Beat: Politics

SECOND AMENDMENT INFRINGEMENT?

RIGHT TO BEAR ARMS

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USPA NEWS - It would seem to infringe upon an entire society´s rights based on the actions committed by a singular person would be not only significant but intrusive far beyond the extent of usurping the procedural protections of due process and and the constitutional provisions of the rights the people ...

Gun owners across America are unsettled at the tactics and propaganda being pursued to circumvent the second amendment of the United States Constitution. Propaganda comes in many forms and is defined as chiefly derogatory information, especially of a biased or misleading nature, used to promote or publicize a particular political cause or point of view. It was a low blow for politicians to use a singular incident of a school house shooting to push their private agenda by sensationalizing the suffering of those families and their lost loved ones.

How ever as always The Objective Review has decided to take a closer look. It is written as if in stone and enshrined in the United States Constitution that the actions of another cannot be used to punish another. To punish another by depriving them of their rights, but specifically the right to defend themselves, their families and their homes is constitutionally unsound and cruel and unusual.

Moreover, courts must be mindful of the Article III proscription that they may not exercise “executive or administrative duties of a nonjudicial nature.“?- in Almurbati v. Bush, 2005 and 33 similar citations. To be of Judicial nature it must be of, relating to, or proper to courts of law or to the administration of justice, decreed by or proceeding from a court of justice, or appropriate to the office of a judge.

The Preamble of the United States Constitution clearly defines Judicial Nature and the authority behind it. As it states, “We the People of the United States“?, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Furthermore, the Declaration of Independence provides clearly the intent behind the Preamble. The Declaration states in part, We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.““That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed...

There is no doubt the government must have a compelling interest in protecting the rights of the people as it is the people who have employed them to do just that. “The principle of separation of powers was not simply an abstract generalization in the minds of the Framers: it was woven into the document that they drafted in Philadelphia in the summer of 1787.“?- in US v. Moussaoui, 2004 and 150 similar citations.

The Court held that a “significant interference“? with association rights could be sustained only if the defendants “demonstrated a sufficiently important interest and employed means closely drawn to avoid unnecessary abridgment of constitutional freedoms.“?- in Nat. Black Police v. Dist. of Col. Bd. of Elections, 1996 and 34 similar citations. It would seem to infringe upon an entire society´s rights based on the actions committed by a singular person would be not only significant but intrusive far beyond the extent of usurping the procedural protections of due process and and the constitutional provisions of the rights the people instituted the government to protect.

An essential principle of due process is that a deprivation of life, liberty, or property “be preceded by notice and opportunity for hearing appropriate to the nature of the case.“?- in IN RE APPEAL OF GALATAS, 2008 and 443 similar citations. The essential requirements of due process“¦ are notice and an opportunity to respond. The opportunity to present reasons, either in person or in writing, why proposed action should not be taken is a fundamental due process requirement.“? ““ in Mitchell v. Beaumont Independent School District, 2006 and 145 similar citations.

It is well founded throughout American history, culture, liberty and constitutional law that you can not usurp the entire American

people´s individual rights by the acts of one person without giving each American Citizen the right to be heard.

As for the regulation of fire arms inUnited States v. Miller, 307 U.S. 174 (1939) "" The Court stated in part:

"In the absence of any evidence tending to show that possession or use of a "˜shotgun having a barrel of less than eighteen inches in length´ at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice "that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense"¦"

The signification attributed to the term Militia appears from the debates in the Convention, the history and legislation of Colonies and States, and the writings of approved commentators. These show plainly enough that the "Militia comprised all males physically capable of acting in concert for the common defense. "˜A body of citizens enrolled for military discipline.´" And further, that ordinarily when called for service these men were expected to appear "bearing arms supplied by themselves" and of the kind in common use at the time."˜

District of Columbia v. Heller, 554 U.S. 570 (2008) "" The Court ruled the Second Amendment to reference an individual right, holding: "The Second Amendment guarantees an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home."

The United States Constitution states clearly in Article VI that the constitution is the supreme law of the land and the court has confirmed it is an individual right. Therefore an individual right cannot be deprived for the actions of another individual.

In McDonald v. Chicago (2010) "" The Court ruled that the Second Amendment was incorporated against state and local governments, through the Due Process Clause of the Fourteenth Amendment. In the decision, the Court said: In Heller, we held that the Second Amendment protects the right to possess a handgun in the home for the purpose of self-defense. Unless considerations of stare decisis counsel otherwise, a provision of the Bill of Rights that protects a right that is fundamental from an American perspective applies equally to the Federal Government and the States.

We therefore hold that the Due Process Clause of the Fourteenth Amendment incorporates the Second Amendment right recognized in Heller. To have standing to sue in federal court, a plaintiff must allege " `such a personal stake in the outcome of the controversy´ as to warrant his invocation of federal-court jurisdiction and to justify exercise of the court´s remedial powers on his behalf. " - in Thomas v. Mundell, 2009 and 303 similar citations.

Deciding whether a matter has in any measure been committed by the Constitution to another branch of government, or whether the action of that branch exceeds whatever authority has been committed, is itself a delicate exercise in constitutional interpretation, and is a responsibility of this Court as ultimate interpreter of the Constitution. "" in Plato v. Roudebush, 1975 and 343 similar citations.

The second aspect of mootness, the personal stake requirement, is similar to standing in that the named plaintiffs must show "a personal stake in the outcome of the controversy," - in Davis v. Ball Memorial Hosp. Ass´n, Inc., 1985 and 32 similar citations. First, as to justiciability: "The Court´s inquiry necessarily proceeds to the point of deciding whether the duty asserted can be judicially identified and its breach judicially determined, and whether protection for the right asserted can be judicially molded." - in Rose v. Council for Better Educ., Inc., 1989 and 85 similar citations. The right to bear arms has long been asserted, protected and molded.

It is in the opinion of the people, as they have been unsettled, by the propaganda tactics laid upon them in recent events that sensationalized the suffering of individuals due to the acts of one man and such acts could even be interpreted as malicious. A statement is made with "actual malice" if it is made "with knowledge that it [is] false or with reckless disregard of whether it [is] false or not." - in Mata v. Anderson, 2010 and 2,003 similar citations.

To infringe upon the individual right of a gun owner in any way without their due process and chance to be personally heard, can also be interpreted as violating their First Amendment right of free speech and their right to redress their grievances. It would be impossible to appeal an order or policy depriving them of their individual gun rights not to be infringed as in cases implicating the First Amendment, it is the responsibility of the appellate court to "make an independent examination of the whole record." - in Zold v. Township of Mantua, 1991 and 37 similar citations. It would be difficult to examine the record that doe not exist against an individual

depriving him this right and therefore due process of law has been violated.

“We the people“, sounding out through history in America employed and instituted its government to uphold, preserve and protect individual rights, life and liberty as a free and independent nation. The right to defend one's personal interests, property, life, liberty and happiness cannot and should not be infringed without due process based upon the cold, cruel and reckless actions of another. No man nor woman can be held accountable for the crimes of another nor suffer any infringement upon their rights without due process of law.

This has been another objective review by The Objective Review.

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