



Americans Against Gun Violence  
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2024 Essay Contest \$1,000 Scholarship Award Winner

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*The Heller Decision and Its Progeny: Guarantees of "self-defense" or "death sentences" wrongly decided?*

Seconds, mere seconds, is all it takes for a person to end a life with a gun. As you read this essay, more likely than not, someone will have his or her life ended by the simple action of someone pulling a trigger.

In the 2008 case of *District of Columbia v. Heller*,<sup>1</sup> it took the Supreme Court seven months to decide in a narrow five to four decision that 217 years of legal precedent, including four prior Supreme Court rulings<sup>2</sup> and scores of lower court rulings, had been wrong, and that the gun lobby has been right all along. The Second Amendment, the *Heller* majority ruled, really did confer an individual right to own a gun for the purpose of "self-defense" unrelated to service in a "well regulated militia."

Since 2008, over five people per hour, on average, have served "death sentences," as described by Americans Against Gun Violence, related, in part, to the *Heller* decision – deaths due to gunshot wounds<sup>3</sup> that could have been prevented by the adoption of stringent gun control laws that the *Heller* decision and its progeny have thwarted through the creation of constitutional roadblocks. The Second Amendment guarantees the right to "keep and bear arms" because in 1791, "A well regulated militia" was "necessary to the security of a free state."<sup>4</sup> There's no mention whatsoever in the history or text of the Second Amendment of a need for private gun ownership for "self-defense."

Today, the U.S. has a 1.6 trillion dollar budget for the Department of Defense. The original intent of the Second Amendment has become inapplicable to modern day America; militia formation is no longer vital to protect individual states or the nation as a whole against outside threats. Homegrown gun violence is now the problem. The safety of U.S. residents is threatened by their very neighbors. About 44% of American households contain at least one gun,<sup>5</sup> and over 48,000 people were killed in gun related incidents in 2022, the most recent year for which data are

available on the CDC website.<sup>6</sup> How are law-abiding citizens expected to protect themselves against someone with a gun in a place like the United States, the “self-defense” argument goes, if they don’t possess guns themselves? On the other hand, how do we know which “good guy with a gun” today will become a “bad guy with a gun” tomorrow. Obviously, as gun ownership increases, so does gun violence, and as gun violence increases, then more people want to have “guns for protection,” and this spiral could go on forever.

In the *Heller* decision, a majority of Supreme Court justices who were apparently out of touch with the reality of gun violence in America referred more than 50 times to a need for guns for “self-defense.” There is overwhelming evidence, though, that guns are rarely used successfully by honest, law-abiding citizens to protect themselves, their family members, or their property.<sup>7</sup> The number of defensive gun uses is nothing compared to the number of people who actually lose their lives because of rampant gun violence.

As Americans Against Gun Violence notes in its mission statement, the *Heller* decision created constitutional obstacles, where none previously existed, to the adoption of stringent gun control laws in the United States comparable to the laws in other high income democratic countries. Tens of thousands of people die every year of gunshot wounds in our country. Widespread civilian gun ownership is the problem, not the solution. The *Heller* majority failed to recognize this fact, and in subsequent related decisions,<sup>8</sup> the majority of current Supreme Court justices have compounded the damage done by *Heller*. The failure of these justice to uphold the constitutionality of stringent gun control laws makes them accomplices in our country’s gun violence epidemic.

The judges and justices who ruled for the first 217 years of our nation’s history that the Second Amendment didn’t confer an individual right to own guns were right. The *Heller* majority was wrong. We must overturn the *Heller* decision and its progeny in order to revoke the death sentences that these decisions have effectively issued for tens of thousands of Americans annually.

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<sup>1</sup> District of Columbia v. Heller, 554 US (Supreme Court 2008).

<sup>2</sup> United States v. Cruikshank, 92 US 542 (Supreme Court 1876); Presser v. Illinois, 116 US (Supreme Court 1886); U.S. v. Miller, 307 U.S. 174 (1939) (n.d.); Lewis v. United States, No. 55 (U.S. 1980).

<sup>3</sup> “Fatal Injury Data | WISQARS | Injury Center | CDC,” Centers for Disease Control and Prevention, accessed April 20, 2024, <http://www.cdc.gov/injury/wisqars/fatal.html>.

<sup>4</sup> “U.S. Const. Amend. II.,” 1791.

<sup>5</sup> Gallup Inc, “What Percentage of Americans Own Guns?,” Gallup.com, November 13, 2020, <https://news.gallup.com/poll/264932/percentage-americans-own-guns.aspx>.

<sup>6</sup> “Fatal Injury Data | WISQARS | Injury Center | CDC,” Centers for Disease Control and Prevention, accessed April 1, 2024, <http://www.cdc.gov/injury/wisqars/fatal.html>.

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<sup>7</sup> “Should Law-Abiding People Own Guns for Self Protection,” Americans Against Gun Violence: Facts and FAQ’s, June 1, 2019, <https://aagunv.org/wp-content/uploads/2016/08/FAQ-guns-for-protection.pdf>.

<sup>8</sup> McDonald v. City of Chicago, No. 3020 (SCt 2010); New York State Rifle and Pistol Association, Inc. et al v. Bruen, et al, 142 S. Ct. 2111 (Supreme Court 2022).