



Written by [Bob Adelman](#) on July 30, 2018

Ninth Circuit Ruling Could Take Gun-control Debate to SCOTUS

As *The New American* [reported last Wednesday](#), not only did the [three-judge panel's ruling](#) from the Ninth Circuit Court of Appeals last Tuesday surprise and delight supporters of the Second Amendment, it was the second pro-Second Amendment ruling by that liberal anti-gun court this month.



Tuesday's ruling declared that Hawaii County resident George Young had his rights violated when he was denied a permit to carry a gun in public for self-defense. The decision overturned a lower court's ruling that the Second Amendment right only applies to firearms kept at home.

What's ironic is that Young, a Chinese-Hawaiian Vietnam veteran living in Hilo, was allowed to carry as an infantryman for 21 years, and as a law-enforcement officer afterwards, followed by a period of employment by the Secret Service. But once he became an ordinary citizen, his right to carry evaporated. Said Young, upon learning of the favorable decision, "It's about time.... The world's getting crazier. They're making it legal to smoke marijuana, and they're letting in a lot of illegal immigrants. It was just a matter of having [my sidearm] available if and when I need it."

In the two-to-one ruling, Senior Circuit Judge Diamuid O'Scannlain wrote that "the right to bear arms must include, at the least, the right to carry a firearm openly for self-defense." The ruling made clear that "the typical, law-abiding citizen" must have access to that right, not just "a small and insulated subset" of citizens.

Less than two weeks earlier, another three-judge panel from the same Ninth Circuit affirmed a lower court's injunction that temporarily blocked a California law that not only banned "large capacity" magazines but required their confiscation from owners who didn't "voluntarily" surrender them.

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These two decisions put anti-gun liberals on the court in a bind, with implications reaching much further than Hawaii County, which encompasses the Island of Hawaii. The circuit court takes appeals from lower courts in Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington. The court's reputation as the most progressive circuit court in the country is duly earned, as it represents the heavily Democratic leaning of the court's judges. With 16 judges having been appointed by Democrat presidents and just seven appointed by Republican presidents, it boasts one of the highest reversal rates on appeal to the Supreme Court.

If either of these rulings are considered by the whole court — *en banc* — in order to overturn them, the majority must heavily misconstrue the plain meaning of the Second Amendment by holding either that the right only applies inside a citizen's home, or it only applies to a favored few. As the National Rifle Association (NRA) editorialized, "The anti-gun wing of the Ninth Circuit has few maneuvers left to



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continue to deny the constitutional right to bear firearms in public. It would either have to be the first circuit [court] to declare there is not such right at all, or decide that a right the Constitution ascribes to 'the people' applies only to a hand-selected few."

David French, a constitutional attorney and senior fellow at the National Review Institute, explained the extraordinary implications: "If the [Supreme] Court takes [either case on appeal] it will have an opportunity to reset the gun-control debate. If it rules that weapons in common use for lawful purposes enjoy categorical constitutional protection [under the Second Amendment], then most assault-weapons bans and large-capacity-magazine bans would fall."

Up until now, the Supreme Court has steadfastly refused to consider on appeal any lower-court rulings that would allow it to clarify, and perhaps to amplify, previous rulings in *Heller* and *McDonald*. But with the expected arrival of constitutionalist Brett Kavanaugh when the court opens its fall session in October, the "reset" triggered by these two decisions could take place.

Big gates swing on little hinges. One of the biggest gates could be swung open by these two little hinges, and there's little the anti-gun crowd can do about it.

An Ivy League graduate and former investment advisor, Bob is a regular contributor to The New American magazine and blogs frequently at [LightFromTheRight.com](#), primarily on economics and politics. He can be reached at badelman@thenewamerican.com.

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