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High court to weigh ban on gun ownership

AP Associated Press

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The Supreme Court said Tuesday it will decide whether the District of Columbia can ban handguns, a case that could produce the most in-depth examination of the constitutional right to "keep and bear arms" in nearly 70 years.

The justices' decision to hear the case could make the divisive debate over guns an issue in the 2008 presidential and congressional elections.

City officials said the law is designed to reduce gun violence, noting that four out of every five homicides this year was committed with a gun. Opponents of the ban pointed to the level of violence to make their case that Washington residents should be allowed to have guns to protect themselves in their homes.

"This is clearly going to be one of the biggest ... cases decided this year," said Georgetown University law professor Randy Barnett. "It is one of the very few times when the Supreme Court has the opportunity to interpret a provision of the Constitution ... unencumbered by previous Supreme Court rulings."

The government of Washington, D.C., is asking the court to uphold its 31-year ban on handgun ownership in the face of a federal appeals court ruling that struck down the ban as incompatible with the Second Amendment. Tuesday's announcement was widely expected, especially after both the District and the man who challenged the handgun ban asked for the high court review.

The main issue before the justices is whether the Second Amendment protects an individual's right to own guns or instead merely sets forth the collective right of states to maintain militias. The former interpretation would permit fewer restrictions on gun ownership.

Gun-control advocates say the Second Amendment was intended to ensure that states could maintain militias, a response to 18th-century fears of an all-powerful national government. Gun rights proponents contend the amendment gives individuals the right to keep guns for private uses, including self-defense.

Alan Gura, a lawyer for Washington residents who challenged the ban, said he was pleased that the justices were considering the case.

Guns be regulated but not banned, Gura said. "This isn't going to let crazy people have guns or felons have guns," he said at a news conference outside the court.

Wayne LaPierre, executive vice president of the National Rifle Association, noted that 44 state constitutions contain some form of gun rights, which are not affected by the court's consideration of Washington's restrictions. "The American people know this is an individual right the way they know that water quenches their thirst," LaPierre said. "The Second Amendment allows no line to be drawn between individuals and their firearms."

Washington Mayor Adrian M. Fenty said city officials were grateful the Supreme Court took the handguns case and believed they would ultimately prevail. Fenty, speaking at a news conference in a District office building, called it "the most important court case the District of Columbia has been involved in and possibly the most important decision a city or state has been involved in for decades."

Paul Helmke, president of the Brady Center to Prevent Gun Violence, said the Supreme Court should "reverse a clearly erroneous decision and make it clear that the Constitution does not prevent communities from having the gun laws they believe are needed to protect public safety."

Barnett, the Georgetown professor, said that even if the court decides there is an individual right to have guns, it still could determine that broad restrictions short of a ban are legal.

Such a decision won't "automatically determine the outcome of any challenge to any gun law," Barnett said.

Arguments probably will be in March, with a decision expected before the end of June. A ruling could energize people on both sides of the issue for the fall campaigns.

Republican presidential candidate Rudy Giuliani, who as New York mayor sued the gun industry for letting criminals get guns, said in a recent interview with The Associated Press that the case "is a very, very strong description of how important personal liberties are in this country and how we have to respect them."

Giuliani now says the Second Amendment gives citizens the right to own handguns and is not, as he previously argued, limited to the rights of states to maintain citizen militias.

The last Supreme Court ruling on the topic came in 1939 in *U.S. v. Miller*, which involved a sawed-off shotgun. That decision supported the collective rights view, but it did not squarely answer the question in the view of many constitutional scholars. Chief Justice John Roberts said at his confirmation hearing that the correct reading of the Second Amendment was "still very much an open issue."

The Second Amendment reads: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed."

Washington banned handguns in 1976, saying it was designed to reduce violent crime in the nation's capital.

The City Council that adopted the ban said it was justified because "handguns have no legitimate use in the purely urban environment of the District of Columbia."

The District is making several arguments in defense of the restriction, including claiming that the Second Amendment involves militia service. It also said the ban is constitutional because it limits the choice of firearms but does not prohibit residents from owning any guns at all. Rifles and shotguns are legal, if kept under lock or disassembled. Businesses may have guns for protection.

Chicago has a similar handgun ban, but few other gun-control laws are as strict as the District's.

Four states — Hawaii, Illinois, Maryland and New York — urged the Supreme Court to take the case because broad application of the appeals court ruling would threaten "all federal and state laws restricting access to firearms."

Dick Anthony Heller, 65, an armed security guard, sued the District after it rejected his application to keep a handgun at his home — about a mile from the court — for protection.

The laws in question in the case do not "merely regulate the possession of firearms," Heller said. Instead, they "amount to a complete prohibition of the possession of all functional firearms within the home."

If the Second Amendment gives individuals the right to have guns, "the laws must yield," he said.

Opponents say the ban plainly has not worked because guns still are readily available, through legal and illegal means. Although the city's homicide rate has declined dramatically since peaking in the early 1990s, Washington still ranks among the nation's highest murder cities.

According to the District's medical examiner, there were 177 homicides in 2006. Of those, 135 were firearm-related. In

1976, the medical examiner said that 135 of the District's 207 homicides were firearm-related, according to a Washington Post article from that era.

The U.S. Court Appeals for the District of Columbia Circuit ruled 2-1 for Heller in March. Judge Laurence Silberman said reasonable regulations still could be permitted but that the ban went too far.

The Bush administration, which has endorsed individual gun-ownership rights, has yet to weigh in on the case.

The case is District of Columbia v. Heller, 07-290.

Associated Press writer Stephen Manning contributed to this report.

(This version CORRECTS the year of the gun ban to 1976.)

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