

## U.S. Supreme Court – Gun Case is Moot

In a two-page *per curiam* (unauthored) opinion in [New York State Rifle & Pistol Association v. City of New York](#), the U.S. Supreme Court held that a challenge to New York City's rule disallowing residents to transport firearms to a second home or shooting range outside of the city is moot. The State and Local Legal Center (SLLC) filed an [amicus brief](#) arguing the rule was constitutional.

The Supreme Court concluded the case was moot because after the Court agreed to hear it “the State of New York amended its firearm licensing statute, and the City amended the rule so that [residents] may now transport firearms to a second home or shooting range outside of the city, which is the precise relief . . . requested.”

The opinion pointed to two unanswered questions in this case which the lower courts must resolve.

First, New York State Rifle & Pistol Association argues the “new rule may still infringe their rights” by preventing stops for coffee, gas, food, etc. on the way to second homes or shooting ranges outside of the city. The City claims such “routine stops are entirely permissible under the new rule.” The Supreme Court didn’t resolve the issue quoting precedent which explains “where the mootness is attributable to a change in the legal framework governing the case, and where the plaintiff may have some residual claim under the new framework that was understandably not asserted previously, our practice is to vacate the judgment and remand for further proceedings in which the parties may, if necessary, amend their pleadings or develop the record more fully.”

Second, New York State Rifle & Pistol Association asked for damages with respect to the old rule for the first time “well into the litigation in this Court.” On remand the lower court may decide whether the Association is still able to add a damages claim.

Justice Alito wrote a lengthy dissent which Justice Gorsuch joined in full and Justice Thomas joined in part. Justice Alito conceded that the New York State Rifle & Pistol Association got most of what it wanted when the law changed but stated that is not the test for mootness. According to the dissent case “becomes moot only when it is *impossible* for a court to grant *any effectual relief whatever* to the prevailing party.” The dissent also concluded the it wasn’t a “close question” that New York City’s rule violated the Second Amendment.

Justice Kavanaugh wrote a concurring opinion agreeing that the case was moot and additional claims should be decided by the lower courts. He also agreed with the dissent that some lower court cases upholding gun regulations may not have been decided correctly.

The SLLC *amicus* brief argued New York City’s former rule is constitutional because it only imposes a modest burden on those who wish to “bear” arms in public places. It also agreed new complaints with the revised rule should be heard by the lower courts instead of the Supreme Court.

Lawrence Rosenthal, Chapman University, Fowler School of Law wrote the SLLC *amicus* brief which the following organizations joined: National League of Cities, U.S. Conference of Mayors, and the International Municipal Lawyers Association.

*Case recap provided by Lisa Soronen, Executive Director, State & Local Legal Center (SLLC)*