



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Kenneth T. Cuccinelli, II
Attorney General

April 8, 2011

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

The Honorable Mark L. Cole
Member, House of Delegates
Post Office Box 6046
Fredericksburg, Virginia 22403

Dear Delegate Cole:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issues Presented

You ask whether it is permissible for a citizen to carry his firearm into a place of worship for personal safety purposes under § 18.2-283, which requires a “good and sufficient reason” for carrying a firearm into “a place of worship while a meeting for religious purposes is being held at such place.”¹ You further inquire whether a church may ban weapons on its property. The construction of this statute has been the source of multiple inquiries to this office.

Response

It is my opinion that carrying a weapon for personal protection constitutes a good and sufficient reason under the statute to carry a weapon into a place of worship while a meeting for religious purposes is being held there. It is further my opinion that places of worship can restrict or ban firearms from their premises.

Applicable Law and Discussion

The right to bear arms is protected by the Constitutions of Virginia² and of the United States.³ St. George Tucker, author of the first scholarly commentary on the federal Constitution in 1803, described the right to bear arms as “the true palladium of liberty.”⁴

¹ I will assume for purposes of this opinion that the citizen wishing to carry a concealed weapon has an appropriate permit.

² “[T]he right of the people to keep and bear arms shall not be infringed[.]” VA. CONST. art. I, § 13.

³ “[T]he right of the people to keep and bear Arms, shall not be infringed.” U.S. CONST. amend. II. The Second Amendment applies to the States as well as to the United States government. *McDonald v. City of Chicago*, 130 S. Ct. 3020, 3026 (2010) (quotations and citations omitted).

⁴ *District of Columbia v. Heller*, 554 U.S. 570, 606 (2008) (quoting 1 Blackstone’s Commentaries, app. 300, Note D, “View of the Constitution of the United States” (1803)).

Section 18.2-283 of the Virginia Code provides that “[i]f any person carry any gun, pistol . . . or other dangerous weapon, without good and sufficient reason, to a place of worship while a meeting for religious purposes is being held at such place he shall be guilty of a Class 4 misdemeanor.” Section 18.2-283 is a penal statute. “[A] fundamental rule of statutory construction is that penal statutes are to be strictly construed against the Commonwealth and in favor of a citizen’s liberty.”⁵

The right of self-defense lies at the heart of the right to keep and bear arms. As the United States Supreme Court has recognized,

[s]elf-defense is a basic right, recognized by many legal systems from ancient times to the present day, and in *Heller*,^[6] we held that individual self-defense is the *central component* of the Second Amendment right . . . Thus, we concluded, citizens must be permitted to use handguns for the core lawful purpose of self-defense.^[7]

Given the strict construction of penal statutes and the pedigree of the right to self-defense, I conclude that lawfully carrying a firearm for self-defense and personal protection constitutes a “good and sufficient” reason within the intentment of § 18.2-283.

With respect to your second question, the church can ban guns on its property if it so chooses. The Constitution of Virginia protects the right to bear arms, but it also recognizes the importance of property rights.⁸ Moreover, the Second Amendment acts as a restraint on government, not private parties. Churches, synagogues, mosques and other religious entities can, like any other owner of property, restrict or ban the carrying of weapons onto their private property.

Conclusion

Accordingly, it is my opinion that carrying a weapon for personal protection constitutes a good and sufficient reason under the statute to carry a weapon into a place of worship while a meeting for religious purposes is being held there and it is further my opinion that places of worship can restrict or ban firearms from their premises.

With kindest regards, I am

Very Truly Yours,



Kenneth T. Cuccinelli, II
Attorney General

⁵ Fullwood v. Commonwealth, 279 Va. 531, 536, 689 S.E.2d 742, 746 (2010).

⁶ *Heller*, 554 U.S. at 570 (recognizing that the Second Amendment protects an individual right to bear arms).

⁷ *McDonald*, 130 S. Ct. at 3036 (quotations and citations omitted).

⁸ VA. CONST. art. I, § 1 (recognizing the right of “acquiring and possessing property” as one of the inherent rights of mankind).