No. 18-

IN THE

SUPREME COURT OF THE UNITED STATES

Kevin Wayne Vanover,

Meredith Ann Yates,

Petitioners

v.

United States of America

Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States Court of Appeals Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

Kevin Wayne Vanover, Petitioner, Pro Se

No. 17552-074

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QUESTION(S) PRESENTED

I. Since the courts and the legislature once recognized the Second Amendment was to protect the right of the people to be prepared to resist abuse of government power by military force, with equal force, and since the Judiciary was given no legislative or constitution-making powers, and are duty bound to interpret the Constitution with the full value, understanding and intention of the Framers in mind, when and where did the Constitution change from the plain wording in the Second Amendment of "shall not be infringed" to "shall not be unreasonably infringed"?

II. Based on the wording of the Preamble to the Bill of Rights, does the Court recognize the chief political principle of the Second Amendment was to serve, which is that of protecting the right of the people to remain capable of mounting an effectual resistance against "misconstruction or abuse" of government power at any level; and does the court recognize the overwhelming amount of historical evidence that the Founders intended the People to resist encroachments of their liberties by the government?

III. Do punishments of common law or founding era offenses equivalent to modern "non-violent" "victimless" "felonies", support a lifetime ban of possessing firearms or ammunition by anyone convicted of such offense?

IV. Was the Second Amendment intended to prohibit Congress from placing requirements/restrictions upon the right to keep and bear arms which would be similar in nature to those imposed by the Crown and Parliament in England

during the Revolutionary periods of 1688 and 1776, and to prevent arms seizures as transpired under Nazi rule in Germany and Nazi occupied territories before and during WWII; and would the Founders have considered current Federal gun control legislation (26 U.S.C. §§ 5841, 5861 (d), 5871; 18 U.S.C. §§ 922 (g) (1), 924 (a) (2), 922 (g) (3), 922 (a) (6)) to be infringements of their right to bear arms?

V. Did the public which ratified the Second Amendment understand that every type of firearm, ammunition or explosive available was protected by the guarantee against infringement; and did the Founders intend for the People to have equal or inferior firearms technology the the military forces?

VI. Would the Founders have considered the laws (18 U.S.C. § 2; 21 U.S.C. § 841 (a)(1); (b)(1)(B)) to be a violation of the Ninth Amendment; Tenth Amendment; Article 4, Section 2, Clause 1; the absolute rights of man; and rightful liberty; and does historical evidence support the fact that the Founders considered cultivation, possession, consumption and use of cannabis as an economic commodity, to be one of the people's rights?

LIST OF PARTIES

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The Judgment of the United States District Court for the Western District of North Carolina, Asheville Division, appears at Appendix C to this Petition, and is unpublished.

JURISDICTION

Timely Notice of Appeal was filed on May 9, 2017 (Doc. #145)(App. D)

The Date on which the United States Court of Appeals for the Fourth Circuit decided my case was August 3, 2018.

The Jurisdiction of this Court is invoked under 28 U.S.C. § 1254 (1)

CONSTITUTIONAL PROVISIONS

Under the United States Constitution, Article 4, Section 2, Clause 1, the citizens of each state are entitled to all privileges and immunities of citizens in every other state. This provision is partly to prohibit the federal government from prosecuting individual citizens for activities that are legal in some of the several States.

United States Constitution, Amendment Two. This provision was intended to prohibit any branch of government from infringing the right of the people to keep and bear arms in any way, so the people could be prepared to resist oppression, abuse of government power or tyranny. Though the militia may be subject to regulations, the right of the people to keep and bear arms shall

not, under any circumstance, be infringed.

United States Constitution, Amendment Eight. This provision was partly to prohibit Congress from inflicting what the People would consider to be cruel and unusual punishments.

United States Constitution, Amendment Nine. This provision was to prohibit Congress from using delegated powers to pass laws that would violate rights which the People retained.

United States Constitution, Amendment Ten. This provision was to reserve powers not specifically delegated to the United States by the plain wording of the Constitution to the States or the People. Powers must be specifically given to Congress by the Constitution, such as the case of the Eighteenth Amendment and it's repeal through the Twenty-First Amendment.

United States Constitution, Amendment Fourteen. This provision was adopted, largely in part to protect all citizens rights at not only the federal, but also the State level.

Under these provisions of the Constitution, any law which would violate the values and intentions of the Framers, Founders and ratifying public, is per Marbury v. Madison (1 Cranch 137, U.S. 5, 137 (1803)) contrary to the Supreme Law and required to be rendered invalid.

STATEMENT OF THE CASE

On April 5, 2016, the grand jury in the Western District of North

Carolina returned a super-ceding indictment which included 6 counts, against Kevin Wayne Vanover, and Meredith Ann Yates. Count One charged Mr. Vanover and Ms. Yates with possession with intent to manufacture marijuana, a violation of 21 U.S.C. § 841 (a)(1) and 18 U.S.C. Chapter 2. The Jury found the defendants guilty.

Count 2 charged Mr. Vanover with possessing a firearm or ammunition in and affecting commerce after being convicted of a crime punishable by more than one year in prison, in violation of 18 U.S.C. § 922 (g)(1). The jury found Mr. Vanover guilty.

Count three charged Vanover and Yates with possession of weapons not registered, in violation of 26 U.S.C. §§ 5841, 5861 (d), and 5871. The jury found both defendants guilty.

