

On March 28th, the Commonwealth of the Northern Marianas Islands (CNMI) learned that, like it or not, being part of the American family means most of your citizens get to have handguns. On that date, Federal District Court Judge Ramona V. Manglona ruled in the case *Radich v. Deleon Guerrero* that “because the people of the Commonwealth are part of the American people who have overwhelmingly chosen handguns as their principal means of self-defense, the Second Amendment protects that right here as well.”

The facts of the Radich case are rather compelling. In 2006, David Radich, a U.S. citizen, moved to Tinian and taught science to 7th and 8th graders. Two years later, he accepted a job as an environmental consultant on Saipan. In 2009 he married his wife, Li-Rong, a Chinese citizen. She soon became a permanent resident of the United States. In 2010, an intruder savagely attacked Li-Rong as she was making breakfast and home alone. She sustained serious injuries from the attack.

On July 31, 2013, both David and Li-Rong applied for a weapons identification card (“WIC”) with the CNMI Department of Public Safety (DPS). They wanted to arm themselves against any potential future home intruders. Under the then current gun laws, only U.S. citizen or U.S. nationals were eligible for a WIC. Permanent U.S. residents, such as Li-Rong, weren’t eligible. In addition, most applicants could only hope to possess .22 caliber rifles or .410 gauge shotguns. Handgun ownership was limited to law enforcement personnel, and the importation of handguns for personal use was banned.

Applicants were required to state the reason for wanting a gun, but were “strongly recommended” not to use “family protection” as the reason. Obviously, this was the leading motivation behind the Radich’s application. DPS never responded to their application. Frustrated with the lack of action, David and Li-Rong filed a lawsuit challenging the CNMI’s gun laws.

First, Judge Manglona ruled that the Second Amendment to the U.S. Constitution applies to the CNMI. The Second Amendment provides that “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”

Manglona pointed out that unlike the United States, the CNMI does not derive the source of its laws from the U.S. Constitution. Rather, the CMNI ‘s source of laws derives from the document governing the relationship between the U.S. and the CNMI, which is the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

Although the CNMI is not required to adopt all the provisions of the U.S. Constitution, through the Covenant the CNMI specifically chose to incorporate the 2nd Amendment. And, key to Manglona’s decision, the Covenant also incorporates Section 1 of the 14th Amendment. As initially written, the U.S. Constitution’s protections were aimed at federal rather than state actions. The federal

government could not infringe on the peoples' right to bear arms. This didn't necessary stop individual states from doing so.

This changed with the passage of the 14th Amendment in 1866. Section 1 provides in part that no *State* shall "deprive any person of life, liberty, or property, without due process of law." As a result, the U.S. Supreme Court has ruled through numerous decisions over the years that the safeguards contained in the first ten amendments; known as the Bill of Rights, apply to state actions as well. Noting this fact in her decision, Judge Manglona wrote, "Accordingly, the Second Amendment applies with full force in the Commonwealth as if it were a state."

Next, Judge Manglona declared that under the 2nd Amendment people have the right to defend themselves using a handgun. She based this ruling on the U.S. Supreme Court's 2008 *District of Columbia v. Heller* case, certainly the most controversial gun control decision the Supreme Court has decided to date. Under a 1976 law, D.C. banned handgun possession and required lawfully owned guns kept in the home to be unloaded and disassembled or secured by a trigger lock. Dick Heller, a D.C. special police officer whose application to register a handgun was refused, challenged the law.

In *Heller*, the Supreme Court confronted the debate over whether the 2nd Amendment applies only to militia service or if it protects an individual right to possess a firearm unconnected with militia service and to use a handgun for the traditional lawful purpose of self-defense. In a 5 to 4 decision, the Supreme Court supported the latter position. Since lower courts are bound by Supreme Court decisions, Manglona concluded that the CMNI's complete ban on private ownership of handguns is invalid and can't be enforced.