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FIREARMS AND DOMESTIC VIOLENCE

A Summary of Pivotal Cases Decided by the United States Supreme Court

by the National Resource Center on Domestic Violence and Firearms
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United States v. Hayes, 555 U.S. 415 (2009).

The Supreme Court affirmed the constitutionality of a federal law barring people convicted of domestic violence crimes from owning guns. The Court held that states' laws against battery need not specifically mention domestic violence to be covered by the domestic violence gun ban enacted in 1996; rather, the relationship aspect of the federal firearms crime under 18 U.S.C. 922(g)(9) can be met by proving that the person charged with possession of the firearm and the victim of the underlying state domestic violence offense were in a qualifying domestic relationship.

United States v. Castleman, 572 U.S. 157 (2014).

The Court recognized that domestic violence could include acts that do not always adhere to everyone's idea of "violent," such as pushing, grabbing, and shoving, and that federal law intended to cover all domestic violence crimes whether or not "strong and violent" force was involved. The Court determined that, while some states had established a high bar for what counts as a "misdemeanor crime of domestic violence," (categorizing actions such as pushing and grabbing as "offensive touching,") "offensive touching" is in fact enough to subject a convicted domestic abuser to the federal gun ban. Additionally, the court determined that even though the statute uses the word "violence," "domestic violence" is a term of art with a different meaning than violence. As such, the Castleman holding established a unified bar for courts to meet when determining whether someone had committed an act of domestic violence that would prohibit an individual from possessing a firearm.

Voisine v. United States, 579 U.S. 686 (2016).

The petitioners argued that domestic assaults committed recklessly—but not knowingly or intentionally—do not qualify as a "crime of domestic violence as defined by 18 U.S.C. §§921(a)(33) (A) and 922(g)(9), and that reckless domestic assaults do not involve the "use of physical force" as necessitated by the law. The court held that reckless assaults satisfy the definition of "use of physical force" and stated that "[a] person who assaults another recklessly 'use[s]' force, no less than one who carries out that same action knowingly or intentionally." As such, the Voisine holding concretely established that the federal ban on firearms possession applies to any person with a prior misdemeanor conviction for the "use of physical force" in a domestic violence context, including actions committed recklessly.

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Summaries of Other Significant Supreme Court of the United States' Cases Impacting Domestic Violence and Firearms

United States v. Cruikshank, 92 U.S. 542 (1875).

In the first case to deal with the Second Amendment, the Supreme Court held that the Second Amendment does not bar state regulation of firearms. The Court stated that the Second Amendment “has no other effect than to restrict the powers of the national government.” While the Cruikshank ruling primarily functioned to disarm African American residents while protecting white Southern paramilitary groups, and only addresses the Second Amendment in passing, it remains frequently cited when answering questions on the function and scope of the Second Amendment.

United States v. Miller, 307 U.S. 174 (1939).

The Court held that the “obvious purpose” of the Second Amendment was to “assure the continuation and render possible the effectiveness of” the state militia, and the Amendment “must be interpreted and applied with the end in view.” Essentially, the focus of the Second Amendment was to protect the rights of states to form militias, not the rights of individuals to own guns, and that the protections of the Second Amendment must be understood within the context of militia service. However, the Supreme Court hinted that an individual right may exist in the context of a “common obligation ... to possess arm ... and to cooperate in the work of defense” and that a sawed-off shotgun, the firearm at issue in the case, was unprotected because it had no “reasonable relationship to the preservation or efficiency of a well-regulated militia.” This implied that all “free men” could possess weapons of the type used for militia service, but the Court halted this argument by insisting that only those guns usable in militia service and held for the purpose of militia service were protected by the Second Amendment.

District of Columbia v. Heller, 552 U.S. 1229 (2008).

In a 5-4 ruling, the Court held that the Second Amendment confers an individual right to possess firearms unrelated to service in a well-regulated state militia, marking the first time that Supreme Court gave a definite answer on whether the Second Amendment provides an individual right to own and bear arms. In response to Washington, D.C.'s ban on all handguns from the city and requirement that all other guns be kept in homes unloaded and disassembled or trigger-locked, the Court stated that blanket prohibitions on entire categories of guns that could be used for lawful purposes and restrictions that essentially prevented the use of a gun for lawful purposes were not constitutional. However, the Court emphasized that the individual right to bear arms was not unlimited and certain forms of federal regulation remain permissible, including prohibiting the possession of firearms by felons and the mentally ill, the possession of firearms in sensitive places such as school and government buildings, and the imposition of conditions on the commercial sale of firearms. Notably, the Court's holding only applied to Washington, D.C., rather than nationally.

McDonald v. Chicago, 561 U.S. 742 (2010).

Shortly after the Heller decision, the Supreme Court ruled that the right to keep and bear arms extends to individuals in each of the 50 U.S. states. The Court ruled that the Second Amendment was incorporated by the due process section of the Fourteenth Amendment and individuals were therefore granted a constitutional right to keep firearms in their homes for self-protection. This right, the Court stated, was greater than the states' power to restrict it. Like its holding in Heller, the Supreme Court held that state and federal laws prohibiting possession of firearms by felons and the mentally ill and the possession of firearms inside public schools were constitutional.

Henderson v. United States, 575 U.S. 622 (2015).

In this case, the Court addressed whether federal law gives felons the right to transfer their lawfully owned firearms to a third party. In a unanimous ruling, the court held that the transfer of a felon's lawfully owned firearms from government custody to a third party is not barred by §922(g) if the court is satisfied that the recipient will not give the felon control over the firearms during or after the transfer. The Court's holding allows felons to ask the government to transfer their firearms to an independent third party, including transfers to dealers for sale on the open market and directed transfers to specific people.

Caetano v. Massachusetts, 577 U.S. 411 (2016).

In this recent case, the Supreme Court held that a Massachusetts state law prohibiting the personal possession of stun guns contradicts the precedent established in District of Columbia v. Heller and McDonald v. Chicago. While the Court did not address whether stun guns constitute "arms" for Second Amendment purposes, the Court concluded that the Second Amendment extends to "all instruments that constitute bearable arms, even those that were not in existence at the time of the founding."

New York State Rifle and Pistol Association, Inc. v. Bruen, Superintendent of New York State Police, et al. (abbreviated as NYSRPA v. Bruen), 142 S. Ct. 2111 (2022).

In a 6-3 ruling, the Court held that the Second and Fourteenth Amendments protect an individual's right to carry a handgun for self-defense outside the home. The decision "made more explicit" the Court's ruling in District of Columbia v. Heller, 552 U.S. 1229 (2008), which found that the Second Amendment confers an individual right to own and bear arms. In NYSRPA v. Bruen, the Court reviewed a New York state law, the Sullivan Act, that required applicants for an unrestricted license to have and carry a concealed pistol or revolver on their person to show a special need for self-protection, or a "proper cause," distinguishable from that of the general community. In its decision, the Court declined to adopt the Courts of Appeals' analyses of Second Amendment cases that balanced the history of firearm regulation with the government's important interest in regulating firearms. Instead, the Court held that the government must demonstrate that the regulation is consistent with "this Nation's historical tradition of firearm regulation... [Only] then may a Court conclude that an individual's conduct falls outside the Second Amendment's unqualified command." The Court opined that Second Amendment analysis should, therefore, focus on whether a modern regulatory framework is analogous to historical precursors. The Court also favored "shall-issue" regulatory schemes that include "narrow, objective, and definite standards" for licensing officials, as opposed to "may-issue" laws that require the "appraisal of facts, the exercise of judgment, and the formation of opinion" by licensing officials.

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