Written by **Bob Adelmann** on May 25, 2015

D.C. Loses Again in Second Amendment Case

U.S. District Court Judge Frederick Scullin issued a preliminary injunction May 18 against the District of Columbia and its Metropolitan Police Chief Cathy Lanier from enforcing a law that all but prohibits D.C. citizens from acquiring a concealed carry permit.

He was blunt in issuing the injunction, declaring that the district had deliberately and intentionally made the application process so onerous and difficult as to prevent ordinary citizens from exercising the rights the Second Amendment guarantees to keep and bear arms:

> The District of Columbia's arbitrary "good reason"/"proper reason" requirement … goes far beyond establishing such reasonable restrictions.
>
> Rather, for all intents and purposes, this requirement makes it impossible for the overwhelming majority of law-abiding citizens to obtain licenses to carry handguns in public for self-defense, thereby depriving them of their Second Amendment right to bear arms.

This was the District's response to Scullin's decision in *Palmer v. District of Columbia* last July that its total ban on the carrying of firearms outside the home was illegal and unconstitutional. After granting a delay in order to give the District time to appeal his ruling, Scullin entertained the complaint brought by the Second Amendment Foundation (SAF) and Brian Wrenn, a local citizen, when he realized that all the District wanted was time to inflict such grievous and heavy-handed demands on applicants in order to keep handguns out of the hands of its citizens. As Scullin noted in his decision:

> Defendants [the District] argue that the … requirements [are designed to reduce] the number of concealed weapons in public in order to reduce the risks to other members of the public and to reduce the disproportionate use of such weapons in the commission of violent crimes.

Scullin saw through the façade: the application process only prevented law-abiding citizens from getting their concealed weapons permits but had no effect on criminals. Rebutted Scullin:

> Defendants have failed to demonstrate that there is any relationship … between reducing the risk to other members of the public and/or violent crime and the District's "good reason"/"proper reason" requirement.

Scullin was referring to the portions of the law governing the application process which held that the chief of police [Lanier] "may … issue a license to such person to carry a pistol concealed upon his or her person [provided that] the applicant has *good reason* to fear injury to his or her person or property, or has any other *proper reason* for carrying a pistol, and that he or she is a suitable person to be so licensed." (Emphases added.)

The applicant would have to show, and provide proof, that his or her life was being threatened, or had already been threatened, by providing sworn affidavits of reports he or she has already made to the police or to the courts in the District. Just living in a high crime area wasn't sufficient reason, according to the law: "The fact that a person resides in or is employed in a high crime area shall not by itself establish a good reason to fear injury to person or property for the issuance of a concealed carry license."

Scullin ruled, in his preliminary injunction, that defendants "are enjoined from enforcing" the requirements and "from denying handgun carry licenses to applicants" who otherwise qualified for that license.

This ruling continues the string of victories being enjoyed by Second Amendment supporters in Tennessee, Kansas, and elsewhere. Alan Gottlieb, SAF's founder and executive vice president, called Scullin's ruling "a devastating loss for the District and its anti-gun-rights policy," adding:

> We're delighted with the judge's ruling, because once again, the court has thwarted the District's blatantly obvious effort to discourage the exercise of Second Amendment rights by forcing applicants to jump through a series of hoops and then frustrate them by requiring an arbitrary "good reason" for the exercise of a constitutionally protected civil right.

For the moment the District of Columbia is a "shall-issue" jurisdiction, pending the final resolution set for July 7 to which Scullin has invited attorneys on both sides. They no doubt will offer suggestions on how the District must revise its rules to placate the SAF and Brian Wrenn as well as Judge Scullin, who will then make his ruling permanent.

It's likely that there will be an appeal, as the long war against guns continues. For now, proponents of the right to keep and bear arms are enjoying the victory.

A graduate of an Ivy League school and a former investment advisor, Bob is a regular contributor to The New American *magazine and blogs frequently at www.LightFromTheRight.com, primarily on economics and politics. He can be reached at badelmann@thenewamerican.com.*