

Justice john paul
stevens



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Introduction

District of Columbia v. Heller, 554 U. S. (2008) marked a landmark case in which the Supreme Court of the United States upheld the people's right to own guns and cited the Second Amendment to the United States constitution which gives individuals right to own firearms. In the history of the United States this was the pioneering case which addressed directly the issues surrounding 'Right to keep and bear arm' provided individuals with rights to possess guns or whether it was a collective right that would apply only to militia who are regulated by the state (Greg, 2008).

Dissenting Opinion of Justice John Paul Stevens

One of the most important factors of this case is the dissenting opinion of Justice John Paul Stevens. Justice Stevens stated that the judgment reached by the court was a strained decision which was also supported by a reading which was unpersuasive. He continued to say that the decision had overturned a precedent which had stood for a long time and also that the court had bestowed the law in a dramatic upheaval. Stevens states that it was notable of the amendment because it had omitted any of the statement of the needs that were associated with the individual's rights to utilize firearms when hunting or also in self defense and that this rights were present in the Declarations of Rights of Pennsylvania and Vermont (Gary, 2008).

The dissent of Justice Stevens can be seen to be focused on four points of disagreement. One of the point of disagreement is that the Founders did not

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intend to make the individuals rights in possession of guns an aspect of the Second Amendment and if they intended it they would have made that clause expressly in the Second Amendment. The other point of disagreement is that the preamble concerning the militia and that the exact phrase which mentions to keep and bear arms is only applicable to the state militias only and not all individuals according to the Second Amendment. The third point of disagreement is that most of the lower courts emphasized on the collective right and he did this by citing Miller decision which involves stare decisis and this can be overturned only during great perils. The fourth point of disagreement was that the court had not put into consideration of the existing legislations about gun control as being unconstitutional legislations. In his final remarks during the dissent he states that the court was trying to make the people believe that The Framers chose to limit available tools to elected officials who wanted regulate weapon usage by civilian. He concluded that he would not conclude that such a choice was made by the Framers. This dissent was joined by Justices Ruth Dader Ginsburt, David Souter and Stephen Breyer (District of Columbia, 2008).

Conclusion: Justice Stevens approach to the Second Amendment

Justice Steven approach to the Second Amendment had an outlook of the post modern approach to the Second Amendment. The Second Amendment main purpose was to safeguard the individual's rights and this is not what Justice Stevens dissented for in the case. Justice Stevens sought to limit the individual's right in possessing fire arms and also sought to remind the court that the Founders would have raised the issue in the Second Amendment. He is of the view that the Second Amendment had directed this right to the State's militia and not to civilians. He also questions if the Second

Amendment had limited the powers of the elected officials in limiting the individuals' use of guns. This can be seen as a post modern approach to the Second Amendment (Gary, 2008).

References

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