



Written by [Bob Adelman](#) on July 28, 2014

## Judge Rules D.C.'s Ban on Carrying in Public Unconstitutional

Last Thursday U.S. District Court Judge Frederick Scullin ruled that Washington, D.C.'s virtual ban on carrying handguns outside the home was [clearly unconstitutional](#), catching local politicians and law-enforcement officials by surprise. On Sunday attorneys for the district announced they will seek a stay of his ruling, which Scullin intended to be enforceable immediately. The stay would allow district attorneys time to file an appeal while keeping the current laws in effect.



Plaintiffs included four individuals who showed that they had been negatively affected by the rules passed by D.C.'s council following the 2008 decision by the Supreme Court in *District of Columbia v. Heller*, declaring that the district's total ban on guns, inside the home or not, was unconstitutional.

One of the plaintiffs was Amy McVey, the first resident to apply for a handgun permit following the *Heller* decision (without success) while another was an out-of-state student from New Hampshire who was convicted of illegally carrying a gun in his car even though he had a permit in the state where he lived. Plaintiffs were assisted by Alan Gura, and the Second Amendment Foundation, which provided financial support for them.

Gura said that until the judge grants a stay of his order, it remains in effect:

[His] decision is in effect, unless and until [he] stays its decision. This is now a decision that the city is required to follow....

The idea that the city can prohibit absolutely the exercise of a constitutional right for all people at all times — that was struck down.

Gura added that it's likely that there will be an immediate positive effect on crime as criminals will no longer have free rein in choosing victims under the assumption that none of them can defend themselves:

I believe the city is absolutely safer. Make no mistake about it. This is a fantastic improvement in public safety.

Yes, we have a problem in America with gun violence. But no, that problem isn't the result of law-abiding people carrying guns.

Judge Scullin, in his brief 19-page ruling, made short work of the District's ban, which, until Thursday, provided that "no person shall carry within the District of Columbia either openly or concealed on or about their person, a pistol, without a license issued pursuant to District of Columbia law." The problem with that is that D.C. doesn't issue such licenses, thereby effectively banning handguns anywhere in the district outside of residences.



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The judge relied heavily on two notable Supreme Court cases: *Heller* and *McDonald V. City of Chicago*, decided in 2008 and 2010 respectively, along with the more recent ruling by the Ninth Circuit Court in *Peruta v. County of San Diego*, which provided further clarification about the meaning of the words “keep” and “bear” in the Second Amendment. He quoted specifically from *Heller* that the Second Amendment secures

the right to “protect [oneself] against both public and private violence” ... thus extending the right in some form to wherever a person could become exposed to public or private violence....

[This] court agrees with the Ninth Circuit’s statement in *Peruta* that “these passages alone, though short of dispositive, strongly suggest that the Second Amendment secures a right to carry a firearm in some fashion outside the home.

Reading these lines in light of the plain meaning [and] definition of “bear Arms” elucidated above makes matters even clearer: the Second Amendment right “could not have rationally been limited to the home.”

Noting that the District of Columbia “appears to be the only jurisdiction [in the country] that still has such a complete ban on the carrying of ... handguns outside the home,” he ruled that

in light of *Heller*, *McDonald*, and their progeny, there is no longer any basis on which this Court can conclude that the District of Columbia’s total ban on the public carrying of ... handguns outside the home is constitutional under any level of scrutiny.

Therefore, the Court finds that the District of Columbia’s complete ban on the carrying of handguns in public is unconstitutional.

He also ruled that banning visitors to the city from carrying firearms is unconstitutional. The judge left the door open for an appeal, noting that his ruling was effective immediately “unless and until such time as the District of Columbia adopts a licensing mechanism [that is] consistent with constitutional standards enabling people to exercise their Second Amendment right to bear arms.”

The mayor and some members of the city council pushed back immediately against the ruling. D.C. Councilman Phil Mendelson said D.C. is different from other areas of the country and therefore needs stricter rules on guns:

The nation’s capital is a very different place than anywhere else in the country. If there is a right to carry, it would have to be more heavily regulated.

A spokesman for D.C.’s Mayor Vincent Gray told the *Washington Times* that he “remains committed to having reasonable gun safety measures in the District” and that he would work closely with local law-enforcement officials to “ensure that our gun laws remain strong.”

On the surface the ruling appears to be another victory for the Second Amendment. Underneath, however, changing the rules won’t change the culture in the nation’s capital overnight to one more tolerant of that amendment. The city’s anti-gun culture won’t be overthrown with a single judge’s ruling. Accordingly, George Lyon, one of the four plaintiffs in the lawsuit, responded:

Does [this ruling] mean that I think people should openly carry a handgun and walk down the street? That would be a little premature.

*A graduate of Cornell University and a former investment advisor, Bob is a regular contributor to The New American magazine and blogs frequently at [www.LightFromTheRight.com](http://www.LightFromTheRight.com), primarily on economics*



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*and politics. He can be reached at [badelman@thenewamerican.com](mailto:badelman@thenewamerican.com).*



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