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## **Chicago, Oak Park Gun Bans Upheld by Seventh Circuit; NRA Appeals to Supreme Court**

By Laura DeKoven Waxman

The Seventh Circuit Court of Appeals rendered a quick decision June 2 to uphold Chicago and Oak Park's gun bans, which had been challenged by the National Rifle Association. That challenge – the first of several suits filed by the NRA – followed the Supreme Court decision in *District of Columbia v. Heller* in June 2008 that the Second Amendment protected an individual right to “keep and bear arms” in the District of Columbia and, therefore, overturned Washington, DC's gun ban.

In its decision in *MacDonald v. Chicago*, the Seventh Circuit pointed to the Supreme Court's finding in *Heller* that the Second Amendment applies only to the Federal Government, thus rejecting its application to the states. The Court further stated that “the Constitution establishes a federal republic where local differences are to be cherished as elements of liberty rather than extirpated in order to produce a single, nationally applicable rule.... Federalism is an older and more deeply rooted tradition than is a right to carry any particular kind of weapon.” The Court concluded that only the Supreme Court can decide whether the Second Amendment can be extended to the states through incorporation.

*Otis McDonald, et al, and National Rifle Association of America, Inc. et al, v. City of Chicago, et al, and Village of Oak Park* was originally filed in the U.S. District Court for the Northern District of Illinois. That court rejected the plaintiffs' argument last December. The plaintiffs then appealed to the Seventh Circuit Court. They filed a petition for certiorari with the U.S. Supreme Court on June 3, the day following the Seventh Circuit's decision.

The Conference of Mayors filed an amicus brief in the case April 24. That brief argued that *Heller* did not extend the Second Amendment to state and local governments, and further emphasized the central role in fighting crime in cities which gun control laws play.