
Should the Federal Government Further Restrict Private/ Individual Gun Ownership?

Supreme Court of Nova High

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Question Presented

- 1) Should the Federal Government further restrict private/individual gun ownership?

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Abstract

The people will review the long question of whether there should be further restrictions and laws that limit the usage, production, and purchase of firearms. This has been a debate since the ratification of the United States Constitution, but previous landmark cases, legislation, as well as new statistics prove that the negatives outweigh the positives when it comes to all aspects of gun usage.

Not too long ago, we had federal statute here in the United states that restricted gun usage such as the Federal Assault Weapons Ban, the Gun Control Act of 1968, and countless others. These statutes since then have either expired or are just simply outdated. The safety and well being of our country has changed dramatically since the 20th century. Statistics show that guns were the leading cause of death by homicide (67.7% of all homicides) and by suicide (51.8% of all suicides).

When our founding fathers wrote the *Preamble*, they saw a future America that was safe, insured domestic tranquility for ourselves in the present and for our posterity in the future. To keep these wishes made by our forefathers, radical changes need to be made. Weapons such as automatic rifles and accessories such as bumpstocks and extended magazines are legal in America, yet their purpose is for destruction of human life on a greater scale.

The Second Amendment isn't a perfect one. The opinion of District of Columbia v Heller agrees. They find that there are extensive changes and more research that is needed to be done to the right to bear arms, and there should be change to it in the future. This was written over 10 years ago. That time is now. The Fourteenth Amendment of the Constitution too agrees that change is lawful. The Equal Protections Clause protects citizens from the government depriving them of rights and protections without due process of law. The Equal Protections

Clause applies here because depriving some rights and privileges protected by the Second Amendment for the overall well-being, liberty and safety of the United States would be lawful if it passes the tests of strict scrutiny. In September of 2019, 60% of Americans said they were in favor of further gun restrictions.

All in all, the time is now. There must be further restrictions on the production, usage, and ownership of firearms in this country. The American people are behind it, legislation supports it, our forefathers favor it, and most importantly, the law accepts it.

Argument I: Equal Protections Clause applies to Gun

Restrictions

When the Supreme Court passed the Fourteenth amendment, a whole new era of Constitutional law arose. The equal protection clause is arguably the most important segment of the legislature. The equal protection clause can be applied to almost every aspect of the law, and it does when it comes to restricting gun use. The equal protections clause reads, “ 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.” According to this, a person cannot be denied their privileges, protections, or life without due process or unless it's in the best interest of the state. This can be determined through strict scrutiny. If Congress were to pass a law restricting gun usage and the ability to obtain a gun, it would have to pass the strict scrutiny tests. The three tests are: (1) does it have a compelling governmental interest? Yes, the compelling governmental interest is promoting the general welfare and uplifting the security of the state. As our founding fathers wrote in the *Preamble*, “insure domestic tranquility,” This means the government must be committed to keep peace within America's borders, and to keep the citizens safe. Keeping citizens safe means to lower crimes such murders, robberies, etc. According to the FBI, 68 percent of murders, and 41 percent of robbery offenses used a firearm. Times have only been getting worse since 11 years ago. These numbers will only increase. It is a fact that not all guns are used for self defense like

our founding fathers wrote in the Second amendment. This just means that guns are ending up in the wrong people's hands. Why are guns in the hands of criminals? Mentally ill? Dangerous convicts? Obtaining a gun in this country is just way too easy. Passing a law that limits this is in the best interest of the government, since their main goal is to keep the country safe, just as our founding fathers outlined the *Preamble*. Since ensuring domestic tranquility, and promoting general welfare is fundamental both to us today and to our founding fathers, it is in the government's best interest, meaning it passes the first test of strict scrutiny. (2) Is it narrowly tailored? This means, would adding gun restrictions be specific enough? Is it tailored so it only affects the government's compelling interest? The answer to this would be yes. Getting guns out of the hands of ex-convicts, mentally ill, and dangerous does in fact improve safety. If we want lawmakers to pass legislation to restrict gun usage, the language must be tailored so that it still protects some gun rights, but also restricts some. The restricted ones should include not allowing guns to be sold to those with neurological health issues, gang affiliated personnel, dangerous convicts, criminals, and those with fishy backgrounds. Additionally, legislation should be added to make it more difficult to obtain these weapons. Currently, in 36 states a person can buy a gun with no legal requirements for gun registrations. Because of these regulations, many guns in America are unregistered, making it harder for the government to track the guns in a certain area, unsolved crimes, and leaving many civilians at risk. Currently in populous states such as Florida, Alabama, and Colorado, a person doesn't need a license, permit or any registration to purchase a gun. Consequently, America's gun death rate was about 11 per 100,000 people in 2016. Compared to countries such as Canada (2.1), France (2.7), and Germany (0.9). This number is quite high. Restricting some gun rights in order to protect the safety of Americans, and to continue what our forefathers would have wanted when they wrote

