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NORTHEASTERN UNIVERSITY LAW JOURNAL PRESENTS



THE SECOND AMENDMENT IN THE NEW CENTURY

Symposium 2010

March 19, 2010

9:00 AM - 4:15 PM

CHAMBER TO CHAMBERS:

THE SECOND AMENDMENT IN THE NEW CENTURY

9:15 AM - 9:30 AM Welcome
Dean Emily Spieler, Katie Hawkins

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9:30 AM - 10:00 AM Keynote Address
Patrick Charles

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10:00 AM - 11:30 AM
WHOSE RIGHT TO BEAR ARMS? WHAT *HELLER* CHANGED
Moderated by Professor Sean Kealy, Boston University School of Law
Prof. David Konig, Patrick Charles, Prof. Darrell Miller

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11:30 AM - 11:45 AM Break

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11:45 AM - 1:15 PM
LAW & ORDER: FIREARM REGULATION IN PRACTICE
Moderated by Professor Peter Enrich, Northeastern University School of Law
Josh Horwitz, Rep. David Linsky, James Livingstone

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1:15 PM - 2:40 PM Lunch
Served in Dockser Commons

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2:45 PM - 4:15 PM
THE FUTURE OF THE RIGHT: *MCDONALD* ONWARD
Moderated by Professor Wendy Parmet, Northeastern University School of Law
Daniel Vice, Prof. Michael O'Shea, Clark Neily

NORNEASTERN UNIVERSITY LAW JOURNAL

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THE FUTURE OF THE RIGHT: MCDONALD ONWARD

2:45 PM - 4:15 PM

Daniel Vice is a Senior Attorney at the Legal Action Project of the Brady Center to Prevent Gun Violence, the nation's largest national, non-partisan, grassroots organization leading the fight to prevent gun violence. The Legal Action Project provides pro bono representation to victims of gun violence and works to hold the gun industry accountable in court for the unsafe design of guns and the distribution of guns to criminals. Mr. Vice has been interviewed on television, radio, and in newspapers, including CNN, CBS, Fox News, and BBC, regarding his work involving gun violence prevention litigation and gun policy. After law school, Mr. Vice clerked for Judge Frank E. Schwelb of the District of Columbia Court of Appeals and worked at public interest law firms in Philadelphia and Washington, DC. Mr. Vice graduated from American University in 1994 and New York University School of Law in 1997.

Michael O'Shea is an Associate Professor at Oklahoma City University School of Law. Professor O'Shea's research focuses on the Second Amendment and the Confrontation Clause of the Sixth Amendment. He is also interested in state constitutions and state court approaches to legal interpretation. Professor O'Shea serves as the Associate Director of Oklahoma City University Law's Center for State Constitutional Law and Government. Prior to teaching, he worked in private practice at Lanthrop & Gage LLP in Kansas City and Mayer, Brown, Rowe & Maw LLP in Chicago. He also clerked for Chief Judge Danny Boggs of the Sixth Circuit and Judge John Gibson of the Eighth Circuit. Professor O'Shea has authored numerous publications including *The Right to Defensive Arms After District of Columbia v. Heller*, 111 W. Va. L. Rev. 349 (2009) and *Federalism and the Implementation of the Right to Arms*, 59 Syracuse L. Rev. 201 (2008). Professor O'Shea graduated cum laude from Harvard University Law School. He received his Bachelor's degree magna cum laude from Harvard University and his Masters from the University of Pittsburgh.

Clark Neily is a Senior Attorney for the Institute for Justice. Mr. Neily litigates economic liberty, property rights, school choice, First Amendment and other constitutional cases in both federal and state courts. Mr. Neily served as co-counsel for the plaintiffs in *District of Columbia v. Heller*, the historic case in which the Supreme Court announced for the first time that the Second Amendment protects an individual's right to keep a gun at home for self-defense. Before joining the Institute for Justice, Mr. Neily spent four years as a litigator at Thompson & Knight LLP in Dallas. After law school, Mr. Neily clerked for Judge Royce Lamberth of the U.S. District Court for the District of Columbia. Mr. Neily received his undergraduate and law degrees from the University of Texas, where he was Chief Articles Editor of the *Texas Law Review*.

Keynote Address

9:30 AM - 10:00 AM

Patrick Charles is a Legal Analyst for the Immigration Reform Law Institute (IRLI) in Washington, DC. Prior to joining the IRLI, he was the Associate Director of the Chastek Library and an Assistant Professor at Gonzaga University School of Law. Mr. Charles is the author of *The Second Amendment: The Intent and Its Interpretation by the States and the Supreme Court* which examines the contentions of individual right theorists and collective right theorists and concludes that the Second Amendment is meant only to protect the right of an individual to keep and bear arms for the purpose of defending the country. Mr. Charles has also authored numerous publications on the Second Amendment and gun regulation including *The Right of Self-Preservation and Resistance: A True Legal and Historical Understanding of the Anglo-American Right to Arms*, 2010 Cardozo L. Rev. De Novo 18. Mr. Charles received a Bachelor's degree from Loyola University of New Orleans, a Masters in Library Science from the University of Washington and a J.D. from the University of Idaho College of Law.