Count four charged Yates with knowingly and illegally possessing a firearm while being a user of a controlled substance, in violation of 18 U.S.C. § 922 (g)(3). The jury found Yates guilty.

Count five charged Yates with making a false statement in connection with acquiring a firearm. The jury found Yates guilty.

Count six charged Yates and Vanover with possession of a firearm in furtherance of a drug trafficking offense. The jury found both defendants not guilty.

Following a four day trial the jury returned their verdicts. Both defendants exercised their constitutional right to a jury trial, in order to preserve the issues for review by the Supreme Court. Both Defendants asserted that the laws with which they were charged were contrary to the values and intentions of the Founders, Framers and Public who ratified the provisions designed to protect themfrom government action such as that in the case presented.

SUMMARY OF THE ARGUMENTS

I. Petitioner submits that the Second Amendment was intended to protect the right of the people to be prepared to resist abuse of authority by government entities at any level, and that the courts are bound to interpret the Constitution according to the values and intentions of the Framers, that any change in the Constitutional understanding of the People must only be done so through legislative process of article V, and that the courts may not engage in constitution making under the guise of interpretation.

II. Petitioner advances that based on historical evidence, and the wording of the Preamble to the Bill of Rights, the chief political goal and principle of the Second Amendment was to protect the right of the People to be prepared to resist "misconstruction or abuse" of the Constitution's powers, and that the Founders intended the People to resist invasion of their liberty.

III. Furthermore, Petitioner asserts that examination of common law and founding era punishments of "non-violent" "victimless" offenses prove that the Founders intended the Second Amendment to withhold the power of disenfranchisement (see Nunn v. State) from both the federal and State governments.

IV. Petitioner also submits historical evidence that the Second Amendment was to prohibit Congress from placing requirements/restrictions upon the right to keep and bear arms which would be similar in nature to laws passed by the Crown and Parliament in England prior to and during the Revolutionary periods of 1688 and 1776; and the Founders sought to prohibit any possibility of arms

seizures which transpired under Nazi rule in Germany prior to and during WWII; also that the Founders would have considered current gun control laws to be infringements of their right to keep and bear arms.

V. Petitioner shows that the public who ratified the Second Amendment understood that every type of firearm and ammunition available was protected by the guarantee, and that the Founders intended the People to have unfettered access to even military weapons, so the People would have equal footing in resistance to military enforcement of laws passed by abuse of government power.

VI. Finally, Petitioner submits that the Founders would have considered cannabis prohibition laws a violation of the Ninth Amendment; Tenth Amendment; Article 4, Section 2, Clause 1; the absolute rights of man; and rightful liberty, and that history supports the fact that the Founders considered possession, cultivation, consumption and even distribution of cannabis to be an inalienable right of the People.

ARGUMENT

I. Since the Courts and the legislature once recognized that the Second Amendment was to protect the right of the People to be prepared to resist military force with equal force, and since the Judiciary was given no legislative or constitution-making powers, and are duty bound to interpret the Constitution with the full value, understanding and intention of the Framers in mind, when and where did the Constitution change from the plain wording in the Second Amendment of "shall not be infringed" to "shall not be unreasonably infringed"?

Since "Constitutional provisions for the security of person and property

should be liberally construed,... it is the duty of the courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon" (See, Boyd v. U.S., 116 U.S. 616, 635 (1886)), the courts are duty bound to protect the Petitioner from laws such as the ones in question.

Constitutional text is not merely subject to the opinion or interpretation of a judge or the legislature, but the text's interpretation must be undertaken with the full value and intentions of the Framers in mind. The precedential value of cases and commentators only tends to increase in proportion to their proximity to the adoption of the Constitution, or Bill of Rights. (See, Powell v. McCormack, 395 U.S. 486, 547 (1969) And when construing a constitutional provision, respect in the court's opinion must be given to the status of principles of the constitutional guarantees and limitations by the drafters. The courts are not at liberty to abandon these principles when it fits the need of the moment. (See, State v. Kessler, 289 Or. 359, 614 P.2d 94,95 (1980))

Indeed, constitutional guarantees and rights are enshrined with the scope they were understood to have when the people adopted them, whether or not future legislatures or even future judges think that scope too broad. (See, Heller v. D.C., 554 U.S. (2008))

When the courts interpret the text of the Constitution, their goal is to discern the most likely public understanding of a particular provision at the time it was adopted. (See, McDonald v. Chicago, 130 S.Ct. 3020 (2010)) Neither the legislature nor the courts may alter, annul, or avoid the constitutional safeguards of person and property set forth in the Bill of Rights. They are beyond the reach of any legislative enactment. (See, Salter v. State, 2 Okla. Crim. 464, 102 P. 719, 725 (1909))

The Constitution is the Supreme Law, and courts are not to substitute their judgment for that of the Framers and the people who adopted it, as to what the guarantee should protect, or indulge in constitution-making under the guise of interpretation. (See, Schubert v. Debard, 73 Ind. Dec. 510, 398 N.E. 2d 1339 (Ind. App. 1980); Bliss v. Commonwealth, 12 KY. (2 Litt) 90,12 Am. Dec. 251 (1822); State v. Kessler, 289 Or. 359, 614 P.2d 94 (1980))

The constitution was written to be understood by the voter (See, U.S. v. Sprague, 282 U.S. 716, 731 (1931); Gibbons v. Ogden Wheat, 1, 188 (1824)), without the need of a special "interpreter". Article V provides a mechanism to change the Supreme Law - with common use of language and terms - and therefore alter the fundamental operation of our system of government. No constitution-making powers were delegated to the Judiciary, and it was not within the intention of the Framers to permit unelected officials to add to or detract from the Supreme Law by issuance of a judgment or opinion. The amendment process was to be the only avenue allowed which could alter the Supreme Law. And any such amendment must be given a vote of approval by the people through their elected representatives, who's job it is to serve the People.

