read the cases mentioned in the *Other Gun (Restriction) Drops* article at these web sites:

Cornell University’s Legal Information Institute: [www.law.cornell.edu/supct](http://www.law.cornell.edu/supct)


*McDonald v. City of Chicago* (2010)
[www.law.cornell.edu/supct/html/08-1521.ZS.html](http://www.law.cornell.edu/supct/html/08-1521.ZS.html)

Results of the recent elections can be accessed at :

VoteSmart: [www.votesmart.org/index.htm](http://www.votesmart.org/index.htm)

California, including California Propositions

ASK A LIBRARIAN
By Lu Nguyen

**QUESTION:** Where can I find information regarding paydays, pay periods, and my final paycheck online?

**ANSWER:** You can find helpful information at the California Department of Labor website: [www.dir.ca.gov/dlse/DLSE-FAQs.htm](http://www.dir.ca.gov/dlse/DLSE-FAQs.htm) Look at the information under the topic "Paydays, Pay Periods, and Final Wages".
Database Focus
EBSCO Legal Information Reference Center

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You can browse the database by Category, by Publication Title, or conduct a boolean search, and your results can be emailed or printed.

Categories include: Business Law, Financial Planning, Family Law, Property & Real Estate, Rights & Disputes
The fountains in front of the Library and State Building have not been working for many years due to deterioration and maintenance problems. The current renovation project will address cracking and leakage problems, replace electrical and plumbing systems and provide new fountains, lighting, and plants. Featuring fountains with natural boulders, cacti, ornamental grasses, agave and other succulent plants, the renovation will bring a modernized aesthetic to the area surrounding the Law Library and to the Civic Center Plaza.

**Workshops at the Law Library**

**Clean Up Your Criminal Record**
Nov 9, 23, Dec 14, 28 at 2 pm.
You must check-in at 2 pm to be admitted, and you must bring your California criminal record(s) from the Court(s) in which convicted, OR, your California Dept. of Justice Rap Sheet; and if necessary your own interpreter.

**How to Answer an Unlawful Detainer**
Every Thursday at 9 am.
You must check-in at 9 am to be admitted, and you must bring a copy of your Summons & copy of the Complaint, and if necessary your own interpreter, envelopes, stamps.

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The Library will close at 4 pm on November 24.

The Library will be closed:
November 25, 26, December 24, 25, December 31, January 1

Have a Wonderful Holiday Season!

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Annual Dues will not be charged for 2011

Transcript Contributors: Lu Nguyen, Mora Prestinary, John Quigley, Molly Solazzo (Editor).

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