

Name _____ Date _____ Period _____

The Supreme Court's Interpretation of the 2nd Amendment

McDonald v. Chicago, 2010

★★★★★★★★★★★★★★★★★ **Background of the Case** ★★★★★★★★★★★★★★★★★★

The U.S. Supreme Court ruled in the 2008 case of *D.C. v. Heller* that the Second Amendment protected an individual right to keep weapons at home for self-defense. Since the case involved the District of Columbia's handgun ban, the right found in the Second Amendment applied only to the national government. Two years later, the Court struck down a similar gun ban in Chicago, incorporating the Second Amendment right to own guns for self-defense to state and local governments.

Constitutional Issue ★★★★★★★★★★★★★★★★★★

When the Bill of Rights was ratified in 1791, it applied only at the national level. States did not have to abide by the limits it placed on the federal government. When the Fourteenth Amendment was ratified in 1868, it placed limits on the kinds of laws states could pass. Originally meant to protect the civil rights of newly-freed slaves, the Fourteenth Amendment says that states cannot deprive people of "life, liberty, or property, without due process of law." In the late 19th century, the Supreme Court began interpreting the word "liberty" in the Fourteenth Amendment to include some of the rights protected in the Bill of Rights. By the mid-20th century, state and local governments were required to protect most rights in the Bill of Rights, such as freedom of religion, freedom of the press, and others. This application of parts of the Bill of Rights to state and local governments through the Fourteenth Amendment is called the doctrine of selective incorporation. In general, the Court would apply a right to the states if it determined that the right was "fundamental to ordered liberty," or it if was "deeply rooted in this Nation's history and tradition." By the 21st century, the Second Amendment was one of the few remaining rights that had not been applied to the states by the Court. 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." In the 2008 case of *District of Columbia v. Heller*, the Supreme Court heard its first Second Amendment case in more than 60 years. The Court ruled (5-4) that the Second Amendment protected the individual right to keep handguns at home for self-defense.

Since the case involved the District of Columbia (which is under the authority of Congress), the Second Amendment remained unincorporated.

★★★★★★★★★★★★★ **The Supreme Court's Decision** ★★★★★★★★★★★★★★

Two years later, a case challenging the handgun law in the cities of Chicago and Oak Park, Illinois, reached the Court. The laws, similar to the D.C. law, effectively banned handgun possession by almost all private citizens. The Court faced the question of whether to incorporate the Second Amendment. In the ruling in *McDonald*, the Court asked if that right to keep arms for self-defense was fundamental or, deeply rooted in this Nation's history and tradition. The Court held (5-4), "*Heller* points unmistakably to the answer. Self-defense is a basic right, recognized by many legal systems from ancient times to the present, and the *Heller* Court held that individual self-defense is 'the central component' of the Second Amendment right." The Chicago and Oak Park handguns bans were unconstitutional.

DIRECTIONS: Answer the following questions on a separate sheet of paper.

1. What is the doctrine of selective incorporation?
2. What law was in question in the case of *McDonald v. Chicago* (2010)? How did the Court rule on the constitutionality of the law?
3. Why is the 2008 case of *D.C. v. Heller* important to the case of *McDonald v. Chicago* (2010)?
4. Do you agree with the Court that the right to own a handgun for self-defense is fundamental to ordered liberty and/or deeply rooted in this Nation's history and tradition? Explain.
5. Dissenting, Justice Stevens argued against the principle of applying all Bill of Rights provisions to the states, "When a federal court insists that state and local authorities follow its dictates on a matter not critical to personal liberty or procedural justice, the latter may be prevented from engaging in the kind of beneficent 'experimentation in things social and economic' that ultimately redounds to the benefit of all Americans." How would you respond?