THE SUPREME COURT AND THE SECOND AMENDMENT

In the decade since the 2008 case *DC v. Heller*, when the Supreme Court held that the Constitution allows citizens to keep a handgun in the home for self-defense, the gun lobby has sought to redefine the Second Amendment and invalidate the most critical gun safety laws on the books. Yet courts have consistently upheld strong firearm regulations, noting that *Heller* in fact endorsed lifesaving gun safety laws like concealed carry regulations, laws prohibiting dangerous people from accessing guns, and safe storage laws, among many others.

**IN DC V. HELLER, THE COURT IDENTIFIED A WIDE RANGE OF PERMISSIBLE GUN SAFETY LAWS, INCLUDING:**

- **PROHIBITED PEOPLE**
  Laws prohibiting the possession of firearms by “felons and the mentally ill.”

- **MILITARY-STYLE WEAPONS**
  Laws limiting “dangerous and unusual” weapons, like machine guns.

- **CONCEALED CARRY**
  Laws restricting the carrying of hidden, loaded guns in public.

- **GUNS IN PUBLIC**
  Laws forbidding firearms in sensitive places like schools and government buildings.

- **SAFE STORAGE**
  Laws requiring the safe storage of guns to prevent unintentional shootings.

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“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.”

**THE TEXT OF THE SECOND AMENDMENT:**

“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.”
DC v. Heller: The Supreme Court Addresses Gun Safety

A LIMITED RULING IN 2008
In its first Second Amendment decision in 70 years, in 2008 the Supreme Court ruled that the Constitution protects the right of responsible, law-abiding citizens to possess a handgun in the home for self-defense. In its 5–4 decision in DC v. Heller, which overturned Washington DC’s handgun ban, the Court was careful to stress the ruling’s limited nature.

Writing for the majority, Justice Scalia affirmed the limitations of the Second Amendment and provided a number of examples of constitutional gun safety regulations, like laws prohibiting possession of guns by dangerous people. Despite the explosion of litigation after Heller, lower courts have upheld many gun laws and regulations in line with Justice Scalia’s guidance.

“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.”

–Justice Antonin Scalia

POST-HELLER LITIGATION: PROTECTING GUN SAFETY LAWS
In the last 10 years, the gun lobby has advocated for a dangerous interpretation of the Second Amendment that contradicts the careful limits the Supreme Court laid out in Heller. Plaintiffs have attempted to argue that the Constitution precludes basic gun safety measures like licensing and background check laws, open carry restrictions, and laws prohibiting guns in schools, parks, and houses of worship.

Unsurprisingly, most of these extreme arguments have failed, largely because the Supreme Court already rejected them in Heller. In siding with the majority of Americans who support sensible gun laws, courts are finding that gun safety laws aren’t just constitutional—they’re critical to keeping our communities safe and to protecting other constitutional rights, like the freedom to safely assemble in public without fear of gun violence.

> Gun safety laws adopted since Heller: 395+
> Giffords amicus briefs filed since Heller: 80+
> Gun safety victories in Second Amendment cases: 1,200+

THE BATTLE FOR THE COURTS
The gun lobby has invested millions to get judicial nominees opposed to gun safety confirmed onto the Supreme Court and lower courts nationwide. Many of these judges have demonstrated a reckless disregard for public safety, coupled with extreme beliefs about the Second Amendment that are out of line with those of most Americans. In the face of our gun violence epidemic, it is essential that everyday Americans demand stronger gun safety laws and impartial judges who don’t owe favors to the gun industry.

For more details and underlying research, visit lawcenter.giffords.org/heller