No. 17-127

IN THE

Supreme Court of the United States

STEPHEN V. KOLBE, *ET AL.*, *Petitioners*,
v.
LAWRENCE J. HOGAN, JR., GOVERNOR OF MARYLAND, *ET AL.*, *Respondents*.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

Brief *Amicus Curiae* of
Gun Owners of America, Inc., Gun Owners Foundation, Citizens United, Citizens United Foundation, Conservative Legal Defense and Education Fund, and The Heller Foundation in Support of Petitioners

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INTEREST OF THE *AMICI CURIAE*[1]

Gun Owners of America, Inc. and Citizens United are nonprofit social welfare organizations, exempt from federal income tax under Internal Revenue Code ("IRC") section 501(c)(4). Gun Owners Foundation, Citizens United Foundation, Conservative Legal Defense and Education Fund, and The Heller Foundation are nonprofit educational and legal organizations, exempt from federal income tax under IRC section 501(c)(3). These organizations were established, *inter alia*, for purposes related to participation in the public policy process, including conducting research, and informing and educating the public on the proper construction of state and federal constitutions, as well as statutes related to the rights of citizens, and questions related to human and civil rights secured by law. Some of these *amici* also filed an *amicus* brief in this case in the Fourth Circuit.[2]

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[1] It is hereby certified that counsel for the parties have consented to the filing of this brief; that counsel of record for all parties received notice of the intention to file this brief at least 10 days prior to the filing of it; that no counsel for a party authored this brief in whole or in part; and that no person other than these *amici curiae*, their members, or their counsel made a monetary contribution to its preparation or submission.

[2] Brief *amicus curiae* of Gun Owners of America, Inc., *et al.*, Kolbe v. Maryland (Nov. 12, 2014) http://www.lawandfreedom.com/site/firearms/Kolbe%20GOA%20Amicus%20Brief.pdf.

STATEMENT

The Fourth Circuit spent the first two pages of its opinion discussing this nation's worst mass murders involving firearms. Kolbe v. Hogan, 849 F.3d 114, 120 (4th Cir. 2017). Then, the court devoted several pages to the alleged evil of what the Maryland legislature pejoratively has termed "assault weapons" and "large capacity magazines." *Id.* at 120-25. The circuit court then concluded that not only are such weapons not protected by the Second Amendment, the Second Amendment does not even come into play. *Id.* at 130. Based on that analysis, it affirmed the decision of the district court dismissing the challenge to the Maryland Firearms Safety Act. *Id.*

SUMMARY OF ARGUMENT

If Kolbe had been a First Amendment's case, the Fourth Circuit's opinion below no doubt would have triggered summary reversal. Applying the reasoning it used in this case to a law banning cell phones, computers, and Internet usage by citizens, would have resulted in a decision that such modern methods of communication are completely outside the scope of the First Amendment's protection — and then a declaration that the freedom of speech is alive and well.

Clearly, any form of freedom brings with it a certain amount of risk. And the First Amendment can be misused, just as the Second. When it is misused, there is significant potential for great harm. The saying goes that the pen is mightier than the sword,

and it is perhaps just as dangerous. Of course, potential harm caused by misuse of the First Amendment has nothing to do with the scope of the right, just as the Fourth Circuit's gratuitous listing of this country's worst mass shootings has nothing to do with the extent of Second Amendment protections.

The concurring judges below went even further. They apparently believe that it is not gun violence — but gun rights themselves — that are the real problem, and that their role as federal judges obligates them to protect the People from their constitutional rights. Claiming to defend some abstract notion of "democracy," those judges failed in their obligation to "support and defend" the Constitution. Spurning this Court's teachings, they claimed that the Second Amendment is nothing more than a "balance to be struck," and that this balance should be struck by state legislatures. Of course, Heller noted that the Second Amendment "is the very *product* of an interest balancing by the people...."

Unfortunately, the Fourth Circuit's lack of fidelity to the Second Amendment is no outlier, but rather is reflective of the trend in the lower federal courts since this Court decided Heller and McDonald. Since those decisions, this Court has remained quiet on Second Amendment issues, permitting the lower courts free reign to "interpret" Heller, or, even disregard it. As some of these *amici* reported to this Court in an earlier *amicus* brief in 2015, "a state of open rebellion exists in the lower federal courts." In almost a decade since Heller, federal judges sitting on the lower federal courts have done their very best to circumvent its

principles, evade its teachings, or simply ignore its conclusions. As several of this Court's members have noted, it is high time for this Court to reign in the lower courts, and to follow through on the promises of Heller and McDonald. If this Court continues to remain silent, the Second Amendment is at risk of again becoming a dead letter.

