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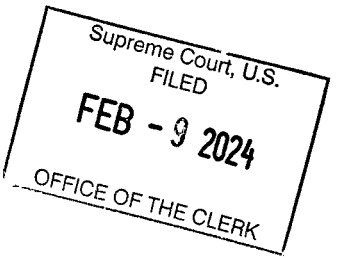

IN THE SUPREME COURT OF THE UNITED STATES

MARK JEROME JOHNSON BLOUNT I,

Petitioner,

v.

THE UNITED STATES OF AMERICA, ET AL.

Respondents.

On Petition For Writ Of Certiorari
To The Court Of Appeals For The Eighth Circuit

PETITION FOR WRIT OF CERTIORARI

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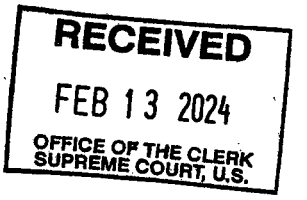

QUESTION PRESENTED FOR REVIEW

Does Petitioner, in a pre-enforcement action brought under the Declaratory Judgment Act, have to allege that he has already violated the law or "will in fact violate the law," or plead his intentions with such exacting specificity as to impose criminal penalties upon him under the challenged law, in order to have standing to challenge a purported law which unlawfully infringes his absolute ancestral and constitutional rights to keep and bear arms by *absolutely* "proscrib[ing]"conduct directly "affected with [those rights],"[1] to wit, *absolutely* prohibiting Petitioner from keeping ordinary military weapons manufactured post-1986, when he clearly avers in his pleadings that he *presently intends* to act in accordance with his absolute rights by keeping the proscribed weapons in *the immediate future*, in contravention to said law, but that he has been *deterred* from doing so by said provisions, the regularity and history of their enforcement, the *severity of the unlawful penalties* imposed for violations of said provisions, and the governmental defendants' failure to disavow enforcement of the presently-challenged provisions against Petitioner when he so acts, and, accordingly, *coerced* by said provisions and the defendants to "forgo the full exercise of his rights" due to his *reasonable fear* of enforcement of these Acts against him?

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[1] Susan B. Anthony List v. Driehaus, 573 U.S. 149, 161-3 (2014).

LIST OF PARTIES TO THE PROCEEDING AND RELATED PROCEEDINGS

I. LIST OF PARTIES TO THE PROCEEDING:

A. PETITIONER: Mark Jerome Johnson Blount I

B. DEFENDANTS:

a. The United States of America

b. Merrick Garland, Attorney General of the United States, in his official and unofficial capacities

c. The Bureau of Alcohol, Tobacco, Firearms and Explosives, an agency of the United States of America

d. Bernard G. Hansen, Special Agent in Charge of the Kansas City Division of the Bureau of Alcohol, Tobacco, Firearms and Explosives, in his official and unofficial capacities

II. RELATED PROCEEDINGS:

A. MARK JEROME JOHNSON BLOUNT, Plaintiff, v. THE UNITED STATES OF AMERICA, MERRICK GARLAND, ATTORNEY GENERAL OF THE UNITED STATES, IN HIS INDIVIDUAL AND OFFICIAL CAPACITIES, THE BUREAU OF ALCOHOL, TOBACCO,

FIREARMS AND EXPLOSIVES, AN AGENCY OF THE UNITED STATES OF AMERICA, AND BERNARD G. HANSEN, SPECIAL AGENT IN CHARGE OF THE KANSAS CITY DIVISION OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES, DEFENDANTS, Defendants, 6:23-CV-3106-MDH, U.S. District Court for the Western District of Missouri. Final judgment issued on October 3, 2023.

