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The Right To Bear Arms

The Second Amendment of the Constitution provides the right to bear arms to the people of the United States, but along the years this right has been a crucial issue among different situations that our nation had faced. As we can see through our history the right has created conflict in different Supreme Court cases that had created great controversy upon the right. This controversy had been useful to create laws with the purpose to avoid this situations as well as to control the private possession of firearms and to create a boundary between crime with malicious and self-defense.

Controversy started in 1876 with the case of *U.S. v. Cruikshank*, this was the first case that reached to Supreme Court about the Second Amendment. *U.S. v. Cruikshank* misinterpreted the Second Amendment about the right to an individual to bear and keep arms. This case took place in Colfax, Louisiana on April 13, 1873, when a white militia men, who attacked a Republican man in a protest for opposing Democratic power.

In the shooting some African-Americans were armed and responded back to the attack resulting in the death of around 150 or more people. Three white males were held responsible and convicted under the federal Enforcement Act of 1870. The conviction interfered with the people constitutional rights. The Supreme Court decided that the right was not granted by the Constitution they stated that the right was only to be infringed by Congress the federal government had no power to punish private individuals. The three white males were in all their right to look for their protection against any threat.

After the Supreme Court Decision on the case of *U.S. v. Cruikshank* that applied only to federal government and found the states without power to infringe. In 1886 in *Presser v. Illinois* the case suggested the need of gun control from the state. During this period of time violence what the motor the move people along the need for fair treatment from their labor organizations. This created armed labor groups to get together to form a self-defense organization. Everything was out of control the National Guard and para-militaries were involved to stop the strikes and public disturbances caused by the labor organizations.

Presser v. Illinois is one of those cases in pro of gun control because it helped remove the restriction that was imposed to state and local gun control. This conclusion was arrived after the case presented a different view towards the Second Amendment right which was stated in Article One, Section Eight of the Constitution that grants Congress limited powers over the militia. The Supreme Court concluded that militia was not necessary directed to uniformed forces, but to the people of the state the decision

was that Congress and national government had power over the control of firearms but state was still out-ruled.

Eight years later another controversial event creates doubts about the right to bear arms. In the case of 1894 *Miller v. Texas*, Flanking Miller a white male originally from Virginia established himself in Dallas, Texas where he started a business. He hire a African-American woman, Mattie Anderson, both were arrested for the suspicious of living in marital status with Anderson.

After that incident on the morning of June 16,1892, two officer went to arrest Miler at his shop, but Miller was not at his shop. On June 18, Officer Earl and Riddle went to Miller shop were a shooting between them started ending with the death of Officer Riddle. The order of arrest against Millers was not because of the suspicious marital life he had with Anderson, but rather for violating the weapon law. Miller was convicted to death by Judge Tucker. Miller appeal for the violation of his right, but the appeal was useless, but he was not executed.

Miller v. Texas remains as a case that reveals the distinctions that been suspect of a marital statues with a African-American can create been harassed by society, which in this case the officers did. Supreme Court could not determine if the Second Amendment guarantees the right to keep and bear arms as a continuos and render of the state militia. This created the National Firearms Act of 1934 which taxes and required registration of certain types of firearms.

In 1961, George C. Lewis was convicted in Florida for a felony from breaking and entering with the intent of committing a misdemeanor. Sixtine year later in the state of Virginia Lewis was arrested for suspicious of possessing a firearm with this he violated the restriction of 18 U.S.C. App 1202. The case was hell in a bench trial were his felony was exposed as evidence against him. At this time, it came up that Lewis had not legal representation in the case of 1961, but this was not enough to trow out the convictions.

“Under the Omnibus Crime Control and Safe Streets Act of 1968 forbids the possession of firearms by a convicted felon (O’Bryant, par7)”. This act hurt Lewis defense against the charge, but still he claimed that under that conviction the Fifth and Six Amendments because of the lacking of counsel. Lewis arguments were turn down since the system provide different track to clear a felony that he should of act upon first before obtaining a firearm. “The continuos of this case helped restate the decision of *Miller v. State* by mortifying that in order to keep and bear arms does not have to be some reasonable relationship to the preservation or efficiency of a well regulated militia (Leonardt, p 3).”

In 2007, *Parker v. District of Columbia* decision strike down parts of the District of Columbia gun control law as unconstitutional on the grounds of Second Amendment. The issues were “ban handgun ownership, with exceptions for active and retired law enforcement official and people who registered their handguns before 1976, prohibit carrying handguns anywhere, including in one’s home, without a license; and require all lawfully owned firearms, including long guns, to be stored locked, unloaded, or disassembled (Rose, par12)”.

The appeal stated that the Second Amendment protects individual right to keep and bear arms but the argument was reversed and explained that it could be only when the individual served a militia. An inter-and intra-jurisdiction was created the court denied to reconsider. This has created the “first time in the Nation’s history that a federal court of appeals has struck down a law as unconstitutional under the Second Amendment (Rose, p.3)”. A year later in the case *District of Columbia v. Heller* upheld the individual right to own and use firearms for lawful purpose. This created certain regulations and limitations of types of firearms that can be own, the prohibitions on the possessions of firearms by felons, and conditions on the commercial sale of them.

In 2010 *McDonald v. City of Chicago*, Chicago with a similar law structure as the District of Columbia, argues that their laws are constitutional because the Second Amendment does not apply to state. Stated with the purpose to protect from loss of property and injury of death. Under this law in a high-crime neighborhood Otis McDonald lives. Well known as a community activist always looking for improvement make him target of violent treatment. People from Chicago and Oak Park tire of the crime in the community argue against the laws that they believe violate their right to keep and bear arms.

The argument state two reasons that is a privilege of citizens of the United States and that interpretation of the Privileges or Immunities Clause adopted by *Slaughter-House Cases* should be rejected. In second, they argument that the Fourteenth Amendment Due Process Clause incorporates the Second Amendment right. This case helped stabilize that believe that individuals have the right to keep and bear firearms.

History has provide us with different views of the law in which in some cases it can be in favor or against. As stated in the case above that has created conflict about decisions that surrender the Second Amendment right. Controversy has take the Supreme Court to the process of interpret to the best possible way to portrayed to the people.

As we can tell in the several cases presented one decision has not been enough to answer the demand of the question of The Second Amendment right. Every new

conflict that had been presented carries different views and situations that make the Supreme Court take the decision, already arrived, either changed or accommodated to the situation. We should believe that we are a founded nation under the Constitution and in effect it might now seem fair to the the people, but this does not mean that it wrong just that justice sometimes does not represent to the people of what they believe is fair.

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