It is true that "The people cannot be effectually oppressed and enslaved who are not first disarmed. The right of the citizen to [keep and] bear arms, in lawful defense of himself and the State is absolute. He does not derive it from the State [or federal] government, but directly from the sovereign convention of people that frame the government. It is one of the 'high powers' delegated directly to the citizen and is accepted out of the general powers of the government. A law cannot be imposed to infringe upon or impair it, because it is above the law, and independent of the law making power." (See, Cockrum v. State, 24 Tex. 394 (1859)) The most lawful reason to keep and bear arms, would be that of resistance to oppression and tyranny.

By examining documents from the founding era, it is abundantly clear that the Founders and Framers intended the Second Amendment to be an absolute prohibition of the powers of this government, so that the People could always be prepared to resist any form of excess or abuse of power which could possibly arise within any branch of government which the Constitution established. The guarantee was to protect the right to keep and bear arms against any type of infringement, and to cause the government to be sensitive to the rights of the people and compel them to respect the absolute rights of man, which Blackstone said were Individual liberty, Personal security and Possession of private property.

The value and intention of the Framers regarding the Second Amendment, was that the right to keep and bear arms would serve as the ultimate safeguard and balance of power, so the People could resist encroachment of their liberties and rights by an excessive legislative power, a despotic executive power or and arbitrary judicial entity. As Luther Martin declared in his "Letter on the Constitution": "By the principles of the American Revolution, arbitrary power may, and ought to, be resisted even by arms if necessary." (See, J. Elliot ed. "Debates in the Several State Conventions on the Adoption of the Federal Constitution" (Philadelphia: J.B. Lippencot, 1836), vol. 1 @ 372) (See also Appendix E)

II. Based on the wording of the Preamble to the Bill of Rights, does the Court recognize the chief political principle of the Second Amendment was to serve, which is that of protecting the right of the People to remain capable of mounting an effectual resistance against "misconstruction or abuse" of government power at any level; and does the court recognize the overwhelming amount of historical evidence that the Founders intended the People to resist

encroachments of their liberties by the government?

The Preamble to the Bill of Rights explains the precise reasons for the desired further securities against government abuse of power, declaring, "The convention of a number of States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added..."

The Founders believed that the powers of this government weren't sufficiently limited by the Articles of the Constitution, and that the delegated powers had much potential for being avenues of oppression and mechanisms by which the government could invade the liberties and rights of the People. Succinctly stated, the Second Amendment was adopted to "prevent misconstruction or abuse" of the government's powers.

General Samuel Thompson, a delegate from Massachusetts, voiced the previous concern during ratification debates over the Constitution, "But where is the Bill of Rights which shall check the powers of Congress; which shall say 'thus far shall ye come, and no farther!' The safety of the people depends on a bill of rights." (See, "History of the Ratification of the Constitution" J.P. Kaminski and G.J. Saladino eds. (Madison: State Historical Society of Wisconsin (2000), vol. 6, @ 1316-17. Also in Elliot ed. Debates, vol. 2, @ 80)

Also, St. George Tucker wrote of the purpose for a Bill of Rights, stating, "A Bill of Rights may be considered, not only as intended to give law, and assign limits to a government about to be established, but also as giving information to the people. By reducing speculative truths to fundamental laws, every man of the meanest capacity and understanding may learn his own rights, and know when they are violated." (See, Blackstone Commentaries, Tucker ed., vol. 1, @ App. 308)

Records from the founding era show that the Framers intended the Second Amendment to completely restrict all branches of government from directly or indirectly infringing upon the People's right to keep and bear arms. The primary political goal was to assure the right of resistance and revolution would be protected and preserved.

The Founders intended the People to judge the laws passed by Congress, and resist enforcement of laws they decided were unconstitutional, unjust or oppressive. The means of resistance are seen in the First and ultimately the Second Amendments. This is evidenced by the following statements made by the Founders.

Noah Webster wrote, "A military force at the command of Congress can execute no laws, but such as the people perceive to be just and constitutional; for they will possess the power, and jealousy will instantly inspire the inclination, to resist the execution of a law which appears to them as unjust or oppressive..." (See, Noah Webster, "An Examination of the Leading Principles of the Federal Constitution" (Philadelphia, 1787), @ 43)

Alexander Hamilton expressed this same view in the Federalist Papers, No. 28, "If the representatives of the people betray their constituents, there is no recourse left but in the exertion of that original right of self defense, which is paramount to all positive forms of government."

