

Thursday, November 5, 2009

[For now at least, the Court of Special Appeals finds no Second Amendment protection against Maryland's firearm regulations.](#)

Williams v. State of Maryland, Record No. 01999, (Court of Special Appeals, Sept. Term, 2008)

In an opinion filed October 30, 2009, the Court of Special Appeals held that – for now at least – Maryland’s prohibition on transportation of a handgun (Md. Crim. Law Code Ann. § 4-203) is not subject to Second Amendment analysis and therefore does not violate a defendant’s right to keep and bear arms under the United States Constitution.

The crux of the opinion (authored by Judge Matricciani) is simply that the Second Amendment of the United States Constitution (“A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed”) does not apply to the states. Moreover, the Maryland Constitution contains no “corollary of the federal constitutional right codified in the Second Amendment.”

Therefore, according to the holding, the argument that carried the day in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008) is of no avail against Maryland’s statute regulating firearms. As the Court of Special Appeals noted, the United States Supreme Court has recently taken up this very question in *McDonald v. City of Chicago*, No. 08-1521 (September 30, 2009) and is likely to decide it by June or July, 2010.

In the meantime, the Court of Special Appeals held, “Until the Supreme Court rules definitively on incorporation of the Second Amendment, we must assume, without deciding, that it has not been incorporated.”

Posted by [Brennan Sullivan and McKenna](#)