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Kids, Leave the Guns at Home: Why Maryland's 'Good and Substantial Reason' Requirement Comports with Constitutional Aims in the Post-Heller Era

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KIDS, LEAVE THE GUNS AT HOME: WHY MARYLAND'S "GOOD AND SUBSTANTIAL REASON" REQUIREMENT COMPORTS WITH CONSTITUTIONAL AIMS IN THE POST-HELLER ERA

by Julia Johnson

I. INTRODUCTION

After the Supreme Court's seminal holding in *District of Columbia v. Heller*, lower courts have struggled to ascertain the scope of individual handgun rights conferred by the Second Amendment.[1] *Heller's* narrow holding, conspicuously silent as to the Court's views regarding handgun access *outside* the home, has provided only limited guidance for lower courts.[2] In declining to promulgate a modern conception of the boundaries of Second Amendment rights, *Heller* has left lower courts scrambling upon review of many State gun-control policies, leaving some of these courts to erroneously cling to tangential analysis insufficiently correlated to the issue at hand.[3] As in *Woollard v. Sheridan*,[4] this consequent misanalysis has resulted in policy implications that stray far from aims of the Framers.

In *Woollard*, the Court undertook review of Maryland's handgun provision and determined that the requirement was unconstitutional pursuant to a supposedly logical, yet wholly untenable, line of reasoning. Instead, per the rationale developed in this article, the Court failed to recognize that the Second Amendment right to handgun access outside the home, if one exists at all, is neither guaranteed nor extensive, but are qualified and limited by public safety considerations.

II. FACTS

Pursuant to Maryland's Criminal Law Code, §4-203 (hereafter "provision"), the State of Maryland mandates that an individual carrying a gun outside the home, either as open or concealed carry, must possess a State-issued handgun permit.[5] To obtain a permit, an applicant must first demonstrate that he lacks specific criminal or drug convictions, has a stable character, and is neither addicted to drugs nor an alcoholic.[6] In addition, the Secretary of the State Police (hereafter "Secretary") must determine that the applicant "has good and substantial reason to wear, carry, or transport a handgun" before the permit may be issued.[7] The Handgun Permit Unit (hereafter "Permit Unit") serves as the Secretary's designee and reviews applications for handgun permits within the State.[8] In making a decision on an applicant's file, the Permit Unit looks to four "general categories" demonstrating a "good and substantial reason" under which reasonable need for handgun use outside the home may occur.[9] An applicant must successfully demonstrate one of these factors to be granted a permit.[10]

At issue here is the fourth and final provision, "personal protection."[11] To succeed pursuant to this provision, an applicant must demonstrate "some sort

1 *See* Stacey L. Sobel, *The Tsunami of Legal Uncertainty: What's a Court to Do Post-McDonald?*, 21 Cornell J.L. & Pub. Pol'y 489, 490-1 (2012).
2 *Id.*
3 *Id.*
4 *Woollard v. Sheridan*, 863 F. Supp. 2d 462 (D. Md. 2012), abrogated by *Woollard v. Gallagher*, 712 F.3d 865, 878 (4th Cir. 2014)(Reversing and providing that "[w]e are convinced by the State's evidence that there is a reasonable fit between the good-and-substantial-reason requirement and Maryland's objectives of protecting public safety and preventing crime").
5 *Id.* at 464.
6 *Id.* at 465.
7 *Id.*
8 *Id.*
9 *Id.*
10 *Woollard*, 863 F. Supp. 2d at 465.
11 *Id.*

of objectively heightened threat, above and beyond the 'personal anxiety' or apprehension of an average person."[12]

If the Permit Unit denies an applicant after review, the applicant may appeal to the Handgun Permit Review Board (hereafter "Board"), which will either reverse or confirm the decision.[13] Upon appeal, the Board also utilizes a multi-factor criterion to determine whether the Permit Unit's decision should be upheld.[14]

On December 24, 2002, Plaintiff Raymond Woollard was at home in rural Baltimore County, Maryland, when Kris Lee Abbott broke into the home to obtain his wife's car keys to drive into the city to purchase drugs.[15] During the incident, Woollard and Abbott engaged in a violent quarrel wherein the use of deadly force was threatened.[16] Abbott received a sentence of three years' probation after being charged with first-degree burglary for the incident, and was subsequently incarcerated after violating his probation terms.[17]