ARGUMENT

I. THE FOURTH CIRCUIT'S MACHINATIONS WOULD NEVER BE PERMITTED IN A CASE INVOLVING ANY OTHER CONSTITUTIONAL RIGHT.

A. The Majority's Analytical Approach Would Trigger Summary Reversal if This Were a First Amendment Challenge.

It is revealing to consider how the Second Amendment analysis embodied in the Fourth Circuit's decision would decide a case brought in a different constitutional context — a First Amendment challenge to a law banning civilian possession of computers and cell phones, and use of the Internet. Strictly applying the Kolbe constitutional analysis in such a case, the Fourth Circuit no doubt would have upheld a ban on those digital tools — and yet the court would claim that the freedom of speech is alive and well, not even having been implicated by the ban. The First Amendment would not even be said to apply, because those powerful technologies were developed for and are suitable only for use by the government — not by American citizens engaged in daily life.

Consider the Fourth Circuit's statements in this case regarding so-called "assault weapons" and so-called "high-capacity magazines," if applied in a First Amendment case. The Court would point out that the Internet was "developed ... for the U.S. military," and today is "used by our military and others around the world." Kolbe v. Hogan, 849 F.3d 114, 124 (4th Cir. 2017). In fact, today's websites such as Google and Yahoo! are "virtually indistinguishable in practical effect," and in reality nothing more than ways to access the modern day's "civilian version of the military's" ARPANET developed in the late 1960's.[3] *Id.* at 124-25.

For example, a "5-man squad armed with [laptops] could do as well or better in ... potential ... than the traditional 11-man squad armed with [typewriters]...." *Id.* at 124. Indeed, the potential mass communication provided by computers and smartphones means that they are "'designed to enhance' a [person's] 'capacity to [communicate with] multiple human targets very rapidly.'" *Id.* at 125. Whereas a quill pen required "reloading" with ink after a few words, and letters required individual hand distribution, these terrifying modern forms of communication are "capable of [communicating with] thirty, fifty, or even [a billion people at once] ... without ... reloading." *Id.* at 125-26. In short, the capacity of modern communication technologies to be used for evil is nothing short of astonishing.

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[3] *See* DARPA, "ARPANET and the Origins of the Internet," https://www.darpa.mil/about-us/timeline/arpanet.

Indeed, this potential for grave harm is not just speculative, it has been established conclusively. These terrifying military-grade communication technologies "have been used disproportionately" in the commission of violence. Kolbe at 126. Consider, for example, the following violent acts that have been facilitated, provoked, or even committed using the latest such technologies:

- On the afternoon of August 12, 2017, in Charlottesville, Virginia, a woman was killed and five people were critically injured by a vehicle driven by an Ohio man who was attending a rally made possible by using the Internet and social media to draw in thousands of people from surrounding areas and even out of state.[4] Notably, even though countless firearms were present,[5] not a single shot was fired and, in fact, the First Amendment (yelling and screaming) was far more to blame for the violence than was the Second Amendment.

- On May 18, 2017, seven men were "attacked with 'bricks, sticks and swords'" and killed by

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[4] B. Hart and C. Danner, "3 Dead and Dozens Injured After Violent White-Nationalist Rally in Virginia," *New York* (Aug. 13, 2017) http://nymag.com/daily/intelligencer/2017/08/state-of-emergency-in-va-after-white-nationalist-rally.html.

[5] B. Andrews, "Right-to-Carry Laws Are Making Violent Protests like Charlottesville Even Harder to Defuse," *Mother Jones* (Aug. 16, 2017) http://www.motherjones.com/politics/2017/08/right-to-carry-laws-are-making-violent-protests-like-charlottesville-even-harder-to-defuse/.

vigilante mobs in eastern India, after fake stories of child abduction were spread over the social media app "WhatsApp."[6]

- In recent years, there has been a meteoric rise and scores of occurrences across the country of "flash mobs," usually comprised of teenagers, and who "use [social media] to plan and execute bold robberies."[7]

- In April of 2017, it was reported that ISIS and other terrorist organizations have ramped up their recruitment of members through social media "platforms such as Twitter and Facebook."[8]

- On December 8, 2008, it was reported that the terrorists who killed at least 174 people in Mumbai, India, had relied on cellular phones,

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[6] E. Oswald, "Seven Dead in India After Fake News Spread over WhatsApp Incites Mob Violence," Digital Trends (May 27, 2017) https://www.digitaltrends.com/social-media/fake-news-india-mob-violence/.