the *Preamble*: “to ourselves and our posterity.” Our forefathers want us to insure domestic tranquility, promote the general welfare, and secure the blessings of our liberty for our current American generation, and for all future generations to follow. If we continue to allow guns to be obtained easily, without any governmental interference, there will be no posterity. Our country will become a gun range, with hundreds of thousands of people dying on our streets from bullets shot by crazy, reckless, irrational, unlawful people, who have zero regard for human life. It isn't normal for a country to have these loaded guns, let alone be able to purchase military grade rifles, with monstrous amounts of ammunition, bump stocks and what not. Adding restrictions that are narrowly tailored on these purchases will make our country a safe home for our children. (3) The last test of strict scrutiny is the least restrictive means. Passing legislation to restrict gun usage is the most effective way to achieve compelling interest while being least restrictive of a person's rights and freedoms. This is to make sure laws don't take too much of a person's freedoms. In this case, yes, adding restrictions to gun usage and ownership is. The job of the government is to protect the rights and individuals, while also protecting society as a whole. At some point, both sides are put on a scale, and the government weighs what is most important in a certain situation: protecting a person's freedoms, or the safety of society as a whole. This is why we imprison certain individuals, have an age restriction on drinking, age restriction on driving, search and seizure, right to speedy trial, etc. The government wants to have the equilibrium of people having their rights while also keeping society safe. The same applies here. The government wants people to have guns as protected by the Second amendment, but at what point do they draw the line in order to keep the general population safe. Some questions they may consider is: Should the mentally ill have guns? The answer to this is no. Why would we give a person, who is legally insane, a firearm that can cause great bodily

harm to another life? We should not. This is why we need legislation to make sure these insane human beings do not have the ability to even try to buy a gun. Another question: Should 18 years olds be able to buy guns? Currently, federal law says the minimum age to buy a handgun from a licensed seller is age 21. But, this number drops to 18 years of age when the gun is being bought from a private, unlicensed seller. This can be at a gun show, or a person's friend or neighbor. At 18 years old, a person can buy an assault rifle, a gun meant for killing and ending human lives, from a licensed seller. Why is this legal in our country? An 18 year old should not have the ability to buy a gun after graduating high school. Psychologists, neurologists, and pediatric doctors all agree that the human brain is fully developed around the age of 25. Yet, in the United States a kid, and an 18 year old person, can buy guns, let alone a rifle used in wars. In 1968, the Gun Control Act of 1968 ("GCA") was passed which regulates firearms at the federal level. This legislation made it possible for citizens and legal residents to be at least 18 years of age to purchase shotguns or rifles and ammunition. All other firearms such as handguns and pistols can only be bought at least 21 years of age. This legislation is invalid in our eyes for a number of factors. For once, this legislation is very much outdated. It is about 54 years old this year. It's time this country has a new law that concerns guns. With the rise of school shootings and acts of domestic terrorism, guns have been used for mass casualties more than ever in the past 15-20 years. Part of the blame is the availability of guns. For example, the Stoneman Douglas High School shooting. The shooter, Nikolas Cruz, was 19 years old when he carried out his premeditated attack on Valentine's Day of 2019. Cruz was so young, tender and irrational, and still very much is. There are also credible sources that claim Cruz suffers from a mental illness, yet his hands were still on a gun, not just any gun, and assault rifle, which is legal to purchase as soon as he turns 18. That's the issue, young kids are getting their hands on guns, and

the federal government seems not to care. America is turning against the words of our forefathers, who outlined in the *Preamble*, the very first part of the Constitution, that we need to insure domestic tranquility, and promote general welfare. Allowing 18 year olds to have guns isn't promoting general welfare nor ensuring domestic tranquility. *McDonald v. City of Chicago* found that individual self defense "is the central component of the Second Amendment." This means that the most important part, and the critical purpose of the Second amendment is to protect individuals' right to own weapons in order for self defense. This claim is agreed by us because self defense is a very important thing for people. They want to protect themselves if an instance where danger is emitted upon them or their loved ones, and rightfully so. But that doesn't mean there won't be any limitations. *Heller* states, "But since this case represents this Court's first in-depth examination of the Second Amendment, one should not expect it to clarify the entire field" This shows that there is an area for improvement in the full analysis in the Second amendment. *Heller* also says that "Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should 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." Meaning that prohibition to ownership is valid and Constitutional. There should be no doubt of this, and these prohibitions are important and needed because they overall protect Americans and insure domestic tranquility. In *Heller's* decision, Justice Scalia wrote, "Like most rights, the right secured by the Second Amendment is not unlimited. [It is] not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose." This supports us in the fact that the Second amendment isn't unlimited. It is