In 2003, Woollard applied, and was approved, for a handgun permit in order to protect himself from Abbott. The permit was renewed in 2006 after Abbott's prison release.[18] However, when Woollard again applied in 2009 to renew his handgun permit, his application was denied after the Permit Unit concluded that he had failed to produce sufficient evidence demonstrating a present threat necessitating the use of a handgun, and the Unit held that "general self-defense" was an inadequate basis for granting a permit.[19]

Woollard appealed the decision via both the informal review procedures of the Permit Unit and, subsequently, to the Board, which confirmed the denial.[20]

III. LEGAL BACKGROUND

In *Heller*, the Supreme Court held that a District of Columbia provision causing the absolute prohibition of firearm use for self-defense within the home unconstitutionally violated the Second Amendment.[21] Acknowledging that handgun violence in the nation continues to pose a threat to public safety, the Court maintained that "the enshrinement of constitutional rights necessarily takes certain policy choices off the table."[22] Despite the Court's vehemence in safeguarding individual handgun access within the home, *Heller* failed to provide guidance as to the transferability of these rights outside the home.[23] The foregoing policy restrictions were extended to the governing bodies of the States in *McDonald v. City of Chicago*.[24]

Fortunately for courts scrambling to comprehend *Heller's* bounds, the Supreme Court flagged two limitations on the right: (1) restrictions upon the types of weapons whose use is protected and (2) "presumptively lawful regulatory measures."[25] Regarding the former, only those weapons "typically possessed by law-abiding citizens for lawful purposes" fall under the scope of Second Amendment protections.[26] However, as to the latter, courts have grappled to comprehend *Heller's* interpretation of "presumptively lawful" measures and multiple interpretations are plausible.[27]

In addition, laws limiting an individual's capacity for self-defense, may be less likely to pass constitutional muster because this capacity is "fundamental" to the Second Amendment right and even its "central component."[28] However, an individual's right to self-defense via firearms generally becomes more limited outside of the home because "public safety interests often outweigh individual interests in self-defense."[29]

Despite concern over *Heller's* ambiguities, a two-prong test is often used for analysis of Second Amendment challenges.[30] Upon review of a Second

12 *Id.*
13 *Id.*
14 *Id.*
15 *Id.*
16 *Woollard,* 863 F. Supp. 2d at 465.
17 *Id.*
18 *Id.*
19 *Id.*
20 *Id.*
21 *District of Columbia. v. Heller*, 554 U.S. 570, 635–36 (2008).
22 *Id.* at 636.
23 *Id.* at 635.
24 130 S.Ct. 3020, 3050 (2010).
25 *United States v. Chester*, 628 F.3d 673, 676 (4th Cir. 2010) (citing *D.C. v. Heller*, 554 U.S. 570, 625 (2008)).
26 *Id.*
27 *Id.* (Stating that presumptively lawful requirements may include provisions that "regulate conduct outside the scope of the Second Amendment," or those that "pass muster under any standard of scrutiny.")
28 *United States v. Marzzarella*, 614 F.3d 85, 91 (3d Cir. 2010).
29 *United States v. Masciandaro*, 638 F.3d 458, 470 (4th Cir. 2011).
30 *Chester*, 628 F.3d at 680.

Amendment claim, the receiving court must first determine "whether the challenged law imposes a burden on conduct falling within the scope of the Second Amendment's guarantee" as it was historically understood "at the time of ratification."[31] If the court determines that the provision does burden an individual's Second Amendment rights, then the court next undertakes analysis of the issue under the latter prong, and applies "an appropriate form of means-end scrutiny."[32] Conversely, if the issue does not affect these rights, the analysis ends there.[33]

After determining review of the challenged provision is appropriate, a court must ascertain the most suitable "form of means-end scrutiny."[34] Particularly, as the severity of the burden increases, the level of scrutiny applied should become more stringent, whereas "laws that merely regulate rather than restrict . . . may be more easily justified."[35]

