



Consumer Federation of America

Second Amendment: No Individual Right to Keep and Bear Arms

“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.”

The Second Amendment is perhaps the most misunderstood of the amendments contained in the bill of rights. In fact, according to a 1999 *CBS* poll, 48 percent of the American public mistakenly believes that the Second Amendment guarantees a virtually unfettered right to arm oneself in defense of life, property and against the possibility of government-imposed martial law. Contrary to public opinion, historians, scholars, and most importantly the courts, have virtually all concluded that: **the Second Amendment was designed to protect state organized militias rather than the individual right to own a gun.**

The Supreme Court has never struck down a gun control measure as unconstitutional under the Second Amendment. Federal laws that ban machine guns, as well as city ordinances banning handgun possession, have remained on the books for decades—despite vigorous court challenges. For all its posturing, the National Rifle Association (NRA) has been reluctant to bring its Second Amendment arguments into court. (The last time it did so was in an attempt to overturn the 1981 Morton Grove, Illinois, handgun ban; the NRA appeal was roundly rejected on both the federal and state levels.)

One of the most important cases upholding the collective, militia interpretation is *Lewis v. United States*. The 1980 majority opinion, joined by then Chief Justice Warren Burger and Current Chief Justice William Rehnquist, ruled that the federal prohibition on felons possessing firearms is constitutional. In *Lewis*, the Court stated, “These legislative restrictions on the use of firearms do not trench upon any constitutionally protected liberties.” The opinion listed voting, the practice of medicine and even holding office in labor organizations as “activities far more fundamental than the possession of a firearm.”

Today the Second Amendment functions primarily as a smoke screen ceaselessly conjured by the gun lobby to obscure and ultimately avoid a substantive debate about the role that guns play in American society. The federal government is clearly free to regulate the possession and transfer of firearms in order to promote public safety.