



Summaries of Significant Supreme Court Cases Related to Firearms and Domestic Violence

***United States v. Hayes*, 555 U.S. 415, (2009).** The Supreme Court affirmed the use of a federal law barring people convicted of domestic violence crimes from owning guns. The Court held that states laws against battery need not specifically mention domestic violence to fall under the domestic violence gun ban that was enacted in 1996; the victim of such a crime need only be involved in a domestic relationship with the attacker.

***United States v. Castleman*, 134 S. Ct. 1405 (2014).** In a unanimous judgment, the Supreme Court held that a state conviction for misdemeanor domestic assault qualifies as a “misdemeanor crime of domestic violence” for purposes of possessing a firearm under 18 U.S.C. § 922(g)(9). The Court recognized that domestic violence can include acts that do not always adhere to everyone’s idea of “violent,” such as pushing, grabbing, and shoving, and that federal law intended to cover all domestic violence crimes whether or not “strong and violent” force was involved. The Court determined that, while a number of states had established a high bar for what counts as a “misdemeanor crime of domestic violence,” rather categorizing actions such as pushing and grabbing as “offensive touching,” “offensive touching” is enough to subject a convicted domestic abuser to the federal gun ban. As such, the *Castleman* holding established a unified bar for courts to meet when determining whether someone had committed an act of domestic violence that would prohibit an individual from possessing a firearm.

***Voisine v. United States*, (citation yet to be determined).** In this case, the Supreme Court held that a domestic violence conviction is a misdemeanor crime of violence for purposes of limiting access to firearms. The petitioners argued that domestic assaults committed recklessly—but not knowingly or intentionally—do not qualify as a “crime of domestic violence as defined by 18 U.S.C. §§921(a)(33)(A) and 922(g)(9), and that reckless domestic assaults do not involve the “use of physical force” as necessitated by the law. The court held that reckless assaults satisfy the definition of “use of physical force” and stated that “[a] person who assaults another recklessly ‘use[s]’ force, no less than one who carries out that same action knowingly or intentionally.” As such, the *Voisine* holding concretely established that the federal ban on firearms possession applies to any person with a prior misdemeanor conviction for the “use of physical force” in a domestic violence context, including actions committed recklessly.

Summaries of Other Significant Supreme Court Cases Impacting Domestic Violence and Firearms

***United States v. Cruikshank*, 92 U.S. 542 (1875).** In the first case to deal with the Second Amendment, the Supreme Court held that the Second Amendment does not bar state regulation of firearms. The Court stated that the Second Amendment “has no other effect than to restrict the powers of the national government.” While the *Cruikshank* ruling primarily functioned as a way to disarm African American residents while protecting white Southern paramilitary groups and only addresses the Second Amendment in passing, it remains frequently cited when answering questions on the function and scope of the Second Amendment.

***United States v. Miller*, 307 U.S. 174 (1939).** In perhaps the most cited Supreme Court case on the Second Amendment, the Court held that the “obvious purpose” of the Second Amendment was to “assure the continuation and render possible the effectiveness of” the state militia, and the Amendment “must be interpreted and applied with the end in view.” Essentially, the focus of the Second Amendment was to protect the rights of states to form militias, not the rights of individuals to own guns, and that the protections of the Second Amendment must be understood within the context of militia service. However, the Supreme Court hinted that an individual right may exist in the context of a “common obligation ... to possess arm ... and to cooperate in the work of defense” and that a sawed-off shotgun, the firearm at issue in the case, was unprotected because it had no “reasonable relationship to the preservation or efficiency of a well-regulated militia.” This implied that all “free men” could possess weapons of the type used for militia service, but the Court halted this argument by insisting that only those guns usable in militia service and held for the purpose of militia service were protected by the Second Amendment.

***District of Columbia v. Heller*, 552 U.S. 1229 (2008).** In a 5-4 ruling, the Court held that the Second Amendment confers an individual right to possess firearms unrelated to service in a well-regulated state militia, marking the first time that Supreme Court gave a definite answer on whether the Second Amendment provides an individual right to own and bear arms. In response to Washington, D.C.’s ban on all handguns from the city and requirement that all other guns be kept in homes unloaded and disassembled or trigger-locked, the Court stated that blanket prohibitions on entire categories of guns that could be used for lawful purposes and restrictions that essentially prevented the use of a gun for lawful purposes were not constitutional. However, the Court emphasized that the individual right to bear arms was not unlimited and certain forms of federal regulation remain permissible, including prohibiting the possession of firearms by felons and the mentally ill, the possession of firearms in sensitive places such as school and government buildings, and the imposition of conditions on the commercial sale of firearms. Notably, the Court’s holding only applied to Washington, D.C., rather than nationally.

***McDonald v. Chicago*, 561 U.S. 742 (2010).** Shortly after the *Heller* decision, the Supreme Court ruled that the right to keep and bear arms extends to individuals in each of the 50 U.S. states. The Court ruled that the Second Amendment was incorporated by the due process section of the Fourteenth Amendment and individuals were therefore granted a constitutional right to keep firearms in their homes for self-protection. This right, the Court stated, was greater than the states' power to restrict it. Similar to its holding in *Heller*, the Supreme Court held that state and federal laws prohibiting possession of firearms by felons and the mentally ill and the possession of firearms inside public schools were constitutional.

***Henderson v. United States*, 135 S. Ct. 1780 (2015).** In this case, the Court addressed whether federal law gives felons the right to transfer their lawfully owned firearms to a third party. In a unanimous ruling, the court held that the transfer of a felon's lawfully owned firearms from government custody to a third party is not bared by §922(g) if the court is satisfied that the recipient will not give the felon control over the firearms during or after the transfer. The Court's holding allows felons to ask the government to transfer their firearms to an independent third party, including transfers to dealers for sale on the open market and directed transfers to specific people.

***Caetano v. Massachusetts*, 136 S. Ct. 1027 (2016).** In this recent case, the Supreme Court held that a Massachusetts state law prohibiting the personal possession of stun guns contradicts the precedent established in *District of Columbia v. Heller* and *McDonald v. Chicago*. While the Court did not address whether stun guns constitute "arms" for Second Amendment purposes, the Court concluded that the Second Amendment extends to "all instruments that constitute bearable arms, even those that were not in existence at the time of the founding."