George Washington asserted this same right in a speech he gave to Congress in 1790, "A free people ought not only be armed and disciplined, but they should have sufficient arms and ammunition to maintain a status of independence from any who might attempt to abuse them, which would include their own government..." also stating that the people should "promote such manufactures as tend to render them independent from others for essential, particularly for military supplies." (See, Speech of January 7, 1790,

Independent Chronicle (Boston), January 14, 1790, @3)

One founding era scholar, William Rawle, said the Second Amendment was intended to be an absolute prohibition on the government's powers, and that "No clause in the Constitution could by any rule of construction be conceived to grant Congress a power to disarm the people."(See, W. Rawle, "A View of the Constitution", 125 (1st ed. 1825)

Thomas Cooley wrote that the right declared in the Amendment was "meant to be a strong moral check against usurpation and arbitrary power of rulers, and as a necessary and efficient means of regaining rights when...overturned... The meaning of the provision undoubtedly is, that the people shall have a right to keep and bear arms, and they need no permission or regulation of law for the purpose." (See, T. Cooley, "A Treaties on the Constitutional Limitations Which Rest Upon the Legislative Power of the United States of America")

Also, in St. George Tucker's "Commentaries on the Laws of Virginia", Tucker wrote, "The right of bearing arms... is enjoyed by every citizen and is among his most valuable rights, since it furnishes him the means of resisting as a free man ought, the inroads of usurpation."

The constitution of New Hampshire (Ratified 1784), and the resolutions submitted by other states (Virginia and North Carolina included), contained a declaration that "The doctrine of non resistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind..." (See, Elliot ed. Debates, vol. 4, @ 243)

Under the above reasoning, the commerce and taxation clauses of Article 1, Section 8 have been misconstrued to achieve a purpose they were never meant to accomplish.

A contemporary of the Founders, Justice Henry Lumpkin, wrote "We do not

believe that, because the people withheld this arbitrary power of disenfranchisement from Congress, they ever intended to confer it on the local legislatures. This right is too dear to be confided to a republican legislature." (See, Nunn v. State, 1 Kelly 243 (1846). This evidence shows that the Second Amendment was intended to prevent disenfranchisement.

As will be shown, the fact is undeniable that the intention of the Second Amendment was to prohibit any branch of government from declaring what arms the people may keep and bear, or which citizens may keep and bear them. It is not within the proper power of the body to whom an infringement is prohibited to determine, or even debate, what objects such prohibition encompasses.

The Founders were aware of crime, accidents and arms being used by "crazy people". But they chose to secure the individual right to keep and bear arms against any infringement whatsoever. They did not permit language in the Amendment that would allow suspension of the right, for even "public safety" reasons, as was allowed against the Privilege of the Writ of Habeas Corpus, because they knew it might take a general insurrection of the people to bring alteration of power in government about. (See Appendix F)

The Founders never imagined that they could be disarmed as a purported safety measure, or to protect themselves from themselves, or to create a "safe society", or even to reduce crime. Their belief was that the penitentary and the death penalty would be proper punishments for an actual crime committed, not a deprivation of an inalienable right. (See, Wilson v. State, 33 Ark . 577 (1878))

The Founders also never believed an individual could be disarmed for violation of an interstate commerce or taxation code, since they understood neither of those powers to grant Congress authority over an individual's life.

Also, they understood a "felony" to be a "wicked" "evil" or "cruel" act, such as rape, murder, burglary or arson.

The practice of civil disobedience toward commerce or tax laws, which appear unjust or unconstitutional to the people, is neither wicked, evil or cruel, nor can said disobedience be compared to murder, rape, burglary or arson. A "victimless" crime would not fall within the definition of the scope the public understood to be a felony at the time of the founding. Indeed, the Founders intended the people to resist enforcement of laws which they deemed a violation of the Constitution. The nature of that resistance is the essence of the intention of the Second Amendment.

The Founders believed that firearms stood next in importance to the constitution itself. They allowed the people to enforce their liberty against the government, and even though they were abused sometimes, they were completely indispensable (See, G. Washington, Speech to Congress, Independent Chronicle, Jan. 14, 1790, @3)

III. Do punishments of common law or founding era offenses equivalent to modern "non-violent" "victimless" "felonies", support a lifetime ban of possessing firearms or ammunition by anyone convicted of such offense?

Nowhere in legislative or judicial history, prior to the early 20th Century, is there any precedent to support "felon Disability" - specifically regarding non-violent, victimless offenses - or registration requirements being in line with the intentions of the Framers of the Second Amendment. In fact, examination of common law and founding era equivalents of "victimless" "non-violent" "felony" laws and punishments prove these type of laws are exactly what they sought to prohibit, and are in opposition to the values and intentions of the framers and ratifying public who adopted the Bill of Rights

and other amendments.

While pointing to Congress' power to pass all laws that were "necessary and proper" to execute its enumerated powers, George Mason pointed out that Congress might abuse its power and "constitute new crimes, inflict unusual and severe punishment, and extend their power as far as they shall think proper; so that the State legislatures have no security for the powers now presumed to remain to them; or the people for their rights." (See J.P. Kaminski and G.J. Saladino eds. Documentary History of the Ratification of the Constitution, vol. 8 @ 43)

One example of a "non-violent" "victimless" felony during the founding era is "An Act to More Effectively Punish Adherence to the King", passed by New York's Legislature in 1781. This law made it a felony to disseminate any information in any way that claimed the king of England "hath, or of right ought to have" any authority within the Sovereign State. The felony could be punished by three years impressment on an American war ship, where the said convict would have had direct access to firearms and heavy artillery. (See, Laws of the Legislature of the State of New York, in Force Against the Loyalists, and Affecting the Trade of Great Britain, British Merchants, and Others Having Property in that State" (London: H. Rynell, 1786) @ 110-11)

Nowhere in common law history is there any evidence of any law to support a prohibition of owning, possessing or using firearms, ammunition or armor by a person convicted of a "non-violent" "victimless" crime, if said person were released from the required punishment associated with the conviction. (See Appendix G)

It has been said by the courts that the foundation for a lifetime ban placed on individuals convicted of a crime punishable by more than one year in prison is a "longstanding" prohibition (Heller v. D.C. (2008)), and the

imposition of such a prohibition stems from the common law requirement that such person would "forfeit all goods to the Crown". This belief is both unsubstantiated and untrue, as the following history will prove. This tradition did not bar and individual from once again obtaining property or "goods" previously forfeited, including firearms or armor, nor did any such tradition of a lifetime ban of owning property exist in England or in the American colonies.