Many courts have determined that intermediate scrutiny is the most appropriate standard of review for state gun-control regulations.[36] *Heller* failed to articulate the proper level of scrutiny for analysis of Second Amendment contentions[37]; however, the Court rejected rational basis review. Since strict scrutiny is likely to deprive lawmakers of their capacities to create legislation to fight against "armed mayhem," intermediate scrutiny is often used to analyze the irreconcilable tension between individual rights and public safety considerations.[38]

Firearm provisions under intermediate scrutiny do not lend themselves to easy decision-making.[39] Under intermediate scrutiny review, the fit between the legitimate goal and regulation undertaken for its furtherance need not be perfect, but merely substantial, and does "not require that a regulation be the least intrusive means of achieving the relevant government objective, or that there be no burden whatsoever on the individual right."[40] Consequently, in determining the constitutionality of a given provision, lower courts may be in for a tumultuous ride – one that hinges solely upon a determination of "reasonableness."

IV. HOLDING

The *Woollard* Court determined that while the State undeniably has a legitimate goal in reducing handgun access, the "good and substantial reason" requirement failed to achieve these aims in a satisfactory manner.[41] Instead, the Court criticized the provision as overbroad, indiscriminate, and "not tailored to the problem it is intended to solve."[42]

In undertaking the analysis of Woollard's contentions, the Court followed other jurisdictions in determining that intermediate scrutiny review was appropriate.[43] As in *United States v. Masciandaro*, which held that "a lesser showing is necessary with respect to laws that burden the right to keep and bear arms outside the home,"[44] the *Woollard* Court also agreed that strict scrutiny review was improper because Woollard's claims pertained exclusively to handgun use outside the home, where the necessity for handgun access was less acute.[45] Intermediate scrutiny was most fitting because Woollard's claims fell "within this same category of non-core Second Amendment protection."[46]

The Court then delved into an original analysis of the scope of an individual's Second Amendment rights to handgun possession outside the home.[47] Acknowledging that its precedent had declined to explore this murky issue in fear of the ramifications of so doing,

31 *Id.* As an example of regulation deemed "presumptively lawful," *Heller* and its progeny have continually upheld "longstanding regulatory measures," including barring handgun access to felons and the mentally ill, handgun restrictions imposed in schools and government buildings, certain restrictions on the carry of concealed weapons, and "laws imposing conditions and qualifications on the commercial sale of arms."

32 *Id.*

33 *Id.*

34 *Id.*

35 *Chester,* 628 F.3d at 682 (citing *United States v. Skoien*, 587 F.3d 803, 813-14 (2009) (vacated)).

36 *Id.* at 682.

37 *Id.*

38 *Masciandaro*, 638 F.3d at 471.

39 Eugene Volokh, *Implementing the Right to Keep and Bear Arms for Self-Defense: an Analytical Framework and a Research Agenda*, 56 UCLA L. Rev. 1443, 1470 (2009).

40 *Masciandaro*, 638 F.3d at 474.

41 *Woollard*, 863 F. Supp. 2d at 474.

42 *Id.*

43 *Masciandaro*, 638 F.3d at 460.

44 *Id.* at 469-71.

45 *Woollard*, 863 F. Supp. 2d at 475.

46 *Id.*at 468.

47 *Id.*

the *Woollard* Court declared that it could not resolve the instant case without venturing "into the unmapped reaches of Second Amendment jurisprudence."[48] Thereafter, the Court embarked upon an ambitious quest to reach its own conclusion, clinging to the few clues provided in *Heller*.

