

Droit - Economie - Sciences Sociales

Session :	Janvier 2017
Année d'étude :	Troisième année de Licence Droit
Discipline :	<i>Anglais juridique</i>
Examen :	Premier semestre (UEC1 7296)
Durée :	1h30
Titulaires du cours :	Ms. Cingal, Ms. Fatovich, Mr. Jendoubi, Ms. Lévy

Les documents et les appareils électroniques ne sont pas autorisés.

I. Complete the following sentences, adding between 10 and 25 words. Do not start a new sentence. (20 points)

1. Pursuant to *Miranda v. Arizona*...
2. While the Free Exercise Clause...
3. As a result of selective incorporation...
4. Unlike a Grand Jury...
5. Whenever evidence...

II. Read the following document and answer each of the questions below. (approximately ten lines/100 words for each question). Use your own words. DO NOT QUOTE DIRECTLY FROM THE TEXT. (30 points)

“A Major Blow to Concealed Carry”

MATT FORD, *THE ATLANTIC*, JUNE 9, 2016

The Ninth Circuit Court of Appeals ruled Thursday that the Second Amendment does not protect a right for ordinary citizens to carry concealed firearms in public, a major decision on the constitutional boundaries of gun rights that could elicit review by the U.S. Supreme Court. In his 52-page majority opinion in *Peruta v. County of San Diego*, Judge William Fletcher laid out an exhaustive history of British and American laws prohibiting concealed weapons, tracing a continuous thread from a decree by Edward I to his sheriffs in 1299 to a series of state supreme-court decisions in the 19th century.

“Based on the overwhelming consensus of historical sources, we conclude that the protection of the Second Amendment—whatever the scope of that protection may be—

simply does not extend to the carrying of concealed firearms in public by members of the general public,” Fletcher wrote.

The 7-4 ruling upheld California’s broad restrictions on concealed-carry use in their entirety. Under current law, California residents must show “good cause” when obtaining a concealed-carry license from their county sheriff. What constitutes “good cause” is defined by policies outlined by each sheriff.

Edward Peruta and his fellow plaintiffs sought concealed-carry licenses from sheriffs in San Diego County and Yolo County in 2009, but were denied under the good-cause requirement. Backed by state and national gun-rights groups, they asked the courts to overturn the statute under the Second and Fourteenth Amendments.

Two federal district courts upheld California’s statute in 2010 and 2011, but a divided three-judge panel ruled for Peruta and the other plaintiffs in the combined appeal. San Diego County and the state of California appealed that ruling to the entire Ninth Circuit, which formed an 11-judge panel to consider the case.

Thursday’s ruling explicitly refused to address whether the Second Amendment protects the right to openly carry firearms in public. And, perhaps anticipating an appeal to the U.S. Supreme Court, three judges argued in a concurring opinion that California’s statute is reasonable enough to survive judicial scrutiny even if the Second Amendment’s protections did apply to concealed firearms.

In dissent, four judges on the panel argued the majority had contradicted the Supreme Court’s 2008 ruling in *District of Columbia v. Heller*, which found an individual right to bear arms under the Second Amendment for the first time.

“In the context of present-day California law, the Defendant counties’ limited licensing of the right to carry concealed firearms is tantamount to a total ban on the right of an ordinary citizen to carry a firearm in public for self-defense,” Judge Consuelo Callahan wrote. “Thus, Plaintiffs’ Second Amendment rights have been violated. While states may choose between different manners of bearing arms for self-defense, the right must be accommodated.”

The Supreme Court’s rulings in *Heller* and *McDonald v. Chicago*, which applied *Heller* to the states in 2010, transformed the legal landscape for gun rights. In the six years since the rulings, lower courts have deliberated about the scope and boundaries of the individual right to bear arms post-*Heller*. But the Supreme Court justices have not. The Court has yet to hear a major Second Amendment dispute since *McDonald*, and no such cases appear on its docket for the upcoming term.

1. Sum up the facts of the case in your own words.

2. What did the Ninth Circuit decide in this case and on what grounds?

3. Do you agree with Judge Consuelo Callahan that the California law violates *Heller* and Second Amendment rights?

III. Choose ONE of the following topics and write an essay in approximately 250 words (+/- 10%). (50 points)

1/ To what extent does the 4th Amendment protect privacy?

2/ Using **legal arguments**, comment on the following quotation by Senator Cory Booker: “*Equal protection under the law - for race, religion, gender or sexual orientation - should not be subject to the most popular sentiments of the day.*”