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Supreme Court appears to give states, localities green light on gun controls



The Supreme Court in Washington. (Pablo Martinez Monsivais / AP)

BY DAVID G. SAVAGE | STAFF WRITER

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Reporting from Washington — The Supreme Court gave an apparent green light Monday to lawmakers who want to restrict the sale of guns such as the rapid-fire weapons that have been used in the recent wave of mass shootings from Paris to San Bernardino.

The justices by a 7-2 vote turned down a 2nd Amendment challenge to a local ordinance in the Chicago suburb of Highland Park which banned the sale or possession of semiautomatic guns that carry more than 10 rounds of ammunition.

In dissent, Justice Clarence Thomas said the high court, by refusing to consider a challenge to that law, was “relegating the 2nd Amendment to a second-class right.”

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The court’s decision was not a formal ruling -- the justices simply decided not to consider an appeal by gun-rights advocates. But it strongly suggests the majority of the court does not see the 2nd Amendment as protecting a right to own or carry powerful weapons in public.

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“The court’s decision will encourage gun control advocates to push more cities and states to enact assault weapons bans,” said UCLA law professor Adam Winkler, an expert on gun rights.

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“The justices appear anything but eager to enter into the 2nd Amendment fray again,” he added. “Perhaps, like many in America, some of the justices are viewing gun control through the lens of the recent mass shootings.”

The court’s only two previous decisions upholding gun rights struck down city ordinances in Chicago and Washington, D.C., that prohibited residents from keeping a handgun at home for self-defense.

Since then, the justices have repeatedly refused to hear appeals from gun-rights advocates who have sought to extend the 2nd Amendment right beyond handguns at home, to include, for example, carrying weapons in public.

The high court’s action comes at a time of renewed public debate and fear over the use of military-style assault weapons in mass shootings in recent weeks.

Advocates of bans on military-style weapons had pointed to mass shootings before this year and argued that rapid-fire rifles and handguns posed a special danger to public safety.

California and seven other states -- Connecticut, Hawaii, Maryland, Massachusetts, Minnesota, New Jersey and New York -- have adopted laws similar to the Highland Park ordinance as have several other cities in the Chicago area. The court’s decision not to hear the appeal has the effect of upholding the laws in Highland Park and elsewhere.

In the aftermath of the San Bernardino shooting, several California [lawmakers have proposed additional restrictions on gun sales](#) to close what they characterize as loopholes in the state's restrictions, which already are among the toughest in the country.

The justices meeting in their private weekly conferences had considered the gun-rights appeal over two months at a time of repeated mass shootings.

Gun control supporters argue that the recent shootings demonstrate the need for tighter controls. Opponents of gun control say, to the contrary, that the shootings demonstrated the limited effectiveness of such measures, since France and California already strictly regulate gun sales.

Because the court decided not to consider the appeal, the justices in the majority did not issue a written opinion. The dissenters in *Friedman vs. City of Highland Park*, Thomas and Justice Antonin Scalia, wrote to explain why they thought the court should have considered the appeal.

The decision upholds “categorical bans on firearms that millions of Americans commonly own for lawful purposes,” they wrote. “If broad bans on firearms can be upheld based on the conjecture that the public might feel safer (while being no safer at all), then the 2nd Amendment guarantees nothing.”

The case began after Highland Park adopted its ban on semiautomatic weapons in 2013. Dr. Arie Friedman and the Illinois State Rifle Assn. filed suit and contended the measure was unconstitutional. They argued the weapons affected, including the AR-15, were among the most popular guns sold in this country.

“The millions of Americans who use such ‘assault weapons’ use them for the same lawful purposes as any other type of lawful firearm: hunting, recreational shooting and self-defense,” they argued in court papers.

But a federal judge upheld the law. The 7th Circuit Court of Appeals, based in Chicago, did the same in a 2-1 decision in April.

Appeals court Judge Frank Easterbrook said judges should defer to city and state officials who seek to protect the public's safety.

“Assault weapons with large-capacity magazines can fire more shots, faster and thus can be more dangerous in the aggregate,” he said. “Why else are they the weapons of choice in mass shootings?”

Friedman filed an appeal with the high court in July, which won the backing of the National Rifle Assn. and the state attorneys from 23 mostly Republican-led states.

Bans on rapid-fire weapons have been upheld by federal appeals courts in San Francisco and New York in addition to the 7th Circuit panel that upheld the Highland Park ordinance.

Dan Gross, president of the Brady Center, a gun-control advocacy group, said the court's decision was a victory for common sense.

“By rejecting this case, the Supreme Court sided with a community that has taken action to protect itself from the type of violence we've seen in San Bernardino, on college campuses and in movie theaters. The American people have had enough of gun violence,” he said.

But Chuck Michel, a Long Beach lawyer and president of the California Rifle & Pistol Assn., said he still wants to see a formal ruling from the high court on the reach of the 2nd Amendment.

“It is only a matter of time before the Supreme Court takes a case, sets things straight, and properly subjects this and similar unconstitutional laws to renewed challenge,” Michel said.

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