The English right to have arms developed after being announced in the 1689 Declaration of Rights did not mention any exclusion of a person convicted of a "felony" or any other crime for that matter. Nor does any of the general English law of the 1700's. The relevant issue is not whether one forfeited "all goods" - implicitly including one's firearms - upon a felony conviction. One did at common law forfeit personal property ("goods and chattels") upon conviction of a felony and other "higher kinds of offenses". But it did not follow that one could not afterward purchase and hold new property, either personal property or real estate, including firearms. The only disability the common law imposed regarding future property ownership was a consequence of not just a conviction of a felony, or treason, but also a judgment of death. No sentence of death meant no property disability.

The following establishes that the aforementioned doctrines of the common law did not carry over to the United States in their English form.

St. George Tucker wrote in 1803, "Confiscations, forfeitures, and corruption of blood do not follow in case of a conviction or attainder for treason or a felony either in the Commonwealth of Virginia, or under the Federal Government." (See, Blackstone's Commentaries @ 377, n. 8 (St. George Tucker ed.)) Thus this aspect of the common law does not bear on the ability of a convict (if alive and released from prison) to possess firearms. For

further evidence of early American attitudes concerning attainder and forfeitures, see generally the U.S. Constitution Article III, Section 3, Clause 2.

In the case of Austin v. U.S. (509 U.S. 602, 611-13 (1993)), the court noted only statutory forfeiture of "offending objects" took hold in the United States: wholesale forfeiture for felony treason did not, nor did "deodand" forfeiture of objects causing accidental death. Also in 5 Blackstone's Commentaries, Tucker ed. @ 389 n. 5, Tucker further notes limitations on forfeiture and corruption of blood in American Law.

In the Second Volume of James Kent's "Commentaries on American Law", @ 512, it states, "the tendency of public opinion has been to condemn forfeiture of property, at least in case of felony conviction, as being unnecessary and hard punishment of the felon's posterity."

The common law of England does not support any lifetime arms disabilities, which have been asserted as "constitutional" prohibitions by the courts in recent years. In fact, the common law avoided any arms disability altogether, even though it gave the courts in England a large stick with which to reduce the risk to society from a free person who nevertheless posed a threat of breaching the peace with arms.

The attempt has been made to use the laws of disarmament from the English game laws, and from the Glorious Revolution of 1688 and the American Revolution of 1776 as grounds to justify the lifetime ban of possession of firearms by "non-violent" "felons" convicted of "victimless" crimes. These arms disabilities cannot be isolated from their context as part of a wholesale stripping of a distrusted group's civil liberties during very tumultuous times of actual war. Outside these specific times, the only other instance in American history in which persons were barred from possessing firearms was in

the era of slavery before the Civil War. After the Fourteenth Amendment was adopted, all American citizens were guaranteed rights secured by the Constitution. Even when Congress disband the southern militias, (partly to prevent the terrorizing of freed slaves and white abolitionists) they refused to disarm them on Second Amendment grounds.

At common law, only the most serious offenses were felonies and the wrongful act had to be accompanied with a guilty mind. The modern trend is to make regulatory and liability offenses felonies, even though for the most part such offenses are merely "mala prohibita" and not "mala en se". To prevent the misconstruction and abuse of power currently transpiring, and to prevent disarming people by the expedients of classifying regulatory offenses as felonies, the disqualification for felons should be restricted to common law felonies and their modern equivalents, and offenses requiring some state of mind that intends harm to another person, their property or liberty. Furthermore, the disqualification should expire after a certain period of time, as is the case in several states today, and used to be the case in some other states (see, North Carolina General Statutes 14-415.5), since nowhere in American or English tradition can a lifetime ban on possession of firearms, ammunition or armor be witnessed prior to the 1920's. Also I will mention that a lifetime firearms ownership disability is in violation of the Eighth Amendment's protection against cruel and unusual punishment. Such a disability leaves a person and their family completely defenseless against the inroads of usurpation, oppression, tyranny or the violences of criminal intent or harm. That a person must pay taxes, can vote, serve on a jury or hold a public office, but cannot own firearms, goes against the foundational principles which established this government. To deprive a person of the right to keep and bear arms, who was convicted of a "non-violent" "victimless"

crime/"felony", and declare them unfit to "resist the inroads of usurpation, as a free man ought" is to reduce that person to the position of a second class citizen. It is to impose upon them what was once seen as a "badge of slavery", and restrict them of their natural, lawful right of resistance. (see Appendix G)

During the Reconstruction, the Fourteenth Amendment was ratified largely to guarantee the right to keep and bear arms to the newly freed slaves who had become citizens, so they could protect themselves against state or local law enforcement agencies imposing laws which the legislature had passed, which violated their rights and liberty. Frederick Douglass made the famous statement "A man's liberties rest in three boxes; the ballot box, the jury box and the cartridge box." Affirming that if the representatives betray their constituents, then the jury is to nullify government action which they disapprove of; and should the government impede the people's right to judge the law, then the people may exercise their right to resist force of arms with equal force.

