

Tuesday, January 15, 2008

## Bush Admin Lawyers Attack Second Amendment - Saluted By Brady Campaign!

### Public 'threatened' by private-firearms ownership.

Government argues gun restrictions 'permitted by the 2 nd Amendment.'



A faithful apprentice strikes again. Yet another fake conservative legal tool gleefully guts the Constitution for his Master - this time coldly disemboweling the Second Amendment.

Here is an excerpt of the Worldnetdaily.com article:

Since "unrestricted" private ownership of guns clearly threatens the public safety, the 2nd Amendment can be interpreted to allow a variety of gun restrictions, according to the Bush administration.

The argument was delivered by U.S. Solicitor General Paul D. Clement in a brief filed with the U.S. Supreme Court in the ongoing arguments over the legality of a District of Columbia ban on handguns in homes, according to a report from the Los Angeles Times.

Clement suggested that gun rights are limited and subject to "reasonable regulation" and said all federal limits on guns should be upheld.

"Given the unquestionable threat to public safety that unrestricted private firearm possession would entail, various categories of firearm-related regulation are permitted by the 2nd Amendment," he wrote in the brief, the Times reported.

He noted especially the federal ban on machine guns and those many other "particularly dangerous types of firearms," and endorsed restrictions on gun ownership by felons, those subject to restraining orders, drug users and "mental defectives."

His arguments came in the closely watched Washington, D.C., ban that would prevent residents from keeping handguns in their homes for self-defense.

Paul Helmke, of the pro-gun control Brady Campaign to Prevent Handgun Violence, told the Times he salutes the administration for its position.

Read the rest [here](#).

My Comments:

There you go! Bush lawyers have sided with the District of Columbia against gun owners, not only arguing that D.C.'s total ban on handguns is constitutional but that **all current federal gun laws should be upheld**, winning praise (a salute no less!) from the gun grabbing victim disarmament crowd over at the Brady Campaign. So nice to see yet another "bipartisan" assault on the American people.

So much for the old saw that Republican politicians, if only they could, would get rid of all of those unconstitutional federal gun laws, but we just need to be patient until they are in a position to do so. Now, when a case is before the Supreme Court, and they actually have a chance (however remote) of striking down those federal gun laws by convincing the Supreme Court to rule those laws unconstitutional, we have the US government, in the form of the Bush Administration controlled Justice Department, chock full of Republican lawyers, arguing to the Court that all of those federal gun laws are perfectly constitutional and nothing in the Second Amendment can be used to strike them down. To the contrary, doing so would be "dangerous"! We now see the final nails being hammered in the coffin of the right to bear arms in America.

First, we had the [Gonzales v. Raich](#) decision, where the Republican lawyers of the Bush Administration argued that there is *no limit whatsoever* to Congress's law making power since Congress can even regulate what a person does in her own back yard, growing a plant, not for sale, but for personal consumption. That decision had a direct and almost immediate impact on gun rights.

In [United States v. Stewart](#), before the Ninth Circuit Court of Appeals, Mr. Stewart argued that his manufacture of homemade machine-guns was not for interstate commerce and was therefore beyond the power of Congress to regulate. He won! The Ninth Circuit agreed! That's right, *the Ninth Circuit* ruled that Congress lacked the power, under the Article I, Section 8 commerce clause, to regulate homemade machine-guns. An amazing decision, which truly surprised many a constitutionalist who thought the federal courts were beyond hope. But then came the Supreme Court's Raich decision. In the aftermath of Raich, the U.S. government, once again with Republican Bush appointed lawyers leading the charge against the Constitution, appealed the Ninth Circuit's decision to the Supreme Court. the Supreme Court ordered the Ninth Circuit to follow Raich, and to reverse its decision in Stewart, because lo and behold, Congress *could* regulate even home-made machine guns (and any other home-made firearms). So now Mr. Stewart, an American gun owning patriot, is still in federal prison thanks to the Bush lawyers and thanks to the Raich decision the Bush Administration pushed for.

So now Congress can make any law it likes. There is no longer a commerce clause challenge to the power of Congress to pass any law, much less a gun law. Forget about pointing out that the federal government is only supposed to have certain, limited, enumerated powers. Your only remaining way to challenge such laws is to argue it violates your rights.

And now here comes the Bush Admin arguing that not only can Congress pass any law it pleases, but you cannot challenge the constitutionality of those laws by evoking the Second Amendment. Sure, they throw us a bone by saying that the Second Amendment somehow protects an individual right, but then they argue that your right to bear arms can be regulated by Congress, and that none of Congress's regulations violate that right. That's right. Not one of the current multitude of federal gun laws and regulations violates your rights - not even outright bans on whole classes of firearms. I'm not clear on what restriction these so-called conservative lawyers would find to ever violate the Second Amendment. Perhaps a total ban on any and all private possession of firearms? Would that do it? So, short of that, any restriction is constitutional so long as you are at least theoretically "permitted" to own *some* kind of firearm?

This is like saying in grand language that "the powers of Congress are few and defined, and limited to those enumerated," but then saying that among the powers enumerated is the power to regulate commerce and *everything* is commerce, so Congress can go ahead and regulate whatever it wants. What a farce of the concept of limited and enumerated powers. What an empty limit on the power of the federal government.

Same here: The Second Amendment protects an "individual right" but that right may be regulated in any way Congress pleases, including banning entire categories of firearms and ammunition, and may track you and your arms at will. What an empty right and a non-existent limit on power.

So now we have a "conservative" administration that argues that the federal government may pass any damn law it pleases, and any damn gun law it pleases.

Forget the illusion that the men in the Bush Administration care about the Constitution. Forget the illusion that your rights are somehow safer with Republicans in office. You have been fooled. Many of us knew that long, long ago. But now perhaps other Americans, especially those who consider themselves conservatives, will finally, after all these years, wake up to this fact.

We are seeing before us a constitutional republic in its final death throes, killed by a thousand treacherous cuts, and we are now seeing the final slashes being inflicted by cold reptilian lawyers who fancy themselves "conservatives" working for a man who truly does treat the Constitution like it is "just a goddamn piece of paper."

Stewart Rhodes

Posted by [Stewart Rhodes](#) at 4:49 PM 

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