limited in a sense that *Heller* isn't perfect. It doesn't fully cover the Second amendment and it isn't the blanket of the Second amendment. Likewise, *McDonald* the Court found "It is important to keep in mind that *Heller*, while striking down a law that prohibited the possession of handguns in the home, recognized that the right to keep and bear arms is not 'a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.'" This is important because this shows that the two most recent big landmark Supreme Court cases both found that the right to bear arms isn't unlimited. It accepts its flaws, and sees that there needs to be limitations in the future. This is where we come in. Gun restrictions need to happen, and even the Court agrees. Some things we argue for are banning certain types of guns, restricting the mentally ill, and having more checks and adding to the process of obtaining a gun. These are fundamental in keeping laws in the right hands, and keeping our country safe. Restricting certain types of guns is something new to the United states. On September 13th, 1994, Bill Clinton signed off the Federal Assault Weapons Ban (AWB). This was a part of the Gun Control and Law Enforcement Act of 1994. This ban prohibited manufacturing certain semi automatic firearms as well as certain large capacity magazines for civilian use. Basically, prohibiting the manufacture of semi-automatic assault weapons for the general public as well as large magazines. This ban expired ten years later in 2004. Although there were attempts by Congress to renew this ban or write a new one, these attempts were not successful. According to a study, this ban did not have much effect on overall criminal activity, but did have a decrease on mass shootings. Even though the ban did not have much effect, it is the right step forward. This is what we are fighting for. A ban like this that is better written to apply to today's society would overall decrease criminal activity. This law was once active, so why can't we write a new one? All in all, a new ban on firearms that are meant for mass crimes (assault rifles, automatic

guns, bump stocks, large magazines, suppressors, etc) should be banned. These guns are meant for mass killings of human beings, why are they legal in the United States in 2022?

Argument II: Interpreting the Second Amendment

The Second amendment is a highly controversial and short piece of language. Its words have various connotations to them and its syntax can be interpreted in a variety of ways. In our lens, the Second amendment should be interpreted as is, in a strict manner. The Second amendment reads “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.” Meaning, the right to bear arms should be upheld when it is necessary to protect the security of the country, of the people, and of property. In other words, guns should be for self defense uses. *Heller* held in a rationale that “The Second Amendment guarantees an individual's right to possess firearms independent of service in a state militia and to use firearms for traditionally lawful purposes, including self defense within the home.” The amendment embodies an unchangeable right that allows one to conceal a firearm in means of self-defense. In a dissent by Justice Stevens, he states, “Whether it also protects the right to possess and use guns for nonmilitary purposes like hunting and personal self-defense is the question presented by this case.” A clear answer can be seen through the history of the amendment. When the Second Amendment was adopted, its purpose was to protect the rights of the people of the states by maintaining a well-regulated militia. Meaning in order to maintain freedom in the US, a well constructed military is necessary. At the time it was a solution to a problem occurring during the ratification of the US Constitution in which the power of Congress to disarm state militias and to conform a national army posed as an unbearable problem imposed on the sovereignty of the states. Intentionally and directly, there is no clear indication that the creators of the Amendments intended to set in stone the right of self-defense in the US Constitution.

In the United States, there are those who carry firearms for good intentions, and there are those who carry and own a firearm with bad intentions. A bad intention could be a person wanting to burglarize a home with deadly force. On the other hand, a good intention could be lawful, such as self-defense. In *Florida Statute 776.012 & 776.013, the Stand Your Ground Law*, it states, “A person who is in a dwelling or residence in which the person has a right to be has no duty to retreat and has the right to stand his or her ground and use or threaten to use: (b) Deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony.” The *Stand Your Ground Law* permits an individual to use a firearm if they are threatened or feel that the criminal is going to cause them great bodily harm. What this law does is that it permits and allows a citizen to use deadly force, in this case a firearm only in certain circumstances. This same basic idea should apply to the types of guns that some individuals should be allowed to carry at certain ages. In Texas, anyone 18 years or older is allowed to purchase a rifle, and anyone 21 years or older is allowed to purchase a pistol. Specifically in the state of Texas, a father is allowed to purchase a rifle for his 14 year old son. It is extremely dangerous for a teen under 15 and even for 18 year olds to handle a firearm. In recent studies, it has been proven that the brain fully develops at 25 years old, meaning that adolescents that don't have a fully developed and functioning brain are allowed to handle and purchase a rifle that is used by some major terrorist organizations. This is extremely dangerous and is doing more harm than good. As of September 1, 2021, permitless carry is legal in the state of Texas. Meaning anyone above the age of 21 is allowed to carry a firearm without a permit. According to *Texas Bill HB 1927* one is allowed to carry a firearm without a permit if they are 21 years or older and not previously or currently prohibited by the