B. MARK JEROME JOHNSON BLOUNT I, Plaintiff/Appellant, v. THE UNITED STATES OF AMERICA, MERRICK GARLAND, ATTORNEY GENERAL OF THE UNITED STATES, IN HIS INDIVIDUAL AND OFFICIAL CAPACITIES, THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, AN AGENCY OF THE UNITED STATES OF AMERICA, AND BERNARD G. HANSEN, SPECIAL AGENT IN CHARGE OF THE KANSAS CITY DIVISION OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES, Defendants/Appellees, Case No. 23-3245, U.S. Court of Appeals for the Eighth Circuit. Trial court order "summarily affirmed" on December 4, 2023. Petition for Rehearing En Banc denied on January 11, 2024.

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COMES NOW, Petitioner, Mark Jerome Johnson Blount, Esq., and files this Petition for a Writ of Certiorari, showing the Court as follows:

CITATIONS TO OFFICIAL AND UNOFFICIAL REPORTS

Blount v. United States, No. 6:23-CV-03106-MDH, 2023 WL 6449448 (W.D. Mo. Oct. 3, 2023).

STATEMENT OF THE BASIS OF THIS COURT'S JURISDICTION

On October 3, 2023, the United States District Court for the Western District of Missouri erroneously granted the government defendants' motion to dismiss in this case, thereby dismissing Petitioner's case.

A panel of three judges for the United States Eighth Circuit Court of Appeals "summarily affirmed" the erroneous order of the trial court dismissing Petitioner's pro se case on December 4, 2023. Petitioner timely filed a Petition for Rehearing En Banc with the United States Eighth Circuit Court of Appeals on December 11, 2023, and on January 11, 2024, the Court of Appeals for the Eighth Circuit denied Petitioner's petition for rehearing en banc.

This Court has jurisdiction under the United States Constitution and 28 U.S.C.A. §1254.

CONSTITUTIONAL PROVISIONS, STATUTES, AND REGULATIONS INVOLVED

The Second "Amendment" to the United States Constitution states, "a well regulated militia being necessary to the security of a ***free*** State,"[2] to wit, "universal truth," as standing armies in times of peace are dangerous to liberty, "the right of the people to keep and bear arms shall not be infringed,"[3] to wit, "universal truth," as not only are the Posterity's absolute ancestral rights beyond the sum total of the joint-sovereign power of the Sovereign Body of this country to act upon or regulate in the slightest degree, but, also, even if they were within that power, these rights were expressly retained from all governmental action by the Posterity's founding generation ancestors and passed to the Posterity via our lineal, legal, and bloodline descents from said progenitors.

The National Firearms Act, 26 U.S.C. § 5812, *et seq.*,

The Gun Control Act of 1968, and

The Firearms Owners' Protection Act of 1986, 18 U.S.C. § 922, *et seq.*

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[2] U.S. Const. amend. II.

[3] Id.

INTRODUCTION TO FACTS AND PROCEDURAL HISTORY, INCLUDING THE BASIS OF JURISDICTION FOR THE DISTRICT COURT

a. District Court's Jurisdiction:

Petitioner's pro se complaint challenges the validity of the National Firearms Acts' prohibition as to Petitioner, a law abiding citizen member of the Posterity's, possession of machine guns manufactured post-1986 and in regular use in the United States armed forces, a regulation which acts directly upon conduct falling squarely within the scope of Petitioner's absolute ancestral and constitutional rights of keeping and bearing arms, both as those rights existed at common law and as those rights were retained for Petitioner by Petitioner's Founding Generation ancestors, and passed to Petitioner via his lineal, legal, and bloodline descent from such individuals. Thus, Petitioner invoked the federal question jurisdiction of the District Court, pursuant to Article III of the United States Constitution, which states that "***[t]he judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States***, and Treaties made, or which shall be made, under their Authority;...***to Controversies to which the United States shall be a Party***,"[4] and 28 U.S.C.A. § 1331, which vests original jurisdiction in the United States

[4] U.S. Const. art. III, § 2 (emphasis added).