[7] Fox News, "Teenage Flash Mob Robberies on the Rise" (June 18, 2011) http://www.foxnews.com/us/2011/06/18/top-five-most-brazen-flash-mob-robberies.html; *See also* ABC 7 NY, "Connecticut teen flash mob robbery raises concerns of trend" (Nov. 29, 2016) http://abc7ny.com/news/ct-teen-flash-mob-robbery-raises-concerns-of-trend/1630798/.

[8] H. McKay, "'Jihadi Cool': How ISIS switched its recruitment and social media master plan," Fox News (Apr. 3, 2017) http://www.foxnews.com/world/2017/04/03/jihadi-cool-how-isis-switched-its-recruitment-and-social-media-master-plan.html.

> GPS, and other technologies just as much — if not more than — their weapons to perpetrate their attacks.[9]

Of course, no court ever would begin its analysis of a law restricting what communication technologies an American may use by first discussing the inherent potential for harm (and listing occurrences of actual violence) "caused" by the exercise of free speech through modern forms of communication. Yet the Fourth Circuit felt itself justified in asserting the alleged inherent evils of modern firearms, bemoaning the atrocities of gun violence, setting the stage for its opinion that the Second Amendment is not even implicated by a complete ban on so-called "assault weapons" and so-called "large capacity magazines." In reality, neither First Amendment technologies nor Second Amendment arms are responsible for their misuse by evil people. In other words: cell phones don't kill people, people kill people.[10]

B. Contrary to the Concurring Judges' Claim, Americans Do Not Need to Be Protected from the Second Amendment.

The Fourth Circuit's opinion makes it necessary to repeat this Court's teaching that it is not the role of

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[9] N. Shachtman, "How Gadgets Helped Mumbai Attackers," *Wired* (Dec. 1, 2008) https://www.wired.com/2008/12/the-gagdets-of/.

[10] *See generally* H. L. A. Hart & T. Honoré, Causation in the Law (Oxford Press: 1959).

federal judges to decide how they feel about the propriety of constitutional rights, as made clear in District of Columbia v. Heller, 554 U.S. 570 (2008). The Second Amendment "is the very *product* of an interest balancing by the people," and it is not up to the Fourth Circuit to "conduct [it] for them anew." Heller at 635. Remarkably, however, at least two judges on the Fourth Circuit have written opinions which reveal they believe it is up to them to protect the People **from** the Constitution.

Writing in concurrence below, Judges Wilkinson and Wynn claimed that the court's opinion was necessary in order to protect the people from the risk of their exercising Second Amendment rights:

> [d]isenfranchising the American people on this life and death subject would be the gravest and most serious of steps. It is their community, not ours. It is their safety, not ours. It is their lives, not ours. To say in the wake of so many mass shootings in so many localities across this country that the people themselves are now to be rendered newly powerless, that all they can do is stand by and watch as federal courts design their destiny — this would deliver a body blow to democracy as we have known it since the very founding of this nation. [849 F.3d at 150.][11]

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[11] In fact, the Court in McDonald v. City of Chicago, 561 U.S. 742 (2010), squarely rejected this "federalism" argument, noting that "There is nothing new in the argument that, in order to respect federalism and allow useful state experimentation, a federal

In their zeal to protect "democracy," Judges Wilkinson and Wynn apparently failed to realize that it is the People's constitution, not theirs. These judges even failed to recognize that this nation's political system is not merely a "democracy," as they implicitly claimed, but rather a constitutional republic limited by certain fixed, written principles — one of them being that "the right of the People to keep and bear arms shall not be infringed." By defending some abstract notion of "democracy" (a vague concept they are not obliged by oath to defend) these judges have shirked their very real and concrete obligation to "support and defend the Constitution of the United States...." *See* 5 U.S.C. § 3331.

