

Victory in *Peruta v. San Diego*: Ninth Circuit Confirms Right to Carry Arms in Public

Posted on February 14, 2014- NRA-ILA

In a tremendous victory for the right to keep and bear arms, the Ninth Circuit Court of Appeals has confirmed that the Second Amendment protects an individual right to carry firearms for self-defense in public. The landmark decision came in the NRA-supported case of *Peruta v. San Diego County*, brought on behalf of the **CRPA Foundation** and five individuals who were denied carry licenses by the San Diego Sheriff. In its ruling, this federal court struck down a San Diego County Sheriff's policy that prevented most law-abiding adults from getting a license to carry a firearm.

California law generally prohibits the carrying of firearms in public places, but allows sheriffs and chiefs of police to issue licenses to carry that exempt people from that prohibition. California law also sets out criteria for issuing those licenses. An applicant must: 1) be a resident of their respective city or county, 2) be of "good moral character," and 3) have "good cause" for such a license. Applicants must also pass a firearms training course.

Although many rural California counties accept self-defense as "good cause" to get a license to carry, many urban sheriffs and scores of urban chiefs of police across California have a policy, like that of San Diego Sheriff William Gore, that does not recognize self-defense as sufficient "good cause" to get a license to carry. Instead, San Diego requires individuals to prove that they have a special need, beyond the desire to defend themselves and their families, in order to get a license. Under this heightened standard nearly all citizens are disqualified. So Sheriff Gore's restrictive policy was essentially a ban on carrying firearms outside the home for most law-abiding adults, including the plaintiffs.

Peruta was filed in the federal district court in October 2009. That court upheld Sheriff Gore's policy as constitutional, so the plaintiffs immediately appealed that decision to the Ninth Circuit Court of Appeals. The case got a great deal of attention when former Solicitor General, **Paul Clement** joined plaintiffs' legal team. **Mr. Clement argued eloquently** on behalf of gun owners before the Ninth Circuit on December 6, 2012.

In its **opinion reversing** the district court's decision, the Court of Appeals held that San Diego's "good cause" policy is unconstitutional, and echoed the points made in the briefs and by Mr. Clement at oral argument; that the government can ban open carry or concealed carry, but the Second Amendment prohibits the government from banning both.

Peruta was one of many cases that have been filed all over the country challenging the constitutionality of laws limiting the issuance of licenses to carry a firearm in public since the U.S. Supreme Court confirmed in 2008 and 2010 that the Second Amendment prohibits state and local governments from infringing the right to keep *and* bear arms. The cases decided since then have met with mixed results. Many were unfavorable and contrary to the *Heller* decision's analysis. The Seventh Circuit Court of Appeals did confirm the right to carry is protected outside the home in its opinion in another NRA-supported

case, *Shepard v. Madigan*. The *Peruta* court was heavily influenced by the rulings in the *Sheppard* and *Moore* cases. But those decisions did not go as far as *Peruta*, because the issue of carry licenses was not before the court in them. So *Peruta* is the first appellate decision to hold that licenses to carry cannot be denied to law-abiding citizens just because they do not have a special need to carry.

The *Peruta* ruling is a significant victory for the Second Amendment, and for the constitutional rights of all Americans, especially those in the Ninth Circuit. We want our members and supporters to know that your hard work and loyalty is paying big dividends in the vindication of the Second Amendment.