State legislatures considered blacks as a "high risk" group of society, and sought to deprive them of the right to keep and bear arms. (See Appendix H)

Enforcement legislation was adopted over the Fourteenth Amendment, and nowhere in the punishment sections of these Acts was a provision granted or intended to disarm the offender. (See Appendix I) When said person was released from the punishment required for a conviction under the Acts, they were once again considered just another citizen, and were not deprived of the right to keep and bear arms. There were also no registration requirements for any type of firearm available before or during the Civil War or during the Reconstruction.

IV. Was the Second Amendment intended to prohibit Congress from placing restrictions/requirements upon the right to keep and bear arms which woould be similar in nature to those imposed by the Crown and Parliament in England during the Revolutionary periods of 1688 and 1776, and to prevent arms seizures as transpired under Nazi rule in Germany and Nazi occupied territories before and during WWII; and would the Founders have considered current Federal gun control legislation (26 U.S.C. §§ 5841, 5861 (d), 5871; 18 U.S.C. §§ 922 (g)(1), 924 (a)(2), 922 (g)(3), 922 (a)(6)) to be infringements of their right to bear arms?

History shows that "felon disability", taxation, and registration laws, along with other requirements of the National Firearms Act, the Federal Firearms Act and the Gun Control Act are nearly identical to laws passed in Germany - Where there was no guarantee against infringement of the right to keep and bear arms within their Constitution - and Nazi Germany prior to WWII, and therefore cannot be consistent with the Second Amendment. (See Appendix J)

In the book "Gun Control: Gateway to Tyranny" the authors present a word for word, direct paralell translation of the German/Nazi gun control laws, and their American equivalent. On pages 88-89, §15 of the Nazi law is compared to 18 U.S.C. 922. The laws are nearly identical. On pages 34, 74 and 107 it can be seen that the Nazi requirements are echoed nearly verbatim in the BATF requirements to acquire a firearm. (See Appendix K)

In the 1982 Senate Report on the Right to Keep and Bear Arms (ISBN# 1-58610-254-5), the subcommittee published the following: "complaints regarding techniques used by the Bureau [ATF] in an effort top generate firearms cases led to hearings before the Subcommittee on Treasury, Post Office, and General Appropriations of the Senate Appropriations Committee

in July 1979 and April 1980, and before the Subcommittee on the Constitution of the Senate Judiciary Committee in October 1980. At these hearings evidence was received from various citizens who had been charged by BATF, from experts who had studied BATF, and from officials of the Bureau itself. Based upon these hearings, it is apparent that enforcement tactics made possible by current federal firearms laws are constitutionally, legally and practically reprehensible." Stating further, "These practices, amply documented before this Subcommittee, leave little doubt that the Bureau has disregarded rights guaranteed by the Constitution and laws of the United States. It has trampled on the Second Amendment by chilling exercise of the right to keep and bear arms... It has offended the Fourth Amendment by unreasonably searching and seizing private property. It has ignored the Fifth Amendment by taking private property without just compensation and entrapping honest citizens without their right to due process of law."

Federal gun control laws allow the BATF to be a corrupt government organization, and to disregard their oath to "uphold and defend the Constitution". The BATF, DEA, FBI, BLM, etc. would be considered by the founders as a "select militia" of which Alexander Hamilton said in the Federalist Papers, any "permanent corps in the pay of government amounts to a standing army..." (See the Federalist No. 24)

John Adams believed the same, writing that "A select militia will soon become a standing army..." (See W.H. Sumner "An Inquiry Into the Importance of the Militia to a Free Commonwealth in a Letter... to John Adams... With His Answer (Boston: Cummings and Hillard, 1823) @ 69-70)

Reverend Simeon Howard, a prominent figure in the founding era, asserted the common belief at the time that "standing armies propagate

corruption and vice where they reside, they frequently abuse the unarmed and defenseless people; where there is any difference between rulers and subjects, they will generally be on the side of the former, and ready to assist in oppressing and enslaving the latter..."But rulers of arbitrary disposition have ever endeavored to have a standing army at their command, under pretence indeed, of being for the safety of the state, though really with a view of giving efficacy to their orders... TO have an army continually stationed in the midst of a people, in time of peace, is a precarious and dangerous method of security." (SEE C.S. Hyneman & D.S. Lutz, American Political Writing During the Founding Era 1760-1805 (Indianapolis: Liberty Fund, 1983) vol. 1, 198-199)

On December 6, 1787, John Smilie said, Congress may give us a select militia which will, in fact, be a standing army..." (See Documentary History of the Ratification of the Constitution, Merril Jensen ed. (Madison: State Historical Society of Wisconsin, 1976) vol. 2, @ 209) As the Founders believed that a standing army is the bane of liberty, so it is in America today.

In the series of "Letters from the Federal Farmer to the Republican" the "Farmer" said that the Constitution ought to "guard against a select militia" (Letter XVIII). He also wrote "The mind that aims at a select militia, must be influenced by a truly anti-republican principle; and when we see many men disposed to practice upon it, whenever they can prevail, no wonder true republicans are for carefully guarding against it." (See documentary History of the Ratification of the Constitution, vol. 17, @636. Also in "Additional Letters from the Federal Farmer to the Republican, @ 170)

Regarding firearms registration laws, such laws have roots in Nazi

Germany and afford opportunity for confiscation, as transpired under Nazi rule. Laws that would be similar to laws prohibiting "gypsies" or other people the government suspects of disaffection would be along the same constitutionally illegal position.