Beginning its analysis, the Court first sought guidance from the express terms of *Heller*. Alleging that *Heller*'s declaration that the need for self-defense was "most acute" in the home necessarily supported the existence of an area where this need is not "most acute," the *Woollard* Court opined that logic demanded handgun rights outside the home.[49] In addition, citing dicta from *Masciandaro* that "the Second Amendment's protections must extend beyond the home," because "self-defense has to take place wherever [a] person happens to be,"[50] the *Woollard* Court proposed that the Second Amendment's provisions necessarily implied an individual right to handgun access outside the home for general self-defense.[51] However, the Court remained silent on the scope of this right extending beyond the facts of the instant case.[52]

Next, the Court reviewed Woollard's three attacks upon the constitutionality of Maryland's handgun provision. Decrying the shortfalls of the provision, Woollard alleged that the regulation (1) "vests unbridled discretion" in State officials, (2) is insufficiently tailored to the State's legitimate interest in public safety, and (3) operates as a flagrant violation of the Fourteenth Amendment.[53]

Regarding Woollard's first contention, the Court dispelled a finding that State officials possessed "unbridled discretion" while applying provisions of the statute because the Secretary had developed criterion to guide decision-making and to limit official discretion.[54] Moreover, the Court pointed to an applicant's capacity to appeal permit denials through full review by the Board.[55]

Regarding Woollard's second contention, the Court instigated analysis as to whether Maryland's "good and substantial" requirement was adequately tailored to public safety considerations. To pass constitutional muster, a gun-control mechanism must be "narrow, objective and definite."[56] Utilizing intermediate scrutiny as a lens, the Court conceded that the fit between the legislation and the State interest "need not be perfect."[57]

Nonetheless, the Court held that the Maryland provision failed to withstand intermediate scrutiny because the challenged legislation overly burdened individual rights, while failing to adequately promote public safety.[58] The Court chided the provision as a "rationing system" whose effects were akin to "a law indiscriminately limiting the issuance of a permit to every tenth applicant."[59]

In addition, the Court opined that the "good and substantial reason" requirement was unlikely to improve public safety because the challenged regulation placed deadly weapons in the hands of those individuals *most* likely to be victimized, and thus, those individuals with the greatest propensity to "use them in a violent situation."[60] Accordingly, while conceding the State's valid interest in ensuring public safety, the "good and substantial reason" requirement insufficiently furthered these aims.[61]

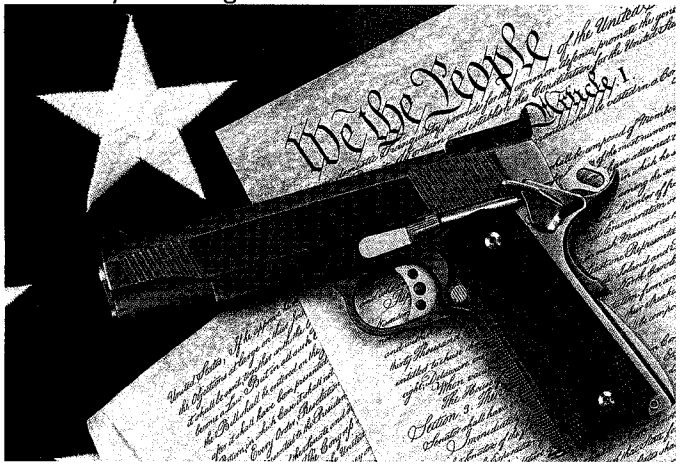
V. ANALYSIS

In quashing the Maryland handgun provision, the Court erred via several avenues in its comprehension of contemporary Second Amendment jurisprudence and acceptable restrictions upon individual handgun rights. First, Maryland's handgun provision does not necessarily fall within *Heller's* boundaries, the narrow holding of which was limited to handgun access exclusively within the home.[62] Second, even if *Heller* encompassed the facts of the instant case, *Heller* bars only the *absolute* prohibition of handguns;[63] whereas here, handguns may be made available to those individuals

48 *Id.* at 469.
49 *Id.* at 469.
50 *Masciandaro*, 638 F.3d at 468.
51 *Woollard*, 863 F. Supp. 2d at 471.
52 *Id.*
53 *Id.*
54 *Id.* at 472–73.
55 *Id.* at 474.
56 *Id.* at 472.
57 *Woollard*, 863 F. Supp. 2d at 475.
58 *Id.* at 474–75.
59 *Id.* at 474.
60 *Id.*
61 *Id.* at 475 (the Court declined to review Woollard's third contention that the Maryland provision was an Equal Protection challenge pursuant to the Fourteenth Amendment because Woollard's Second Amendment claim provided a sufficient framework to analyze the manner).
62 *United States v. Skoien*, 614 F.3d 638, 640 (7th Cir. 2010).
63 *Heller*, 554 U.S. at 635–36.

