

Tuesday, July 1. 2008

When my least favorite justices issue one of my favorite rulings.

Supreme Court spiral staircase. Generally, it is critical to elect Barack Obama to have less damage done to the Constitution by new federal judicial appointees than the damage that will be wreaked by McCain appointees in such areas as the death penalty, criminal defendants' rights, immigrants' rights, reproductive rights, and free expression. However, one area where McCain appointees likely will do no worse or possibly better than Obama appointees is in an area generally more near and dear to Republicans' hearts than Democrats': defining the reach of Second Amendment rights. In fact, four justices whom I have never wanted on the Supreme Court were in the majority in last Thursday's Heller decision confirming that the right to bear arms is an individual right rather than merely a collective right. Said justices all are appointees of Reagan, Bush I and Bush II: Justices Scalia, Thomas, Alito, and Roberts (C.J.). The fifth justice in the Heller majority is Reagan-appointed Justice Kennedy. I still recommend Obama as the lesser of the evils as compared to McCain, including for judicial appointments, even though McCain's appointees are more likely to interpret Heller more expansively than Obama's appointees. For such prosecutions as possessing firearms in the course of a drug felony, though, Republican appointees are unlikely to be any more favorable to defendants than Democratic appointees. Jon Katz.

Posted by Jon Katz in Criminal Defense at 00:00

I am impressed by the decision and subsequent response as well.

Although, i understand the alarming numbers behind gun violence.

They justices should not be altering the constitution to extremes!
Anonymous on Jul 2 2008, 18:40

Thanks, Marc, for your comment.

Considering your background as a former prosecutor and judge, did you get a sense of how the cops you have dealt with think of gun control and the Second Amendment?

Thanks .Jon
Anonymous on Jul 10 2008, 20:46