state or by the federal government. Essentially this bill is something that should not be happening, because what it does is that it allows for potential criminals to carry a firearm. The problem is that permitless carry doesn't run background checks on those wanting the firearm, as opposed to License to Carry (LTC) which requires background checks to be done before one is permitted to carry a firearm. The Bill that Texas Passed should not be a standard for more laws, because it opens the table for criminals and those who shouldn't be allowed to carry a firearm to actually get one. Thus, the risk in this bill is extremely high, and a firearm could fall into the wrong hands. The argument is not that we don't want guns, we just want to implement further restrictions to stop the occurrence of guns reaching the wrong hands which result in tragic events. Instead, we ask of you to ensure that future gun control acts and bills and any future gun legislature should include more background checks and more mental health evaluations in order to ensure that guns wouldn't fall into the wrong hands and to keep our America safe for us and future generations.

Argument III: Imposed Guidelines on Firearm Use

and Purchase

The Second amendment of the United States Constitution gives U.S citizens the right to “bear arms” and protect themselves using a gun. However, there are regulations set in place so that guns are not used for other purposes other than self defense, along with regulations in place to even own a gun. In an earlier argument we argued that the Second amendment should be interpreted in a strict manner. By interpreting the Second amendment in a strict constructionist manner more firearm regulations can be added to evidentially “protect the general welfare” as stated in the *Preamble* of the United States Constitution. Regulations like more mental health checks, background checks, registering firearms, and concealment regulations would help reduce the number of guns being purchased, and from being placed in the wrong hands.

An example of a guideline would be *the Federal Firearm Act of 1938 (FFA)* which states, “required gun manufacturers, importers, and dealers to obtain a federal firearms license. It also defined a group of people, including convicted felons, who could not purchase guns, and mandated that gun sellers keep customer records.” The Second amendment does give citizens the right to own a gun, but it is not unlimited. With that, having an act like this, which requires that in order for people to manufacture and sell guns a license is required, and when undergoing the process for the license, background checks would be done to essentially make sure the guns will be in the right hands. There are about 21 states in the United States that are the most lenient in gun laws from not requiring a permit to purchase to not even needing to register. For

example, in the state of Alaska citizens do not need a permit to purchase a gun or a permit for registration. Thus, meaning that having access to a gun is easy and not heavily monitored, something in which is dangerous. *The Brady Handgun Violence Prevention Act of 1993* which amended *The Gun Control Act of 1968* follows: a waiting period of five days before a licensed importer, manufacturer, or dealer may sell, deliver, or transfer a handgun to an unlicensed individual. It also requires criminal history background checks by the FBI and state agencies on persons who attempt to purchase a firearm from a licensed dealer. While every state has different gun regulations, and the federal government only has a limited say as to the certain regulations for guns, more acts like this one, prevent guns from being put into the wrong hands, especially in states where gun regulations are low. By simply adding criminal background checks it reduces the guns being put onto the street.

In California, *The California Code, Penal Code PEN § 26815* is that when either party is a not licensed dealer, the firearm must be transferred through a California dealer, who is conducted to do a background check. Adding more statues like this, allows for better security of where guns are going, and who they are going to, which is uplifting the security of the United States. Furthermore, *the Gun Control Act of 1968* which at the federal level regulated firearms and required that citizens and legal residents must be at least 18 years of age to purchase shotguns or rifles and ammunition. All other firearms — handguns, for example — can only be sold to people 21 and older. All states have different gun laws, we are arguing that at a federal level, there should be certain guidelines, and requirements for purchasing and owning a gun. Just like the *Gun Control Act of 1968* regulates the minimum age for when a gun can be purchased, other Acts like this one should be put in place to limit the number of guns being put into the hands of Americans. For example in the State of New York they have a *NY Safe Act*

2013 in which prevents criminals and the “dangerously mentally ill” from buying guns and also pressures down on illegal guns and bans assault weapons. By having acts like these, keeping guns out of the wrong hands, allows for a safe and secure country. It has been proven through statistics that states with more gun restrictions for purchasing, and even owning a gun have had low gun violence. For example in the state of Hawaii only 10.4% of households have gun ownership. The death rate per 100,000 people is 3.55. Compared to another state which has no gun restrictions or regulations where guns are still being put into the wrong hands, with crime rates still going up.