with demonstrated need[64] and, therefore, the legislation merely serves to regulate handgun access outside the home, whilst leaving handgun rights within the home unaffected.[65] Finally, the Court speciously overlooked the core, fundamental aim of the Second Amendment right – facilitating an individual's capacity for self-defense.[66]

Thus, *Heller* neither supports the creation of handgun rights for "general self-defense" outside the home, nor does it disavow the categorical exclusions present in Maryland's handgun provision.[67] In holding that Maryland sought to reach its valid interests in a



constitutionally impermissible manner,[68] *Woollard* cites neither precedent nor doctrine to buttress its claims, but instead pulls this idea from the sky. Consequently, the *Woollard* Court's handiwork is wholly at odds with the purpose for the Second Amendment's founding,[69] deviates from other jurisdictions,[70] and spikes the deepest fears of public safety activists.[71]

A. A Right to Individual Handgun Access is Not Presupposed under Heller

At no point in *Heller* was a right to handgun possession outside the home either discussed or recognized, and "the ruling itself was exceedingly narrow" with the Court leaving "numerous questions undecided."[72] *Woollard*, swaying against the bulk of those decisions rendered by other courts, found a ready companion in *Heller* and *McDonald*,[73] but given their limited expanse, these opinions should not have formed the basis for a contention that lay only on the periphery of *Heller's* limited proscriptions.[74] As stated aptly in *Pirszczatoski v. Filko*, "if the . . . Court . . . had intended to create a broader general right to carry for self-defense outside the home, *Heller* would have done so explicitly."[75]

Moreover, *Heller* explicitly banned only the *absolute prohibition* of handguns,[76] whereas Maryland's handgun provision merely regulates individual access to handguns but stops short of absolutely prohibiting their use throughout the entire populace.[77] Consequently, when *Heller* averred that the guarantee under the Second Amendment "necessarily takes certain policy choices off the table,"[78] the Maryland provision is not encompassed within these restrictions.

In addition to improperly applying *Heller*, *Woollard* also fell prey to shoddy logic. Particularly, *Woollard* egregiously erred by entertaining the logical fallacy that individual handgun rights must necessarily extend beyond the home.[79] *Heller's* safeguarding of handgun

64 *Woollard*, 863 F. Supp. 2d. at 475.
65 *Id.* at 469.
66 *Moore v. Madigan*, 842 F. Supp. 2d 1092, 1103 (C.D. Ill. 2012).
67 *Heller*, 554 U.S. at 635–36.
68 *Woollard*, 863 F. Supp. 2d at 475.
69 Patrick J. Charles, *Scribble Scrabble, The Second Amendment, and Historical Guideposts: A Short Reply to Lawrence Rosenthal and Joyce Lee Malcom*, 105 Nw. U.L. Rev. 227, 229 (2011) (stating that "the fact of the matter is that the entire purpose of the Second Amendment was the furtherance of the 'public good'").
70 *See Moore*, 842 F. Supp. 2d at 1103; *Piszczatoski v. Filko*, 840 F. Supp. 2d 813, 835 (D. N. J. 2012).
71 Gary Kleck & E. Britt Patterson, *The Impact of Gun Control and Gun Ownership Levels on Violence Rates*, 9 Journal of Quant. Crim. 249, 250 (1993).
72 Cass R. Sunstein, *Second Amendment Minimalism: Heller as Griswold*, Harv. L. Rev. 246, 267 (2008).
73 *Woollard*, 863 F. Supp. 2d at 466.
74 *See, e.g., State v, Knight,* 218 P.3d 1177, 1189-90 (Kan. App. 2009); *Williams v. State*, 10 A.3d 1167, 1176 (Md. 2011).
75 840 F. Supp. 2d 813, 833 (D.N.J. 2012).
76 *Heller*, 554 U.S. at 635–36.
77 *Woollard*, 863 F. Supp. 2d at 465.
78 *Heller*, 554 U.S. at 570.
79 *Piszczatoski*, 840 F. Supp. 2d at 828 (noting "the logical fallacy of the plaintiff's argument that the sensitive places exception necessitates the interpretation that the Supreme Court recognized a general right to carry outside the home is easily demonstrated").