Judges Wilkinson and Wynn do not stop there. They go further, claiming that "[n]o one really knows what the right answer is with respect to the regulation of firearms [and] [t]he question before us ... is ... how we may best find it." 849 F.3d at 149-150. The best answer, they claim, is to leave determinations of Second Amendment rights entirely up to the legislatures lest "another tragedy is inflicted or irretrievable human damage has once more been done." *Id.* at 150. Judges Wilkinson and Wynn claim that "[a]s Heller recognized, there is a balance to be struck here." *Id.* at 151.

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constitutional right should not be fully binding on the States," and concluding that the Second Amendment's "guarantee is fully binding on the States and thus *limits* (but by no means eliminates) their ability to devise solutions to social problems that suit local needs and values." *Id.* at 3046.

Neither of these judges evidences respect for the Heller decision, because Heller said precisely the opposite: that there is a right answer, that it was determined in 1791, and that it is not up to modern judges to strike any "balance" because the balance has already been struck. As this Court made perfectly clear:

> [a] constitutional guarantee subject to future judges' assessments of its usefulness is no constitutional guarantee at all. Constitutional rights are enshrined with the scope they were understood to have when the people adopted them, whether or not future legislatures or (yes) even future judges think that scope too broad ... Like the First, [the Second Amendment] is the very *product* of an interest balancing by the people.... [Heller at 634-35.]

II. NEARLY A DECADE OF INACTION THREATENS TO TURN HELLER AND MCDONALD INTO LITTLE MORE THAN "PARCHMENT BARRIERS."

In Heller, this Court promised that "the Second Amendment right is exercised individually and belongs to **all Americans**." *Id.* at 581 (emphasis added). As to what "arms" it protects, the Court noted that "the Second Amendment extends, prima facie, to **all instruments** that constitute bearable arms, even those that were not in existence at the time of the founding." *Id.* at 582 (emphasis added). Finally, the Court recognized that the right to keep and bear extends to **all "lawful purposes"** (*id.* (emphasis

added)), but most importantly self-defense — which includes not only self-defense against burglars and muggers, but also applies "when the able-bodied men of a nation are trained in arms and organized, [and] are better able to resist tyranny." *Id.* at 598 (emphasis added). Two years later, in McDonald, this Court reiterated Heller's guarantees, and applied them to the States.

Since McDonald, however, this Court has largely allowed Second Amendment jurisprudence to be developed by the circuit courts. In doing so, this Court has failed to defend its decisions in Heller and McDonald — even in cases where rulings by courts of appeals directly contradict those holdings.

A. Several Members of This Court Have Recognized and Articulated the Problem.

In March of 2008, at oral argument in Heller, Chief Justice Roberts gave important guidance as to how Second Amendment cases should be analyzed. Rather than importing judicially created First Amendment "balancing tests" such as strict or intermediate scrutiny, Chief Justice Roberts asked the simple question "Isn't it enough to determine the scope of the existing right that the amendment refers to?" District of Columbia v. Heller Oral Argument (Mar. 18, 2008), p. 44, ll. 5-21.[12] Indeed, the Heller decision aligned

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[12] Chief Justice Roberts continued, saying "[w]ell, these various phrases under the different standards that are proposed, 'compelling interest,' 'significant interest,' 'narrowly tailored,' none of them appear in the Constitution.... [T]hese standards that

with his thinking and expressly rejected the dissent's use of any "judge-empowering 'interest-balancing inquiry....'" *Id.* at 634. Despite this clarity, however, the lower courts since Heller have adopted wholesale (with one or two notable exceptions) any and all judge-empowering tests that can be devised, in order to uphold nearly every gun control restriction that has come before them.[13] *See* Pet. at 3 (noting the courts of appeals "spawning multiple, inconsistent 'tests' to determine ... constitutionality....").

Seven years after Heller, in 2015, some of these *amici* filed an *amicus* brief in this Court in Jackson v. San Francisco, reporting that "a state of open rebellion exists in the lower federal courts," and warning that "[t]his Court's intervention is necessary to [ensure] ... [the] Second Amendment ... provide[s] the same protections to Americans living on the West Coast as the East Coast."[14] Dissenting from this Court's denial of certiorari, Justices Thomas and Scalia noted that, "[d]espite the clarity with which we described the Second Amendment's core protection for the right of self-defense, lower courts, including the ones here,

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apply in the First Amendment just kind of developed over the years as sort of baggage that the First Amendment picked up." *Id.*

[13] *See, e.g.*, Jackson v. San Francisco, 135 S. Ct. 2799, 2801 (2015) (Thomas, J., dissenting from denial of certiorari).

