

**In The
Supreme Court of the United States**

Libertarian Party of Erie County, Michael Kuzma,
Richard Cooper, Ginny Rober, Philip M. Mayor, Michael
Rebmann, Edward L. Garrett, David Mongielo, John
Murtari, William Cuthbert,

Petitioners,

v.

Andrew M. Cuomo, individually and as Governor of the
State of New York, Letitia James, individually and as
Attorney General of the State of New York, Joseph A.
D'Amico, individually and as Superintendent of the New
York State Police, et al.

Respondents.

On Petition for Writ of Certiorari
To the United States Court of Appeals
for the Second Circuit

**SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION
FOR WRIT OF CERTIORARI (RULE 15(8))**

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QUESTION PRESENTED FOR REVIEW

1. Can courts properly evaluate Second Amendment claims without acknowledging the true purpose of the right to bear arms, *to deter government tyranny* in all its multifarious forms?

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ARGUMENT

REASONS FOR GRANTING THE PETITION

I. THE RECENT EVENTS IN MYANMAR ILLUSTRATE THE TRUTH OF THE GOVERNMENT TYRANNY ARGUMENT THAT UNDERLIES THE PETITION.

Many and sharp the num'rous ills
Inwoven with our frame!
More pointed still we make ourselves,
Regret, remorse, and shame!
And man, whose heav'n-erected face
The smiles of love adorn, -
Man's inhumanity to man
Makes countless thousands mourn!

--Robert Burns

This lawsuit was premised on the need to explicitly recognize that the primary purpose of the Second Amendment is to deter government tyranny. The government tyranny argument was discussed in the respondent's brief in *District of Columbia v. Heller*, 554 U.S. 570 (2008) and briefly mentioned in the decision itself. Respondent's Brief at pp. 3-4, 29-32; *Heller*, *supra* at 599-600. However, it was not made an integral part of the holdings of *Heller* or *McDonald v. City of Chicago*, 561 U.S. 742 (2010) and hence it has been almost completely ignored by the lower courts, resulting in the practical evisceration of the right in many of the lower federal and state courts.

While the government tyranny argument was hinted at in *Heller*, our papers made the argument explicitly and in graphic terms and buttressed it with empirical data. In our petition, we cited several evils that are deterred by widespread civilian gun ownership, including mass murder and coups d'état. Petition, page 21. These issues were previously discussed in our petition for rehearing in the Second Circuit. Case 18-386, Document 158, 08/25/2020, Page10.

Sadly, the recent events in Myanmar perfectly confirm these precise points. See, Supreme Court Rule 15(8). Myanmar's military overthrew the democratically-elected government on February 1st, nine days before we filed our brief in this case. Myanmar ranks 179th in the world in civilian gun ownership at a mere 1.6 guns per 100 persons. Source: Wikipedia. The military knows that if they seized power, the people would not be able to muster arms to oppose them. In the days that followed, and the people hit the streets to protest, Myanmar did precisely what was described in our petition and supporting documentation--they shot unarmed protesters to death in the streets.

To date, the military has murdered 50 protesters. *Source: ABC News.* 38 protesters were killed in one day, on March 3rd. R. Gladstone, "U.N. Says 38 Are Killed in Myanmar in 'Bloodiest Day' Since Coup Began," *nytimes.com* (March 3, 2021). Hundreds of political prisoners have been detained. V. Milko, "Experts fear fresh wave of political prisoners in Myanmar," *APNews.com* (Feb. 24, 2021). The usual assortment of civil liberties violations attendant upon coups are occurring, including curfews, illegal detention and suppression of free speech and the press.

It is apparent that powerful forces in American politics, including in the federal judiciary, do not believe there is a right to bear arms and would propose, support and enforce various gun control schemes that could bring American civilian gun ownership down to the level of Myanmar and other countries that have suffered various atrocities inflicted on unarmed civilians.

It is therefore imperative that this Court make explicit what was implied in *Heller*, that the foundation of the right to bear arms is the right of the people to protect their sovereignty against the myriad forms of government tyranny that have been a regular feature of human history over the centuries and most recently on display in Myanmar.

Myanmar gives the lie to the notion that concerns about tyranny were relevant in 1775 but not in these times. It *can* happen here as human nature is the same always and everywhere, and atrocities *have* been committed by the federal government against groups of disarmed or poorly armed Americans not considered to be citizens at the time, including slaves and Native Americans.

In an imperfect world, the right to bear arms is an important deterrent to man's inhumanity to man.

CONCLUSION

We urge the Court to grant the petition for the reasons stated above and in the petition itself.

Respectfully submitted,

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