rights within the home, where this need is "most acute," does not automatically sustain an inference that those rights apply where "that need is not 'most acute.'"[80] The absolute grant of a right in one arena does not, without more, transfer this right into another realm. Instead, logical reasoning allows for speculation that this right (1) may pertain exclusively to the home, as the term "most acute" operates merely as a descriptive qualifier,[81] (2) may exist in only a limited capacity outside the home, one which excludes "general self-defense,"[82] and (3) may be limited to certain qualifying individuals following government action, such as after granting a handgun permit, as depicted in the Maryland provision.[83] Consequently, when *Woollard* opined that an individual need only "the right's existence" to gain an ability to exercise his right, the Court presupposed the presence of a right to handgun access outside the home, in situations akin to Woollard's, when none may exist.[84]

B. Heller and its Progeny Do Not Support the Woollard Court's Decision

Maryland's handgun provision should not be rendered constitutionally infirm as a consequence of its restrictive, categorical criterion because the provision does not violate the policy forbearances of *Heller* and *McDonald*.[85]

Furthering this contention, strong government regulation pertaining to handgun access outside the home, as demonstrated in the Maryland provision, harmonizes with *Heller*. *Heller*, by intentionally withholding guidance to State lawmakers for developing appropriate legislation, fosters an inference of the Supreme Court's intention to allow broad latitude to the States in instigating handgun regulations.[86] Consequently, given that the *Woollard* Court concedes this latitude, *Woollard's* holding is seemingly unsubstantiated, as the provision does not arbitrarily take the right away from a given individual, but instead weighs public safety considerations with individual interest, taking away the right whereas necessary to further overall public welfare– actions which are hallmark characteristics of constitutionally permissible government regulation.[87]

C. The Maryland Provision Comports with the Self-Defense "Core" of the Second Amendment

Finally, as safeguarding an individual's capacity for self-defense is the "central component" of the Second Amendment right,[88] *Woollard* erred by failing to fully consider the safety ramifications for both the individual and the public at large – the majority of whom choose not to possess a handgun.[89] While an individual's right to handgun access inside his or her home remains sacrosanct per *Heller*,[90] once an individual leaves his home, it would be perturbingly unpalatable that he should have the unfettered right to carry a handgun on his person for self-defense as he sees fit. Utilizing "self-defense" as an impetus for its instigation,[91] Maryland's handgun restriction comports with good policy sense because limiting handgun access to certain groups will result in heightened self-defense capacities amongst the majority of citizens, most of whom are unarmed, as well as improvements in overall safety.[92]

Therefore, by limiting handgun access to those individuals who most benefit from their protection, the

80 *Woollard*, 863 F. Supp. 2d at 467.

81 *Gonzales v. Village of West Milwaukee*, No. 09-CV-0384, 2010 WL 1904977, at *4 (E.D. Wis. May 11, 2010) ("the Supreme Court has never held that the Second Amendment protects the carrying of guns outside the home").

82 *Piszczatoski*, 840 F. Supp. 2d at 828 ("logic does not bear the argument that the Supreme Court necessarily recognizes a general right to carry for self-defense").

83 *Id.* at 832-33.

84 *Kachalsky*, 817 F. Supp. 2d at 265-66 ("*Heller* specifically limited its ruling to interpreting the [Second A]mendment's protection of the right to possess handguns in the home, not the right to possess handguns outside of the home in case of confrontation").

85 *Moore*, 842 F. Supp. 2d at 1103 ("the Supreme Court in *Heller* clearly affirmed the government's power to regulate and restrict possession of firearms outside the home").

86 *Id.*

87 *Piszczatoski*, 840 F. Supp. 2d at 835.

88 *Masciandaro*, 638 F.3d at 470; *Kachalsky*, 817 F. Supp. 2d at 258 ("emphasis on the Second Amendment's protection of the right to keep and bear arms for the purpose of 'self-defense' in the home' permeates the Court's decision and forms the basis for its holding").

