

RESOLUTION

A RESOLUTION OF THE MARSHALL COUNTY FISCAL COURT DECLARING MARSHALL COUNTY A SECOND AMENDMENT AND A SECTION 1(7) OF THE KENTUCKY CONSTITUTION SAFE HARBOR.

It is the natural tendency of civil government to expand beyond the limits of its rightful constitutional authority and to usurp powers which have not been given to it through the delegated consent of the governed.

Whenever the uses of government are perverted, and individual sovereignty is overtly endangered or threatened, and all other means of redress are ineffective, the People may, and in fact ought to, force the reestablishment of the original constitutional limits of government.

WHEREAS, the Constitution of the United States is the supreme law of our nation; and

WHEREAS, the Second Amendment to the Constitution of the United States provides: “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;” and

WHEREAS, the Supreme Court of the United States ruled in *Miranda v. Arizona*, 384 U.S. 436 (1966), that, “where rights secured by the Constitution are involved, there can be no rulemaking or legislation which would abrogate them;” and

WHEREAS, the Supreme Court of the United States in *District of Columbia v. Heller*, 554 U.S. 570 (2008), ruled that the Second Amendment right to keep and bear arms is not connected in any way to service in the militia; and

WHEREAS, the Supreme Court of the United States in *United States v. Miller*, 307 U.S. 174 (1939), ruled that firearms that are part of ordinary military equipment with use that could contribute to the common defense are protected by the Second Amendment; and

WHEREAS, the Fourteenth Amendment to the Constitution states, “no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws;” and

WHEREAS, the Supreme Court of the United States in *McDonald v. City of Chicago*, 561 U.S. 742 (2010), ruled that a person’s Second Amendment right to “keep and bear arms” is further secured by the “due process” and the “privileges and immunities” clauses of the Fourteenth Amendment. This decision also protects rights closely related to the Second Amendment, namely the right to manufacture, transfer, purchase, and sell firearms, accessories, and ammunition; and

WHEREAS, the Tenth Amendment to the Constitution states, “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People;” and

WHEREAS, the Supreme Court of the United States in *Printz v. United States*, 521 U.S. 898 (1997), ruled that the Federal government cannot compel law enforcement officers of the States to enforce Federal laws as it would increase the power of the Federal government far beyond that which the Constitution intended; and

WHEREAS, Kentucky's Bill of Rights, set forth as Section 1 of the Kentucky Constitution, protects the rights of life, liberty, worship, pursuit of safety and happiness, free speech, acquiring and protecting property, peaceable assembly, redress of grievances, and bearing arms. Section 1 of the Kentucky Constitution reads in pertinent part: "All men are, by nature, free and equal, and have certain inherent and inalienable rights, among which may be reckoned... (Seventh) The right to bear arms in defense of themselves and of the State, subject to the power of the General Assembly to enact laws to prevent persons from carrying concealed weapons;" and

WHEREAS, the last protectors of the Constitution of the United States are the County Sheriffs and We the People, and, historically, their ability to fulfill that role successfully rests, in part, on their Second Amendment rights and their rights set forth in Section 1(7) of the Kentucky Constitution.

WHEREAS, the situation in Virginia, where the governor and members of the general assembly have announced they will enact statutes restricting the Constitutional rights of Virginians to keep and bear arms and threatening the confiscation of arms and jailing those citizens who do not comply therewith, is alarming. Now, some members of the Kentucky General Assembly and the Governor are publicly advocating laws that might restrict the constitutional rights of the People of Marshall County, Kentucky to keep and bear arms.

NOW THEREFORE, BE IT RESOLVED BY THE FISCAL COURT OF MARSHALL COUNTY, KENTUCKY as follows:

Section 1. The above recitals are true and correct and incorporated in this Resolution.

Section 2. The People of Marshall County, Kentucky, through their duly elected members of the Fiscal Court and their Sheriff, resolve that Marshall County, Kentucky is hereby designated a "Second Amendment and a Section 1(7) of the Kentucky Constitution Safe Harbor."

Section 3. Marshall County, Kentucky acknowledges its responsibility to protect the People thereof and their right to keep and bear arms by declaring itself to be a "Second Amendment and a Section 1(7) of the Kentucky Constitution Safe Harbor."

Section 4. Marshall County, Kentucky specifically acknowledges:

- a. the Constitutional right, as originally written and understood, to keep and bear arms for self-defense, personal safety, protection of one's family, and in defense of one's community and county;

- b. the unalienable right to keep and bear arms, as specified in the Second Amendment to the Constitution of the United States, Section 1(7) of the Kentucky Constitution, and the aforementioned decisions of the Supreme Court of the United States; and
- c. the rights to manufacture, transfer, purchase, and sell firearms and ammunition designed for those purposes outlined above, are rights guaranteed by the Second Amendment to the Constitution of the United States and Section 1(7) of the Kentucky Constitution.

Section 5. The criminal misuse of firearms is due to the fact that criminals do not obey laws, and that is not a reason to abrogate or abridge the unalienable, constitutionally-guaranteed rights of law-abiding citizens. Historically, the last protectors of the constitutional rights are We the People, and our ability to fulfill that role successfully rests, in part, on our Second Amendment rights to the Constitution of the United States and our rights under Section 1(7) of the Kentucky Constitution.

Section 6. Any Federal or State statute, executive order, rule or regulation regarding the right to keep and bear arms that violates the Second, Ninth, Tenth, or Fourteenth amendments to the Constitution of the United States, Section 1(7) of the Kentucky Constitution, and/or the numerous, related Supreme Court of the United States decisions, including those listed above, shall be regarded by the People of Marshall County to be unconstitutional, a transgression of the supreme law of our nation and State.

Section 7. Marshall County, Kentucky does not intend to authorize or consent to the use of county funds, resources, employees, agencies, contractors, buildings, detention centers, or offices, for the purpose of enforcing or assisting in the enforcement of any element of such Federal or State statutes, executive orders, rules or regulations, that unconstitutionally infringe on the right of the People to keep and bear arms as described and defined in detail above.

Section 8. In the event the Federal or State government, by statute, executive order, rule or regulation, abridges the rights of the People of Marshall County, Kentucky to keep and bear arms secured by the Second Amendment to the Constitution of the United States and Section 1(7) of the Kentucky Constitution, Marshall County will consider, alone, or in conjunction with its sister counties in Kentucky, proceeding to a court of competent jurisdiction to enjoin, temporarily and permanently, the enforcement thereof, and will consider enacting such ordinances that protect the People of Marshall County, Kentucky in their exercise of their right to keep and bear arms secured by the Second Amendment to the Constitution of the United States and Section 1(7) of the Kentucky Constitution.

Section 9. Nothing in this Resolution shall be construed to mean or imply that Marshall County does not support, or will not enforce, all Federal and State laws, regulations, and rules regarding the carrying of deadly weapons, whether concealed or not, in government buildings, Federal or State, including elementary and secondary schools, or in private establishments that prohibit same. Marshall County will always enforce such laws, regulations, and rules.

Section 10. A copy of this Resolution shall be spread upon the Minutes of this meeting.

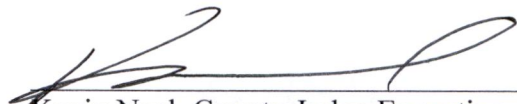
Section 11. This Resolution shall become effective upon adoption.

THIS RESOLUTION has been adopted by the Marshall County Kentucky Fiscal Court Commissioners in their regular session this 18 day of February, 2020.

ATTEST:

MARSHALL COUNTY KENTUCKY
FISCAL COURT COMMISSIONERS


Clerk


Kevin Neal, County Judge Executive