David L. Caplan wrote in "Restoring the Balance: The Second Amendment Revisited." (® 1976, Fordham Urban Law Journal) regarding registration requirement laws, "It is therefore abundantly plain that the founding fathers recognized the type of danger incident to the registration of arms; the Second Amendment seeks to curtain the possibility of widespread or politically selective confiscation. Thus, any type of gun control legislation, especially at the federal level, appears to be at odds with the Second Amendment." Stating further, "The records keeping and inspection provisions of present gun control statutes enhance the probability of government-sponsored gun confiscation and usurpation of power. This is precisely what the Second Amendment sought to prevent."

There are specific clauses in the Constitution that provide for the military forces to defend the nation against foreign invasions or insurrections. The Second Amendment was to protect the people's way to defend themselves against what Thomas Jefferson said was the "greatest danger to American liberties", which is, "a government that would ignore the Constitution" and the limitations on government contained within it.

V. Did the public which ratified the Second Amendment understand that every type of firearm, ammunition or explosive available was protected by the guarantee against infringement; and did the Founders intend for the People to have equal or inferior firearms technology to the military forces?

Reasoning has been used to say that civilians and militiamen did not

possess certain types of weapons available during the Revolutionary period. Historical documents prove this is untrue.

Civilians and militiamen possessed artillery, rifles (superior firearms technology to the military forces), military firearms, blunderbusses (short barreled shotguns), pocket pistols, pistols, carbines (short barreled muskets/rifles), explosives and literally every firearm know to exist at the time. (See Appendix L)

In Heller v. D.C. the Court's examination of the Second Amendment showed that the right was not restricted to a collective, states right, but was a guarantee against infringement of an individual right. This aligns with the 1982 Senate Report on the Right to Keep and Bear Arms examination. In light of both the Legislative and Judicial branches declaring an individual right is protected, the collectivist interpretation by the Supreme Court in U.S. v. Miller (307 U.S. 174 (1939) is opposed to the values and intentions of the Founders and the Framers of the Second Amendment.

The Founders did not permit themselves to be taxed in the exercise of any other rights, and they would have considered imposition of a tax burden upon the right to keep and bear arms to be an infringement of that right. Being required to give one's name to an official, obtain permission, or pay a tax to publish one's sentiments, practice one's religion or to own a firearms of any sort, would have been considered infringements by the Founders.

Since the Second Amendment is a prohibition placed on all branches of government, and according to Article 5 of the Constitution carries the same legal weight and authority as the Articles themselves, use of commerce or taxation powers in regard to the right of the people to keep and bear their

private arms is clearly improper and illegal.

Americans developed a system in which the Constitution is Supreme, and the concerted effort by legislatures and courts to nullify an explicit restriction upon their powers cannot be justified. (See Nunn v. State (1846) declaring that any law, Federal or State, which would contravene the right of the people to keep and bear arms of every description would be repugnant to the Constitution and void). Historical records prove beyond any doubt that the Founders and Framers intended the people to have access to even military type weapons. (See Appendix L; also Appendix M)

Many courts have said that military weapons are protected by the Second Amendment. (See, Fife v. State, 31 Ark. 455, 460-61 (1876); Andrews v. State, 50 Tenn. (3 Heisk) (1871); Aymette v. State, 21 Tenn. (2 Hum) 154 (1840); State v. Buzzard, 4 Ark. (2 Pike) 18 (1842); Wilson v. State, 33 Ark. 557, 560, 34 Am. Rep. 52, 54-55 (1878)).

Specifically in regard to registration requirements of machineguns, t there has already been a ruling of lower courts that due to the fact that the Treasury Department fails and refuses to collect the $200 dollar tax the laws have lost their constitutional footing as a revenue generating measure, and are impliedly repealed or unconstitutional. (See U S v. Rock Island Armory, inc , 773 F. Supp. 117 [1991],; U.S. v. Dalton, 960 F.2d 12 121 [1992]

The registration requirements adopted by the NFA, and the regulations adopted by the FFA and GCA, impair the right of the citizen to be prepared to resist enforcement of laws by a select militia or military. They violate the very intention of the Second Amendment regarding resistance. The use The use of tax or commerce powers to require these regulations is an abuse of delegated powers.

VI. Would the Founders have considered the laws (18 U.S.C. §§ 2; 21 U.S.C. § 841 (a)(1); (b)(1)(B)) to be a violation of the Ninth Amendment; Tenth Amendment; Article 4, Section 2, Clause 1; the absolute rights of man; rightful liberty; and does historical evidence support the fact that the Founders considered cultivation, consumption, possession and use of cannabis as an economic commodity, to be one of the people's rights?

Regarding the cannabis prohibition laws and their auxiliaries in question, these laws would have been considered to be a misconstruction and abuse of Congress' delegated powers, by the Founders. Congress was not given power to regulate commerce in general, and the Founders believed that no power given to them granted them authority over an individual's life or liberty. These laws violate what was considered by the founding generation to be "the absolute rights of individuals". The laws violate clauses of the Supreme Law intended to protect the citizen regarding the exercise of individual liberty and possession of private property, and which were to promote healthy economic intercourse between the sovereign States. (See, Appendix N)

Article 4, Section 2, Clause 1 of the Supreme Law was intended to restrict the federal government's power from prosecuting a citizen for activity which is legal in some States, but not necessarily all. This provision was adopted from the Articles of Confederation; Article IV (1777).

