

Lee Ross

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Supreme Court Considers Reach of Gun Rights

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WASHINGTON -- The Supreme Court appeared poised Tuesday to issue a ruling that will expand to the states the high court's historic 2008 ruling that individuals have a federally protected right to keep and bear arms.

If so, the decision would mark another hallmark victory for gun rights advocates and likely strike down Chicago's handgun ban that is similar to the Washington D.C. law already invalidated by the justices.

The biggest questions before the court seemed to be how, rather than whether, to issue such a ruling and whether some regulation of firearms could survive. On the latter point, Justice Antonin Scalia said the majority opinion he wrote in the 2008 case "said as much."

The extent of gun rights are "still going to be subject to the political process," said Chief Justice John Roberts, who was in the majority in 2008.

Tuesday's lively hour-long argument featured lawyer Alan Gura, the same man who argued and won the 2008 case. He now represents Otis McDonald who believes Chicago's handgun ban doesn't allow him to adequately protect himself.

Gura argued that the 2008 decision, which only applied to Washington D.C. and other areas of federal control, should equally apply to Chicago and the rest of the country.

"In 1868, our nation made a promise to the McDonald family that they and their descendants would henceforth be American citizens, and with American citizenship came the guarantee enshrined in our Constitution that no state could make or enforce any law which shall abridge the privileges or immunities of American citizenship," Gura told the court.

The discussion over "liberty" was a major philosophical theme of the arguments. Gura and National Rifle Association lawyer Paul Clement argued that the rights articulated in the Second Amendment are fundamental freedoms and would exist to all Americans even if there was no law specifically saying so.

James Feldman, lawyer for the City of Chicago, defended his city's handgun ban and argued why the 2008 decision doesn't comport with the view that it represents a vital protection of liberty that needs to be expanded to the states.

"The right it protects is not implicit in the concept of ordered liberty," Feldman said. "States and local governments have been the primary locus of firearms regulation in this country for the last 220 years. Firearms unlike anything else that is the subject of a provision of the Bill of Rights are designed to injure and kill."

Justice Ruth Bader Ginsburg, who dissented in the 2008 ruling, wondered why the right to bear arms was necessary to extend to the states.

"If the notion is that these are principles that any free society would adopt, well, a lot of free societies have rejected the right to keep and bear arms," she said.

There's a good chance Tuesday's case will result in a 5-4 outcome similar to the 2008 ruling. All of the members of that majority are still on the court and at least one of them would have to rule against extending the Second Amendment protection in order for the opposing side to prevail.

The Associated Press contributed to this report.

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