



Written by [Bob Adelman](#) on August 24, 2010

Gun-control Laws Challenged After Supreme Court Ruling

On June 28, the day the Supreme Court ruled in *McDonald v. Chicago* that individuals have the right to keep and bear arms, Bob Unruh wrote that the decision “has opened the door for a long list of legal challenges to city, county and other rules and regulations that may now infringe on the 2nd Amendment.”

Although both the National Rifle Association (NRA) and the Brady Campaign to Prevent Gun Violence applauded the ruling by the Supreme Court, they differed in how that long list of legal challenges will play out in the courts.



Wayne LaPierre, Executive Vice President of the NRA, [said](#) that his group has “a lot of work ahead” in attempting to overturn regulations that now infringe on citizens’ Second Amendment rights, while Paul Helmke of the Brady Campaign predicted that the NRA is “going to lose most of those lawsuits.” John Velleco, director of federal affairs for Gun Owners of America (GOA), said that *McDonald* “flips the burden onto the government and legislatures to show why they need to restrict what the court has [just] said is an individual right.” He added, “This is a tremendous victory for the 2nd Amendment [because it] opens the door of the courtroom for us to look at laws in many other jurisdictions where there are highly restrictive gun laws.”

One of those jurisdictions is Chicago which, just four days after the Supreme Court ruling, enacted a [“tough new gun-control regime.”](#) That regime flaunted the *McDonald* decision, but according to Attorney Stephen Holbrook who worked on the *McDonald* case, “If the courts take the Second Amendment seriously, the chances are good” that Chicago’s new ordinance will also be struck down.

The Second Amendment Foundation (SAF) [is suing](#) the state of Maryland for requiring their residents to demonstrate that they face a specific “apprehended danger” in order for the state to issue or renew a handgun permit. Raymond Woollard was issued a carry permit after a man broke into his home in 2002, and his permit was renewed three years later when the felon was released from prison and moved into a nearby neighborhood. But state officials now denied renewing his permit because Woollard failed to “demonstrate cause” for the permit to be renewed. The lawsuit says, “Individuals cannot be required to demonstrate that carrying a handgun is necessary as a reasonable precaution against ‘apprehended danger’ as a prerequisite for exercising their Second Amendment rights.”

Executive vice president of SAF, Alan Gottlieb explained, “Laws that empower bureaucrats to deny the exercise of a fundamental civil right because they cannot show good cause to exercise that right can’t possibly stand up under constitutional scrutiny. We are supporting Mr. Woollard in this action because constitutional rights trump bureaucratic whims.”

A similar requirement by Westchester County, New York, that citizens must have a [“good cause”](#) to



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request a handgun permit, is also being challenged by SAF. The plaintiffs in that case, Alan Kachalsky and Christina Nikolov, were denied permits because, in Kachalsky's case, he could not "demonstrate a need for self-protection distinguishable from that of the general public," and Nikolov because she couldn't show that there was "any type of threat to her own safety." Gottlieb said these "American citizens ... should not have to demonstrate good cause in order to exercise a constitutionally protected civil right. Our civil rights, including the right to keep and bear arms, should not be subject to the whims of a local government or its employees, just because they don't think someone needs a carry permit.... Our lawsuit is a reminder to state and local bureaucrats that we have a Bill of Rights in this country, not a Bill of Needs."

North Carolina has a law being challenged in court that forbids citizens from carrying firearms or ammunition whenever officials declare a "state of emergency." This may occur when "public safety authorities are unable to ... afford adequate protection for lives or property," such as during the recent East Coast record snowfall. A commenter on the website of Winston-Salem's WXII-TV wrote: "This has to be the most ridiculous event of the century! This is the ultimate denial of liberties for the most asinine reason — bad weather!"

The most important lawsuit, however, may just be one in California that was first brought over seven years ago, [Nordyke v. King](#). Following a shooting at the Alameda County Fair, the county passed an ordinance prohibiting the carrying of firearms on county property. It was contested by Russell Nordyke who operated a gun show on county property. The Second Amendment Foundation recently weighed in on the case with an "amicus curiae" brief that argued that Second Amendment issues in the case must be decided on a "strict scrutiny" basis and that the ordinance in question could not withstand that level of standard of review.

"Strict Scrutiny" is the highest, most stringent standard of judicial review used by courts in the United States and arises when a "fundamental" constitutional right is infringed, "[particularly those listed in the Bill of Rights](#)."

The brief was written by Alan Gura who argued in both the *Heller v. DC* case and the *McDonald v. Chicago* case, and is working with the Second Amendment Foundation in several other court challenges. Said Gottlieb, "[Nordyke] is a very important case because it could establish the highest standard of scrutiny to which [all] gun laws around the country would be subjected." He added, "While gun prohibitionists were upset by the 2007 *Heller* ruling and demoralized by our victory this year in the *McDonald* case, they are terrified of a strict scrutiny standard that could be established by the *Nordyke* case."

As WorldNetDaily [explained](#), "The 'strict scrutiny' standard is what is applied to disputes involving constitutional rights, and applying it in this case would strengthen virtually all arguments against local limits and restrictions except the ones that meet the very highest standards of need."

Back on June 28, Gottlieb said, "This morning's high-court ruling clearly shows that the right of the individual citizen to have a gun is constitutionally protected in every corner of the United States. We are already preparing to challenge other highly restrictive anti-gun laws across the country. Our objective is to win back our firearms freedoms one lawsuit at a time." The *Nordyke* case could be one of the most important of all.



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