[14] Brief of *amici curiae* Gun Owners of America, Inc. *et al.*, Jackson v. San Francisco (cert. denied, 135 S. Ct. 2799 (2015)) at 15. http://www.lawandfreedom.com/site/firearms/Jackson%20GOA%20Amicus%20Brief_2015.pdf.

have failed to protect it." Jackson, 135 S. Ct. at 2799. Although the San Francisco ordinances in Jackson were nearly identical to those struck down in Heller, this Court declined to review the case.

Later the same year, Justices Thomas and Scalia dissented again from another denial of certiorari, this time in Friedman v. Highland Park, 136 S. Ct. 447 (2015). Addressing a similar issue as is involved in this case (bans on so-called "assault weapons" and so-called "large capacity magazines"), the two Justices again noted the "noncompliance [by] several Courts of Appeals ... with our Second Amendment precedents...." *Id.* at 447. Expressing their frustration, Justices Thomas and Scalia wrote that "[t]he Court's refusal to review a decision that flouts two of our Second Amendment precedents stands in marked contrast to the Court's willingness to summarily reverse courts that disregard our other constitutional decisions." *Id.* at 449. In conclusion, the justices noted that the Second Amendment was fast becoming "a second-class right."[15] *Id.* at 450.

Then, just last year, this Court issued a *per curiam* summary reversal of a decision of the Supreme Judicial Court of Massachusetts in Caetano v.

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[15] Indeed, at least one court of appeals has admitted that it treats the Second Amendment less favorably than other constitutional rights: "[t]he risk inherent in firearms and other weapons distinguishes the Second Amendment right from other fundamental rights that have been held to be evaluated under a strict scrutiny test...." Bonidy v. United States Postal Serv., 790 F.3d 1121, 1126 (10th Cir. 2015).

Massachusetts, 136 S. Ct. 1027 (2016). There, the Massachusetts high court issued a ruling similar to the one in this case — claiming that "a stun gun 'is not the type of weapon that is eligible for Second Amendment protection....'" *Id.* at 1029. Rejecting that reasoning, this Court — along with Justice Alito in concurrence — once again noted that "'the Second Amendment extends, prima facie, to all instruments that constitute bearable arms...." *Id.* at 1027, 1030. It seems clear that if stun guns are assumed to be protected "arms" until proved otherwise, AR-15's and other so-called "assault weapons" should be as well. Yet, like the Massachusetts court, the Fourth Circuit here has claimed such weapons are entirely outside Second Amendment protection — not even entitled to the presumption of protection.

Finally, less than two months ago, Justice Gorsuch picked up where Justice Scalia had left off, joining Justice Thomas in yet another of his dissents from a denial of certiorari in Peruta v. California, 137 S. Ct. 1995 (2017). There, the two justices again noted this Court's unwillingness to protect its own precedents — this time from a Ninth Circuit opinion which quite literally held that there is no Second Amendment right to "bear arms" outside the home. Noting that the Ninth Circuit's opinion was "indefensible," Justices Thomas and Gorsuch wrote that "[e]ven if other Members of the Court do not agree that the Second Amendment likely protects a right to public carry, the time has come for the Court to answer this important question definitively." *Id.* at 1999. The Justices continued that "[T]he Court's decision to deny certiorari in this case reflects a distressing trend: the

treatment of the Second Amendment as a disfavored right." *Id.*

B. This Court Has Failed to Protect the Second Amendment.

With the exception of Caetano, this Court has not granted a single petition for certiorari in a case involving the Second Amendment. Meanwhile, as Justices Thomas and Gorsuch have noted, it has granted review of 35 First Amendment cases and 25 Fourth Amendment cases. Peruta at 1999. This is true even though Second Amendment law is in its nascent form, and the Second Amendment is in clear need of protection against a veritable army of hundreds of anti-gun federal judges currently sitting on the lower courts. These judges do not give deference either to the Second Amendment or to this Court's Heller and McDonald decisions, but rather they flaunt them, and continue to impose their personal policy preferences, disguised as "interest balancing," on the American people.

