

Robert A. Levy

# A Victory for Self-Defense

*In the D.C. Gun Law Case, a Chance to Affirm the Second Amendment*

Unless and until the Supreme Court says otherwise, it looks as though the District of Columbia's 31-year-old gun ban is history. Good riddance.

In a landmark opinion Friday, the U.S. Court of Appeals for the D.C. Circuit reversed a lower federal court on all counts and concluded that "the Second Amendment protects an individual right to keep and bear arms."

The case, *Parker v. District of Columbia*, was brought by six D.C. residents who want to possess functional firearms within their homes for self-defense. Their lawsuit was not about machine guns and assault weapons. They didn't ask for the right to carry guns outside their houses. *Parker* was about ordinary handguns, in the owner's private residence.

Senior Judge Laurence H. Silberman wrote the majority opinion, joined by Judge Thomas B. Griffith, a recent Bush appointee. Judge Karen LeCraft Henderson dissented. The court majority stated unequivocally that activities protected by the Second Amendment "are not limited to militia service, nor is an individual's enjoyment of the right contingent upon his or her continued or intermittent enrollment in the militia."

Indeed, said the court, "the right to arms existed prior to the formation of the new government" in 1789.

Fast-forward more than two centuries. Shelly Parker lived in a high-crime neighborhood in the heart of Washington. People on her block were harassed relentlessly by drug dealers and addicts. Parker called the police, time and again, then encour-

aged her neighbors to do the same. She organized block meetings to discuss the problem. For her audacity, Parker was labeled a troublemaker by the dealers, who threatened her at every opportunity.

One dealer tried to pry his way into her house, repeatedly cursing, then yelling, "I'll kill you. I live on this block too!"

For obvious reasons, Shelly Parker would like to possess a functional handgun within her home for self-defense; but she feared arrest and prosecution because of the District's unconstitutional gun ban.

Killers who are not deterred by laws against murder are not going to be deterred by laws against guns. Anti-gun regulations don't address the deep-rooted causes of violent crime — such as illegitimacy, unemployment, dysfunctional schools, and drug and alcohol abuse. The cures are complex and protracted. But that doesn't mean we have to become passive prey for criminal predators. Americans who want to defend themselves by possessing suitable firearms should be able to do so.

Off and on over the years, Washington has reclaimed its title as the nation's murder capital. The D.C. government has been minimally effective in disarming violent criminals. But it has done a superb job of disarming decent, peaceable residents. For starters, no handgun can be registered in the District. Even pistols registered before the District's 1976 ban cannot be carried from room to room in a home without a license, which is never granted. Moreover, all firearms in the home, including rifles

and shotguns, must be unloaded and either disassembled or bound by trigger locks.

In effect, no one in the District can possess a functional firearm in his or her residence. And the law applies not just to "unfit" persons such as felons, minors or the mentally incompetent, but across the board to ordinary, honest, responsible citizens who live in the District, pay their taxes in the District and obey the laws of the District.

Sadly, if someone breaks into their homes, their only choice is to call 911 and pray that the police arrive quickly. That's not good enough. The right to keep and bear arms, guaranteed by the Second Amendment to the Constitution, includes the right to protect your property and your life. No government should be allowed to take that right away.

Unless the Court of Appeals elects to rehear *Parker*, the case will probably head to the Supreme Court; and that is where it belongs. The citizens of this country deserve a foursquare pronouncement from the nation's highest court about the real meaning of the Second Amendment. For those of us eagerly awaiting a clear statement in support of an individual's right to keep and bear arms, the U.S. Court of Appeals for the D.C. Circuit has declared that the Constitution is on our side.

*The writer, senior fellow in constitutional studies at the Cato Institute, served as co-counsel to the plaintiffs in Parker v. District of Columbia.*

