

OFFICE OF GERALD R. FOX

## JACKSON COUNTY DISTRICT ATTORNEY

### NEWS RELEASE

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#### **DISTRICT ATTORNEY GERALD FOX'S STATEMENT ON THE U. S. SUPREME COURT'S DECISION IN *MCDONALD v. CITY OF CHICAGO***

Yesterday, in a resounding victory for all freedom-loving Americans, the United States Supreme Court confirmed that the Second Amendment's protection of our right to keep and bear arms applies everywhere in America, and serves as a rampart against state infringement of this fundamental individual liberty. In its ruling, the Court declared that the right to keep and bear arms is a fundamental right, and that self-defense is at the core of the freedoms protected by the amendment.

This Supreme Court ruling is binding on all states and local governments, and immediately renders some of Wisconsin's current laws unconstitutional. Therefore, in keeping with my oath to uphold and defend the Constitution, I hereby declare that this office will no longer accept law enforcement referrals for violations of the following statutes:

Section 167.31, prohibiting uncased or loaded firearms in vehicles;  
Section 941.23, prohibiting the carrying of concealed weapons, including firearms;  
Section 941.235, prohibiting the possession of firearms in public buildings;  
Section 941.237, prohibiting the possession of firearms in establishments where alcohol may be sold or served; and,  
Section 941.24, prohibiting the possession of knives that open with a button, or by gravity, or thrust, or movement.

All of these statutes constitute unjustifiable infringements on the fundamental right of every law-abiding American to arm themselves for self-defense and the defense of their loved ones, co-workers, homes and communities. This change also invalidates Jackson County Ordinance Sections 9.01 (firearms in public buildings) and 9.29 (CCW).

Prior to this historic ruling, our state Supreme Court placed the state's interests first, and would only create an exception to these laws when the individual's need for protection

outweighed the state's interest. In the area of concealed carry, only 2 cases have approved concealed carry, one at home, and the other one at the defendant's personally-owned place of business. Well, as the United States Supreme Court held yesterday, that view was exactly backward.

As with the other fundamental rights, such as the freedom of speech, of religion, of association, or of security in our homes, persons, and effects, government limitations on fundamental rights are lawful only in the rare case that the state can show a compelling governmental need that can be accomplished only by enacting a narrowly-tailored restriction, in terms of time, place and manner. Clearly, a blanket prohibition against carrying your loaded firearm in your personal vehicle does not pass that test.

Put it another way: Does preventing the barkeep from protecting herself when she carries the bank bag home from the tavern make sense? Not here, not anymore. That's not an American value; it puts concern for the criminal's welfare ahead of the barkeeper's right to self-defense. The fact is, criminals don't pay attention to gun laws, only we good folks do. After 15 years of criminal law practice, I can state positively that when criminals resolve to harm someone, no law will stop them. These so-called "public safety" laws only put decent law-abiding citizens at a dangerous disadvantage when it comes to their personal safety, and I for one am glad that this decades-long era of defective thinking on gun issues is over.

I will watch for the legislature to make needed corrections in these areas. In the meantime, while I am happy to declare that we will follow the Supreme Court's ruling, I want to emphasize that with fundamental rights come grave responsibilities, and I will continue to vigorously enforce the laws against unlawfully using firearms, such as the prohibition against felons being armed; going armed while intoxicated; using a firearm to commit a crime; and endangering safety by negligent handling of a weapon, to name just a few. Only by the strictest adherence to firearm safety rules and common sense will we show that the elitists who seek to disarm all of us are wrong, and that every law abiding citizen can be trusted to protect themselves and their neighbors safely.

A copy of the Supreme Court's decision can be found at <http://www.supremecourt.gov/opinions/09pdf/08-1521.pdf>

A copy of the *amicus* brief joined by J.B. Van Hollen, the Attorney General of Wisconsin, can be viewed at: [http://www.abanet.org/publiced/preview/briefs/pdfs/09-10/08-1521\\_PetitionerAmCuStateofTexas.pdf](http://www.abanet.org/publiced/preview/briefs/pdfs/09-10/08-1521_PetitionerAmCuStateofTexas.pdf)

Let Freedom Ring.

Gerald R. Fox