As Petitioners note, the so-called "test" devised by the Fourth Circuit in this case "is nothing more than a freestanding test that subjects Second Amendment rights to the preferences of particular judges...." Pet. at 20. Indeed, even some federal judges, such as the dissenters below, have recognized the bias that many federal judges hold against the Second Amendment:

> [i]t is evident that my good friends in the majority **simply do not like Heller's determination** that firearms commonly

> possessed for lawful purposes are covered by the Second Amendment. In the majority's view, Heller's 'commonly possessed' test **produces unacceptable results in this case**.... [849 F.3d at 155 n.3 (Traxler, J., dissenting) (emphasis added).]

That is an astounding admission and a resounding observation — that many judges on the lower federal courts simply **do not care** what either the Second Amendment or this Court requires — rather, they are simply **going to do whatever they want** as long as this Court permits it.[16] That is not the rule of law; it is the rule of man.

Inventing various "tests" of one sort or another, judges since Heller have found one way or another to justify all of the following: ordinances requiring self defense arms kept in the home be locked away and unusable, those banning the sale of common hollow point self-defense ammunition,[17] bans on concealed carry,[18] bans on open carry,[19] disparate treatment of

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[16] Petitioner makes this point somewhat more diplomatically, noting that "The Fourth Circuit ... has all but declared it will not protect the fundamental, individual right at issue." Pet. at 23-24.

[17] Jackson v. San Francisco, 746 F.3d 953 (9th Cir. 2014).

[18] Drake v. Filko, 724 F.3d 426 (3rd Cir. 2013); Peruta v. San Diego, 824 F.3d 919 (9th Cir. 2016).

[19] Norman v. State of Florida, 215 So. 3d 18 (Supreme Court of Florida, 2017).

gun owners by the police,[20] a ban on the possession of machineguns,[21] waiting periods and background checks,[22] bans on young adults purchasing firearms[23] and, of course, laws banning the possession of so-called "assault weapons" and so-called "large capacity magazines."[24] And the list goes on and on. As Petitioners note, "[o]nly one consistent theme has emerged from the decisions issued by the various lower courts that have considered Second Amendment challenges: deference to the will of legislative majorities...." Pet. at 22.

It certainly comes as no surprise that judges who fear an armed populace believe that the Second Amendment is never violated whenever anti-gun laws can be labeled "reasonable regulations." This case presents yet another excellent vehicle for this Court to follow through on its promises in Heller and McDonald. It is high time to put down the insurrection in the lower courts, and to demonstrate that this Court meant what it said in those opinions.

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[20] United States v. Robinson, 846 F.3d 694 (10th Cir. 2017); Rodriguez v. United States, 741 F.3d 905 (8th Cir. 2014).

[21] Hollis v. Lynch, 827 F.3d 436 (5th Cir. 2016); United States v. One Palmetto State Armory, 822 F.3d 136 (3rd Cir. 2016).

[22] Silvester v. Harris, 843 F.3d 816 (9th Cir. 2016).

[23] NRA v. ATF, 700 F.3d 185 (5th Cir. 2012).

[24] Friedman v. City of Highland Park, 784 F.3d 406 (7th Cir. 2015); New York State Rifle & Pistol Assn. v. Cuomo, 804 F.3d 242 (2nd Cir. 2015); Rocky Mountain Gun Owners v. Hickenlooper, 2016 COA 45M (Colo. Ct. App. 2016).

CONCLUSION

It seems self-evident that AR-15's and other so-called "assault weapons" are bearable arms and, as such, are *prima facie* protected by the Second Amendment in the hands of American citizens. It also is clear that such weapons are most useful in self-defense in all its forms, including for "resist[ing] tyranny." In fact, fully automatic weapons that the Fourth Circuit said are "just like" assault weapons have an active role in doing so every day in the hands of this country's Marines, soldiers, and sailors around the globe. Meanwhile, their semi-automatic cousins have a passive role in protecting liberty at home, where they are owned by millions of law-abiding Americans who, through their very possession, secure some basic element of their individual freedom.

What's more, it seems clear that an AR-15 is not only an "arm," but a protected arm. Indeed, the AR-15 is the quintessential American rifle of the 21st century — the same as the Kentucky long rifle was to the American colonists, the Winchester repeating rifle was to those who struck out west, and the M-1 Garand was to this nation's "Greatest Generation." For countless Americans, so-called "assault weapons" are what put food on the table, keep their families safe, and give freedom its teeth. For millions, rifles like an AR-15 are symbols of their nation's freedom and their personal independence — which is probably what makes them seem so dangerous to those who believe in neither.

For the reasons stated above, the petition for certiorari should be granted.

Respectfully submitted,

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