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# Second Amendment "Showdown" Coming to SCOTUS

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The Supreme Court said on June 30 it would take on appeal a ruling from a lower court that it should have left stand. But the Biden administration petitioned, and the high court obeyed.

The case is *United States v. Rahimi* and, if the lower court's ruling is overturned, it could greatly expand gun confiscation under the guise of restraining "domestic violence" in the country.

Zackey Rahimi was issued a restraining order in February 2020 after his ex-girlfriend accused him of assaulting her. When law enforcement executed a search warrant for an unrelated crime, they found a rifle and a pistol at his residence. A court found him guilty of violating the restraining order and sentenced him to six years in prison.

The law that applied is a federal law, the Violence Against Women Act (VAWA) enacted under then-President Bill Clinton. VAWA was expanded to prohibit individuals from owning a firearm if they are "subject to a court order that restrains [them] from harassing, stalking, or threatening an intimate partner."

In other words, VAWA acts as a federal "red flag" law, whereby the victim has his rights violated without him actually committing a crime, or even being accused of committing one — and, it must be remembered, without due process of law.

Lawyers for Rahimi challenged the law, and in February the Fifth Circuit Court of Appeals struck it down as unconstitutional, barring it from being enforced in its area of jurisdiction — Texas, Mississippi, and Louisiana.

The appeals court applied the new standard the Supreme Court now requires in Second Amendment cases: The "historical analogy" of similar laws at the time the Second Amendment was added to the Constitution in 1791. Wrote the court, "Through that lens, we conclude that [the law's] ban on possession of firearms is an 'outlier' that our ancestors would never have accepted."

Following that ruling, liberals were outraged, including Steve Vladeck, a professor at the University of Texas School of Law and also an "analyst" for CNN:

> One of two things is true: Either this kind of blind, rigid, context-free, and common-sense-defying assessment of history is exactly what the Supreme Court intended in its landmark ruling last June in *Bruen*, or it isn't.
>
> Either way, it's incumbent upon the justices in the *Bruen* majority to clarify which one they

> meant — and to either endorse or reject the rather terrifying idea that individuals under an active domestic violence-related restraining order are nevertheless constitutionally entitled to possess firearms.

In March, the anti-gun, anti-Second Amendment Department of Justice responded, asking the high court to hear the case in the hopes it would overturn the lower court's decision and allow domestic-violence restraining orders to continue to override the Second Amendment.

What makes the case interesting is not only the high court's meddling in something it shouldn't, but it also reveals the waffling on the issue by so-called pro-gun groups such as the National Rifle Association (NRA) and the Firearms Policy Coalition (FPC), both of which have remained silent on the issue.

However, the Second Amendment Foundation (SAF) and Gun Owners of America (GOA) have signaled that they will be filing friend of the court briefs supporting the lower court's proper decision. Erich Pratt, senior VP of GOA, said their brief would not only ask the high court to keep the lower court's ruling intact but also "support … overturning the law" that abuses the Second Amendment.

There's a good chance the high court will at least affirm the Fifth Circuit's decision. When Supreme Court Justice Amy Coney Barrett (a Trump nominee) served as a judge on the Seventh Circuit Court of Appeals, she wrote in a related case that "Founding era legislatures did not strip felons of the right to bear arms simply because of their status as felons," nor did they impose any "virtue-based restrictions" on that right.

But there's always the risk of the decision going the other way. As The New American noted,

> There is no authority for the Supreme Court to decide the law.
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> To allow five judges to overturn the will of the people or their elected representatives would convert this union of republics into an oligarchy.…
>
> If a majority of the Supreme Court is now permitted to deprive another group of Americans of their right to keep and bear arms and thereby make new law, a power constitutionally belonging exclusively to Congress, then not only is the Biden administration overseeing — and propelling — the violation of the Second Amendment, but of Articles I, II, III, and IV, as well.

The high court has yet to schedule oral debates on the case, and its ruling won't be announced until the end of its upcoming term.

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