Adding gun regulations and restrictions is part of looking at the second amendment of the United States Constitution in a strict constructionist view. By imposing more legislation for regulations of guns at the federal level, it would allow for guns to be kept out of the wrong hands. We ask that the court look at gun regulations and restrictions the way that the State of New York does in their *NY Safe Act 2013* and federalize those laws.

Counterclaim

The opposing counsel may argue that in the question presented, “Should the Federal Government further restrict private/individual gun ownership?” Their response would be no to the question presented, as the basis for their argument is through a free country within the United States. Our friends on the opposing side claim that in order to protect oneself from gun violence, one must own a gun themselves, for means of self defense, rather than for harm. A majority of the citizens in the US legally own a gun that must go through a process in order to carry one. A majority of gun owners do not abuse the power within the firearm, but rather use it for means of self defense against others who use guns for harm. While the number of people who use guns for harm isn’t significantly high, it still leaves an impact upon the people affected by it. It is unfair to take away gun ownership privileges of those who abide by the law and actually use them for moral and lawful reasons all because of some people who decide to take advantage of them. The United States is more of a free country that gives the right to the people to own a gun, and that right should not be provoked. On the contrary, our proposal ensures more legislation to restrict more guns and ensure more background checks. If better background checks are done, it lowers the possibility of guns falling into the hands of a person with bad intentions. A prime example of this would be the *NY Safe Act 2013*. In New York, There is a piece of legislature that prevents criminals and those who are “dangerously mentally ill” from purchasing a firearm, and it suppresses and eliminates illegal guns and bans assault weapons. Federal Law should be within the same scope. More federal legislature should be created with ideas such as in the *NY Safe Act 2013*. Not only does the act enforce more regulations, but it

also prevents a certain group from owning a gun, in this case those who are dangerously mentally ill. Furthermore, it has been statistically proven that in states with more gun restrictions, there is less gun violence. This could be clearly seen in the state of Hawaii, where only 10.4% of households have a person who legally owns a firearm. The death rate by firearm is 3.55 per 100,000 people. This is an extremely beneficial statistic, which furthers our argument. The addition and enforcement of firearms not only reduces the number of criminals with a firearm, but also decreases gun violence. This ensures a safe and secure country that allows citizens to live a joyful and violence free life. It is within the government's compelling interest to protect the citizens of the United States, thus more legislation should be made on gun restrictions.

Conclusion

The gun issue has been a hot topic since the ratification of the Bill of Rights. The right to bear arms has always been in the hot seat, where it was questioned if the right shall have some restrictions. We argue that this right shall have restrictions. The second amendment itself states for a “well-regulated militia,” yet millions of Americans that own a gun have never served the armed forces. In the majority opinion of *Heller*, the court argues that in the future there shall and there will be further restrictions on gun ownership. We also argue that adding restrictions to gun ownership is constitutional under the Fourteenth Amendment of the United States Constitution, and the Equal Protections Clause. Under the Fourteenth Amendment, the Equal Protections Clause protects American citizens from the government depriving them of their unalienable rights, protections, life, liberty, and pursuit of happiness without due process law. It applies the law so that it is equal to anyone and to everyone. The United States government can only deprive a person of these rights if it passes the three tests of strict scrutiny: Does it have a compelling governmental interest? Is it narrowly tailored? And is it the least restrictive means? We argue that applying further restrictions of gun ownership passes the three tests of scrutiny. It is for the overall safety of our country. Furthermore, our founding fathers saw the security of the country as the utmost important variable in our country. This was revealed in the Preamble of the Constitution, which was the first thing our forefathers wrote in the Constitution. This shows that it was crucial to the fathers of America. We argued how the Preamble applies to gun ownership, and how we can fix the problem of military grade firearms ending up in the hands of those incapable of safely operating them. In fact, that category of weapons should be prohibited

in our country. We argue that automatic and even semi automatic, as well as certain accessories such as extended magazines and bump stocks should be made illegal to possess and use in the United States. All in all, for the reasons above and as well as for the safety of Americans today and for the safety of Americans tomorrow, and in months, and years, and decades forward, the private ownership of weapons should be further restricted.

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