



A VICTORY FOR THE SECOND AMENDMENT

by Texas Attorney General Greg Abbott

ON JUNE 28, THE U.S. SUPREME COURT issued a ruling that confirmed what Texans have long known: all law abiding Americans have a fundamental right to keep and bear arms – and cities cannot unconstitutionally limit that right.

The case stemmed from a legal challenge brought by Otis McDonald, a 76-year-old Army veteran who lives in a high-crime area of Chicago. McDonald wanted to be able to have a handgun at his home to protect his family from the drug dealers who threatened him with violence because of his efforts to clean up his crime-ridden neighborhood. But the city of Chicago had an ordinance that prohibited law-abiding citizens like McDonald from legally obtaining handguns. The city denied McDonald's handgun registration and prohibited him from legally possessing a handgun.

So McDonald was forced to sue the city over the unconstitutional ban.

When the case reached the U.S. Supreme Court, the Texas Attorney General's Office led a national effort to protect all Americans' right to keep and bear arms. We led a 38 state coalition that defended the Second Amendment and argued that Chicago's handgun ban was unconstitutional.

The city of Chicago contended that Americans' constitutionally protected right to keep and bear arms does not apply to – or place limits on – states or cities. Under the city of Chicago's argument, law-abiding gun owners are not protected from municipal action that abrogates the constitution – because Chicago argued that the Supreme Court's 2008 decision styled *District of Columbia v. Heller* does not

apply to state and local governments.

The states' brief refuted that argument by explaining that the Fourteenth Amendment applies the Second Amendment to cities, counties and other local governmental bodies across the country. As our brief explained, the Founding Fathers understood that the right to keep and bear arms arises from the natural rights of self-defense and resistance to tyranny.

The Supreme Court's ruling last month, which directly cited Texas' brief several times, confirmed that the individual rights secured by the Second Amendment are fundamental rights that must be recognized not just by the federal government – but by state and local governments as well. The court reaffirmed that “the Second Amendment protects a personal right

to keep and bear arms for lawful purposes, most notably for self-defense within the home.”

And after carefully analyzing the historical evidence, the Supreme Court determined that “it is clear that the Framers (of the Constitution) and ratifiers of the Fourteenth Amendment counted the right to keep and bear arms among those fundamental rights necessary to our system of ordered liberty.”

The high court's ruling last month rejected Chicago's argument that cities and towns are above the Constitution and can pass laws that disregard the Second Amendment. The decision marks a victory not only for law-abiding gun owners, but also for the constitutional rights and liberties that our Founders guaranteed to all Americans.

– August 2010