

# Court passes on chance to expand gun rights

Justices say N.Y. law is moot, sidestepping a major decision.

BY DAVID G. SAVAGE

WASHINGTON — A 2nd Amendment challenge to a New York City gun ordinance fizzled in the Supreme Court on Monday, but conservative justices looked poised to expand gun rights in future cases.

In a brief unsigned opinion, the high court said the New York case was moot because the city had repealed an ordinance that barred licensed gun owners from carrying their weapons across town or outside the city. Their permits allowed them to have a gun at home, but not to travel with it.

It's only the latest disappointment for 2nd Amendment advocates. For a decade, they have tried and failed to get the Supreme Court to rule squarely on whether gun owners have a constitutional right to carry a firearm with them in public.

Monday's decision revealed that at least four justices are ready to rule for expanded gun rights. Justices Clarence Thomas and Neil M. Gorsuch joined a 31-page dissent written by Justice Samuel A. Alito Jr.

"This is not moot. The city violated petitioners' 2nd Amendment right, and we should so hold," Alito wrote in New York State Rifle & Pistol Assn. Inc. vs. City of New York.

Brett M. Kavanaugh wrote a short concurring opinion to say that while he agreed with the majority that the case was moot, he also agreed with the conservatives on the need to clarify

and expand gun rights.

"I share Justice Alito's concern that some federal and state courts may not be properly applying Heller and McDonald," he said, referring to the rulings in 2008 and 2010 that struck down city bans on private handguns in Washington, D. C., and Chicago.

"The court should address that issue soon, perhaps in one of the several

2nd Amendment cases with petitions for certiorari now pending before the court," he said. As an appeals court judge, Kavanaugh wrote a dissent arguing that Washington's ban on semiautomatic rifles violated the 2nd Amendment.

That leaves Chief Justice John G. Roberts Jr. holding the deciding vote in future gun cases.

He joined the 5-4 rulings

that held residents had a right to have a gun at home for self-defense.

But since then, the court has repeatedly refused to go further and rule on whether the 2nd Amendment protects a right to carry a gun in public or to own a semiautomatic weapon.

The chief justice is inclined to avoid rulings on major issues if the court is not required to intervene.