The Declaration of Independence can be evidenced as a source naming the plethora of natural rights of man. "Life, Liberty and the Pursuit of Happiness" are merely "among" the inalienable rights given to man by the Creator, and would obviously include cultivation, possession or consumption of cannabis.

New Hampshire's Bill of Rights (1784) declared "Article II. All men have certain natural, essential and inherent rights; among which are - the enjoying

of life and liberty - acquiring, possessing and protecting property - and in a word, of seeking and obtaining happiness." The people who adopted this Article, understood access to cannabis/hemp to be included in this provision. The Founders recognized the abuse of power which the government might attempt - by criminalizing the liberties of the people - if rights were not protected by a Bill of Rights. James Madison submitted the Ninth Amendment to declare the expansive understanding of rights which the people retain - without government permission - being protected from denial or disparage by use of enumerated powers. (See Appendix O)

With nearly three-quarters of the States, plus the District of Columbia allowing possession, cultivation consumption and even distribution of cannabis/hemp for medical purposes, and nearly 10 States plus D.C. permitting the same for recreational purposes, it is obvious that such activity is a right which the people retain and cannot be denied or disparaged.

Since Congress still possess "Exclusive Legislation in all cases whatsoever" within Federal Territory, their lack of a veto of laws permitting cannabis possession, cultivation, consumption and distribution, is by default an approval of said activity.

History records the Founder's position that cannabis/hemp cultivation, possession and use would clearly be a natural right of man and should receive protection through the Ninth Amendment.

President Jefferson urged about Hemp/cannabis, "Hemp is of first necessity to the wealth and protection of this country."

President John Adams said of hemp/cannabis "We shall, by and by, want a world of hemp, more for our own consumption."

President Washington advised that we "Make everything you can of the Indian hemp seed, and sow it everywhere."

Ben Franklin harnessed the power of lightning using a kite made of canvas, wet hemp string and a brass key.

Webster's New Riverside Dictionary, ®1984, defines cannabis as, "1. the hemp plant; 2. the dried flower buds of the hemp plant." (p.224) It defines "canvas" as being derived from the Norman - French "canevaz" which was an adaptation from the Latin word cannabis or hemp.

Every ship the Founders and Pilgrims used to navigate the ocean was equipped with sails and rope made from the cannabis plant. The founding generation understood that the cannibis plant was a valuable commodity with many social, economic and personal uses. They would have considered current legislation prohibiting its possession, cultivation and use to be a violation of the Ninth Amendment.

The Tenth Amendment was designed to prohibit the Federal Government from assuming powers that the Constitution didn't specifically grant it. Congress once understood that the commerce clause did not grant them power to control a substance. They had to ratify the Eighteenth Amendment to grant themselves any such authority. Currently, cannabis prohibition is being enforced by a power that was understood not to grant Congress, the courts or the executive branch any such position.

The Tenth Amendment, Ninth Amendment, and Article 4, Section 2, Clause 1, when considered together should be construed to prohibit the federal government from prosecuting people for activities such as the one in question.

Congress has adopted the same regulatory measures under the Controlled Substance Act, that previously required a constitutional Amendment. Such usurpation of authority is opposed to the principle of limited government intended by the Framers of our Constitutional Republic.

CONCLUSION

The Founders believed that the People's right to keep and bear arms was among the most valuable rights of man, because it furnished a way for the individual citizen to "resist attack upon his liberty or property by whomever made" and the people have "a right to be arms, and to defend, by force of arms, their rights, when invaded."(See, Documentary History of the First Federal Congress: Debates in the House of Representatives, vol. 14, @92-93) When examined in light of the intentions of the Founders, current gun control legislation and cannabis prohibition laws are in violation of the Supreme Law, and as per Marbury v. Madison are invalid and should be ruled as such by this Court.

In the 16th American Jurisprudence, 2nd Ed., Section 177, the theory of law states that "The general misconception is that any statute passed by legislators bearing the appearance of law, constitutes the law of the land. The U.S. Constitution is the Supreme Law of the land, and any statute, to be valid, must be in agreement. It is impossible for the Constitution and a law violating it to be valid; one must prevail. This is succinctly stated as follows:

The general rule is that an unconstitutional statue, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the decision so branding it. As unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such statute leaves the question that it purports to settle just as it would be had the statue not been enacted." "Since an unconstitutional act is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection and justifies no acts performed under it..." "A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, so far as a statute runs counter to the fundamental law of the land, it is superseded

thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it."

President Abraham Lincoln understood this, as he said, "We the People are the rightful masters of both Congress and the courts, not to overthrow the Constitution, but to overthrow men who would pervert the Constitution.

In light of the purpose of the Second Amendment being to secure the right of resistance, these laws allow for government abuse of tens of millions of American citizens, and such abuse has been transpiring for decades. The protection of this Court must be interposed.

For the reasons stated above, and within this Petition, this Court should grant said Petition to provide an opportunity for the people to receive the recognition of their rights and protection which they rightly deserve. These very important matters affect citizens and their families, which are charged under said laws at both federal and State levels.

The Petitioner respectfully requests this Court to look into the history which has been presented, and provide a decision which would be in line with the values, intentions and understanding of the Founders of our Constitutional Republic, and the principles of limited government.

Petitioner also respectfully requests that this Court vacate the sentences imposed under the laws in question, and order the Petitioners property which was seized under authority of said laws, to be returned to him in the condition in which it was taken.

Dated: October 25, 2018

Respectfully submitted,

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