89 Joseph Blocher, *The Right Not to Keep or Bear Arms*, 64 STAN. L. REV. 1, 4 (2012).

90 *Heller*, 554 U.S. at 635.

91 *Kachalsky*, 817 F. Supp. 2d at 258.

92 Blocher, *supra* note 90 at 5.

Maryland provision aims to improve individual security; where it does not, public safety considerations strongly outweigh the hindrance upon an individual's rights.[93] The foregoing also comports with public policy aims by limiting the use of handguns in a rational, steadfast, and generally predictable manner.[94]

Moreover, though *Woollard* decries the legislation as leading to an increase in accidental shootings,[95] the Court ignores the consequences of dismembering the handgun provision. As more permissive regulation is likely to result in an increase in the number of handguns within the State, unintentional injuries and deaths are actually *more* likely to occur under the latter option.[96]

Thus, as the Maryland provision limits handgun access to only those individuals most likely to receive a benefit from their protection, any attempt to alter the challenged legislation will likely result in a net increase in handgun use in the State.[97] Research studies have proven a strong, positive correlation between individual access to handguns and deadly violence; therefore, increasing individual handgun access outside the home is unlikely to confer benefits in excess of the detriment wrought by doing.[98] Consequently, policy initiatives certainly comport with a limited exercise of handgun rights, and it is incredibly unlikely that the Framers would today champion such a deleterious and dangerous exercise of the Second Amendment rights granted to those same citizens that the Constitution simultaneously aspires to protect.[99]

VI. CONCLUSION

To conclude, Maryland's handgun regulation accords with constitutional aims and its shortcomings are insufficient to render it infirm under *Heller*. In undertaking original analysis of the scope of individual handgun rights under the Second Amendment, *Woollard* ignored all of the bedrock concerns of both the Framers and policymakers and erred grotesquely in analyzing the provision, leaving reasonableness, logic, and data in its wake.

93 *Id.* at 53.

94 Mark S. Kaplan & Olga Geling, *Firearm Suicides and Homicides in the United States: Regional Variations and Patterns of Gun Ownership,* 46 Soc. Sci. & Med. 1227, 1232 (1998) (discussing correlation between gun ownership and rates of homicide and suicide amongst multiple demographics).

95 *Woollard*, 863 F. Supp. 2d at 462.

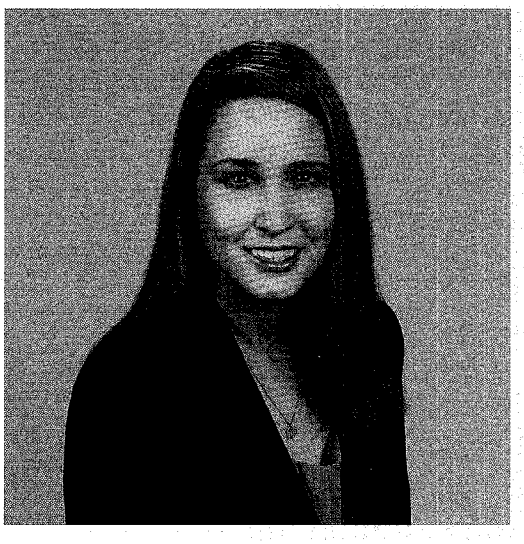
96 Kaplan & Geling, *supra* note 95 at 1232-3; *contra* Lawrence Rosenthal & Joyce Lee Malcom, *McDonald v. Chicago: Which Standard of Scrutiny Should Apply to Gun Control Laws?*, 105 Nw. U.L. Rev. 437, 459 (2011).

97 *See, e.g., People v. Perkins*, 880 N.Y.S.2d 209, 210 (3d Dep't. May 21, 2009) ("New York's licensing requirement remains an acceptable means of regulating the possession of firearms and will not contravene *Heller* so long as it is not enforced in an arbitrary and capricious manner").

98 *See id.*

99 *See* Charles, *supra* note 71 at 1823 ("the question is whether the founders would have accepted the restriction as necessary to prevent "public injury" or as in the interest of the "public good. This question is answered by examining the ideological and philosophical origins of gun control").

About the AUTHOR



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