2019 National High School Essay Contest
$1,000 Award Winner

(Student's name and high school affiliation withheld at students' request)

Constitutional Commas and the Power of Punctuation

If we could only teach elementary school children one thing to guarantee the preservation of our American democracy, it would be this: punctuation matters. It's the sentiment at the root of light-hearted jokes that teach us why commas are important, namely for ensuring the difference between "Let's eat, grandma!" and "Let's eat grandma." However, it's also the principle at the heart of our interpretation of the Second Amendment.

The idea that we can approach an influential document like the Constitution with an interpretive lens removed from our linguistic, cultural, and temporal location is untenable, and the debate over the meaning of the Second Amendment makes this fact apparent. Both the historical context in which the writers of the Constitution lived and relevant linguistic information reinforce Supreme Court Justice Harry Blackmun's statement in the majority opinion in the 19809 case of *Lewis v. United States* that:

> The Second Amendment guarantees no right to keep and bear a firearm that does not have "some reasonable relationship to the preservation or efficiency of a well regulated militia."

Recent interpretations of the Second Amendment's second comma, in cases like *Parker v. District of Columbia*, downplay the importance of the militia as the reason for the right to bear arms. However, evidence from Professor Dennis Baron's "Guns and Grammar" illustrates how the assumption that the "militia clause" is merely a rationalization of the individual's right to bear arms would have been foreign to the original readers of the Constitution. He explains that "A well-regulated Militia, being necessary to the security of a free state," is an absolute construction, a structure indicating a cause and effect relationship with the clause that follows it. Thus, the comma separating this phrase from "the right of the people to keep and bear Arms" is actually punctuation following the

absolute clause that illustrates the inextricable relationship of the need for a militia to the possession of firearms. Lending additional credence to this conclusion is the fact that James Madison frequently used the absolute construction in other forms of correspondence, indicating its usage and meaning was likely clear to readers of the time.

To further establish the link between the militia and firearm possession, it is necessary to understand the connotation of "bear arms" in the historical context of the 18th century. In a Washington Post article, Baron notes that of the approximately 1,500 occurrences of the phrase "bear arms" in writings during the years surrounding the development of the American republic, nearly all refer to the work of an organized militia.

The countless catastrophic deaths of people in our nation due to gun violence demand that we consider the strong linguistic and historical evidence pointing to an interpretation of the Second Amendment that understands involvement with the militia to be the grounds for keeping and bearing something as powerful and destructive as a gun. Thus, despite the assertion of Supreme Court Justice Antonin Scalia in the 2008 case of *District of Columbia v. Heller*, the right to bear arms is linguistically and contextually married to the need for a militia.

References

Baron, Dennis. Guns and Grammar: the Linguistics of the Second Amendment. Available at: https://www.english.illinois.edu/-people-/faculty/debaron/essays/guns.pdf. Accessed April 14, 2019.

Baron, Dennis. Opinion: Antonin Scalia was wrong about the meaning of 'bear arms." Washington Post, May 21, 2018. Available at: https://www.washingtonpost.com/opinions/antonin-scalia-was-wrong-about-the-meaning-of-bear-arms/2018/05/21/9243ac66-5d11-11e8-b2b8-08a538d9dbd6_story.html?utm_term=.33cc3c06932d. Accessed 14 Apr. 2019.