WHOSE RIGHT TO BEAR ARMS? WHAT *HELLER* CHANGED

10:00 AM - 11:30 AM

David Konig is a Professor of History and Law at the Washington University School of Law in St. Louis. Professor Konig has authored numerous publications including: *Why the Second Amendment Has a Preamble: Original Public Meaning and the Political Culture of Revolutionary America*, 56 UCLA L. Rev. 1295 (2009); Brief of Amici Curiae ... In Support of Petitioners, on Writ of Certiorari to the Supreme Court of the United States, District of Columbia, *et al.*, *Petitioners v. Dick Anthony Heller, Respondent*. (No. 07-290) (co-author); *Thomas Jefferson's Armed Citizenry and the Republican Militia*, 1 Alb. Gov't L. Rev. 250 (2008); *Arms and the Man: What Did the Right to "Keep" Arms Mean in the Early Republic?*, 25 Law & Hist. Rev. 177 (2007); *The Second Amendment: A Missing Transatlantic Context for the Historical Meaning of "the right of the people to keep and bear arms"*, 22 Law & Hist. Rev. 119 (2004); *The Persistence of Resistance: Civic Rights, Natural Rights, and Property Rights in the Historical Debate Over the "right of the people to keep and bear arms"*, 73 Fordham L. Rev. 539 (2004). Professor Konig received his Bachelors *magna cum laude* with Highest Honors from New York University and his Masters and Ph.D. in History from Harvard University.

Patrick Charles is a Legal Analyst for the Immigration Reform Law Institute (IRLI) in Washington, DC. Prior to joining the IRLI, he was the Associate Director of the Chastek Library and an Assistant Professor at Gonzaga University School of Law. Mr. Charles is the author of *The Second Amendment: The Intent and Its Interpretation by the States and the Supreme Court* which examines the contentions of individual right theorists and collective right theorists and concludes that the Second Amendment is meant only to protect the right of an individual to keep and bear arms for the purpose of defending the country. Mr. Charles has also authored numerous publications on the Second Amendment and gun regulation including *The Right of Self-Preservation and Resistance: A True Legal and Historical Understanding of the Anglo-American Right to Arms*, 2010 Cardozo L. Rev. De Novo 18. Mr. Charles received a Bachelor's degree from Loyola University of New Orleans, a Masters in Library Science from the University of Washington and a J.D. from the University of Idaho College of Law.

Darrell Miller is a Professor at the University of Cincinnati College of Law. Before beginning his teaching career, Professor Miller spent five years in the litigation department of Vorys, Sater, Seymour and Pease LLP. Professor Miller's research focuses on civil rights, constitutional law and civil procedure. He has published numerous articles, including: *Guns as Smut: Defending the Home-Bound Second Amendment*, 109 Colum. L. Rev. 1278 (2009); *White Cartels, the Civil Rights Act of 1866 and the History of Jones v. Alfred H. Mayer Co.*, 77 Fordham L. Rev. 999 (2008); and *State DOMAs, Neutral Principles and the Mobius of State Action*, 81 Temple L. Rev. 967 (2008). He is currently working on an article exploring the intersection between the common law right to resist arrest and the Second Amendment. Professor Miller is a *cum laude* graduate of Harvard Law School and a former British Marshall Scholar. He also holds degrees from Oxford University and Anderson University.

LAW & ORDER: FIREARM REGULATION IN PRACTICE

11:45 AM - 1:15 PM

Josh Horwitz is the Executive Director of the Coalition to Stop Gun Violence, an organization which seeks to secure freedom from gun violence through research, strategic engagement and effective policy advocacy. Mr. Horwitz is also a visiting scholar at the Johns Hopkins Bloomberg School of Public Health. He has spent nearly two decades working on gun violence prevention issues. Mr. Horwitz is the co-author of *Guns, Democracy and the Insurrectionist Idea*, which demonstrates how reasonable gun control is essential to the survival of democracy and ordered liberty and challenges the proposition that more guns equal more freedom. Mr. Horwitz is a graduate of the University of Michigan and received his law degree from George Washington University School of Law.

David Linsky is currently serving his sixth term in the Massachusetts House of Representatives. He represents the Fifth Middlesex District, which consists of the towns of Natick, Sherborn and Millis. Prior to his election in 1999, Representative Linsky served for fourteen years as an Assistant District Attorney for Middlesex County where he successfully prosecuted over one thousand criminal cases, including murder, sexual assault, gun violence, narcotics trafficking, child abuse and white-collar crime. He has also worked at several Boston law firms and currently practices law in Natick and Boston. Representative Linsky received his Bachelor's degree from Colby College and is a 1982 graduate of Boston College Law School.

James Livingstone is an Assistant District Attorney principally assigned to Cambridge Juvenile Court. He also appears in Middlesex Superior Court, Cambridge District Court, and Waltham District Court. He has prosecuted numerous firearms cases. Prior to joining the District Attorney's Office, he worked in private practice as an Associate at Nystrom, Beckman & Paris LLP in Boston and at Cleary, Gottlieb, Steen & Hamilton LLP in Washington, DC. He has also worked in government practice in the Attorney General's Office in the Commonwealth of the Northern Mariana Islands as the Chief of its Civil Division. Mr. Livingstone graduated from George Washington Law School with High Honors in 1998.