Even ‘Friends’ on Supreme Court Diminish Purpose of 2nd Amendment

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by David Codrea , December 11, 2015

The Supreme Court seems willing to ignore how it and the Constitution it was intended to serve came to be in the first place– citizens with military weapons, a no-compromise demand to be free, and a willingness to kill at the risk of their own lives made it all possible. (The third of four engravings by Amos Doolittle from 1775, depicting the engagement at the North Bridge)

Without explaining why, seven members of the Supreme Court on Monday **declined to hear** the *Friedman v Highland Park* challenge to a Chicago suburb’s clearly unconstitutional ban of so–called “assault weapons” and their standard capacity magazines. The reason why the Democrat appointees on the court did is obvious —they’re collectivists, and willing accomplices of the gun-grabbers. The reason Republican appointees, including Chief Justice Roberts and Justices Kennedy and Alito, declined may be for that reason too, but their presumed “conservative” credentials also open the door for fair speculation on other reasons.

The two judges who disagreed with the majority and wanted to “grant cert,” Clarence Thomas and Antonin Scalia, issued **a detailed dissent** (scroll to page 12 of the Order List), but even that went light on the fundamental reason for having the Second Amendment.

“Roughly 5 million Americans own AR-style semiautomatic rifles,” the dissent observed. “The overwhelming majority of citizens who own and use such rifles do so for lawful purposes, including self-defense and target shooting. Under our precedents, that is all that is needed for citizens to have a right under the Second Amendment to keep such weapons.”

‘This seems to set the precedent for the court to assume (and limit) that 2A is for “(personal) self-defense and target shooting,’” one concerned colleague emailed me. “If the question is framed around personal protection and sporting uses, it’s a corrosive argument.”

The original Friedman petition, while heavy on ancillary reasons, did include acknowledgment that the “affected firearms ‘have some reasonable relationship to the preservation or efficiency of a well regulated militia.’” Still, precedent, including the Supreme Court’s ruling in *Heller*, emphasized that the Second Amendment focused on the “core protection”: the “right of law-abiding, responsible citizens to use arms in defense of hearth and home.” That decision also produced recognition that it is “an individual right unconnected with militia service,” and while that is true and essential , it leaves the “core protection” discussed by the Framers in legal limbo, at least for those who refuse to examine a key reality articulated in **the 1939 *Miller* decision**.

Not to put too fine a point on things, but the amendment does not specify “the security of a free Home.” Such misdirection is a major factor in why the current state of affairs bodes ill for contemporary gun owners and brings us closer to the planned obsolescence of the Second Amendment. At least that’s the goal.

The misrepresentations do not stop there. Wording from a case gun owners regard as a victory is being used against them, and that comes from the phrase everyone uses but no one seems to *want* to understand: “in common use at the time.”

That hardly means what’s “popular” with the sporting crowd, and if that’s what is to be the final qualifier, “We the People” will forever be denied new developments in weaponry.

In *Miller*, the court found a short-barrel shotgun could not be determined protected under the Second Amendment because the court had no evidence its possession had “some reasonable relationship to the preservation or efficiency of a well regulated militia [or] that this weapon is any part of the ordinary military equipment, or that its use could contribute to the common defense.”

That’s the key point being ducked. The function of the militia was — and is — to field citizen soldiers. And these citizens bore arms that were suitable for that purpose, “ordinary military equipment” intended to be taken into “common defense” battles. The militia came with the intent to match and best a professional military threat.

The same still holds true, even if the government is intent on neglecting its Constitutional duties. If a weapon is in common use by soldiers, it is part of that “terrible implement” clause Tench Coxe claimed as “the birthright of an American.” But by limiting arguments to “self-defense in the home,” those who presume to define our right to keep and bear arms can bypass all that.

Meanwhile, the totalitarian lobby and its media cheerleaders are overjoyed, interspersing ridicule with plans for more bans in the offing now that they perceive a green light from the High Court to grab and grab some more. What that means, of course, is with cloistered “justices” turning their backs on blatant injustice and deferring to the status quo, and with emboldened gun-grabbers primed for unlimited localized assaults, things just got a lot more dangerous for everybody in “everytown.”

That’s because some of us will not comply no matter what citizen disarmament edicts regional tyrants enact. And we have pretty good reasons to think the number of Oath Keepers in *deed* as well as in *membership* will surprise quite a few would-be local rulers.

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