

Monday, May 14, 2007

### **Will the Supreme Court address the Second Amendment head on?**

Image from the Government Printing Office's website. Last March, the United States Court of Appeals for the District of Columbia Circuit overturned the District's blanket handgun ban. (See my further discussion here). On May 8, the Court of Appeals denied a rehearing or reconsideration of the case before the full court. Although the Washington Post's editorial page supports an appeal to the Supreme Court, the same editorial acknowledges that the Supreme Court last ruled on Second Amendment rights over sixty-five years ago, and this piece elsewhere in the Post addresses the significant alignment of Supreme Court justices who might be favorable to those asserting an individual's Second Amendment right to keep guns at home. Moreover, if the Supreme Court accepts this case for review, the President, through the Solicitor General, will get argument time, so it remains to be seen whether any Supreme Court hearing takes place when the White House is still with Bush II, who seems favorable to applying the Second Amendment to individuals, or if a new president is in office by then. With the next inauguration date twenty months off, it is a good bet that Bush II will get to argue if the Supreme Court grants an appeal. If the Supreme Court accepts an appeal in this case, will it address head-on the extent to which the Second Amendment applies to individuals? I expect that if the Supreme Court declares any Second Amendment rights for individuals, that the Court might limit that right to such narrow areas as possessing guns at home, and will leave the remainder of that right for the lower courts to address. By the way, I am far from the only non-NRA member and Bush II loather who interprets the Second Amendment to apply to individuals. Jon Katz

Posted by Jon Katz in Constitutional Law at 00:05