District Courts over "all civil actions arising under the Constitution, laws, or treaties of the United States."[5]

b. Introduction to Facts and Procedural History:

Petitioner mailed in his pro se complaint challenging the National Firearms Act, 26 U.S.C. § 5812, *et seq.*, the Gun Control Act of 1968, and the Firearms Owners' Protection Act of 1986, 18 U.S.C. § 922, *et seq.*, hereinafter, collectively, "National Firearms Acts," or, "NFA," insofar as the provisions of these Acts prohibit Petitioner, as a law-abiding citizen member of the Posterity, from keeping military-grade ordinary military weapons, to wit, machine guns manufactured post-1986 that are in regular use in the United States armed forces, on April 5, 2023, to the Clerk of Court for the United States District Court for the Western District of Missouri in Springfield, Missouri. Petitioner's pro se complaint was officially filed with said court on the 7th of April, 2023.

In Petitioner's pro se complaint, Petitioner ***clearly avers***:

One, he "is a law-abiding citizen...and has never been charged with nor convicted of a felony,"[6] and "a member of the Posterity, being a direct lineal bloodline descendant of Isaac Blount of Hencoop Swamp, Pitt County, North Carolina, a

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[5] 28 U.S.C.A. § 1331.

[6] Pl.'s Compl. ¶ 1 at 2, Doc. 1.

Revolutionary War Veteran whom served in the North Carolina Militia...and a member of the 'political body who, according to our republican institutions, form[ed] the sovereignty,' Dred Scott v. Sandford, 60 U.S. 393, 404 (1856), of both the Colony of North Carolina at the time of the Declaration of Independence and of the State of North Carolina at the time of ratification of the United States Constitution[,] (Ex. 1; Ex. 1A; Ex. 1C)[,] [his father], Benjamin Blount of Hencoop Swamp,...a member of the Pitt County, North Carolina, Committee of Safety at the time of the events leading up to the Revolutionary War...that body of free men of England who were 'Determined never to become Slaves to any Power upon Earth,' [who were set on] opposing the execution of the several Arbitrary and Illegal Acts of the British Parliament[,]' (Ex. 1B)[,]...[and] a collateral descendant of William Blount,...Signer of the United States Constitution...(Ex. 1),"[7] and, therefore, Petitioner is a member of the class of rights-holders of both the ancient, absolute, ancestral rights of keeping and bearing arms and the constitutional rights of keeping and bearing arms, as Petitioner's absolute ancestral rights of keeping and bearing arms "passed to him via his lineal bloodline descent from said Blount family" ancestors, and Petitioner has not, through malfeasance, stripped himself of said rights by committing a felony.[8]

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[7] Pl.'s Compl. ¶ 309 at 108-9, Doc. 1.

[8] Id. ¶ 331 at 115-6.

Two, that his rights of keeping and bearing arms entail the right to keep ordinary military weapons, Petitioner citing the ***universal case law*** on the subject, from the beginning of the common law up until this Court's decision in U.S. v. Miller, the ***entirety of the "regulatory" history***, in both England and the American Colonies and Antebellum States, from the very first Act, statute, proclamation, ordinance, "regulation," etc., on record, the Law of King Aethelbert, enacted in 602 Anno Domini, up until the year 1860, and the commentary from the foremost legal commentators at common law and in this country, to wit, Sir Edward Coke, Blackstone, William Hawkins, St. George Tucker, Justice Story, etc., to show that ***all Sovereigns*** within the Anglo-American chain of power, ***their legislatures/parliaments, and their courts, all universally understood*** that these rights, being absolute ancestral rights, ***can never be acted upon,*** but, rather, that ***"[t]he principle on which all right to regulate the use in public of these articles of property, is, that no man can so use his own as to violate the rights of others, or of the community of which he is a member,"***[9] to wit, that nuisance doctrine is the only limitation upon these rights, and, consequently that the rights to keep and bear arms entail the right to keep and bear any types of arms because the mere keeping of arms alone can never amount to a nuisance. Moreover, Petitioner

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[9] Andrews v. State, 50 Tenn. 165, 185 (1871) (emphasis added).

showed the lower court that it is not just his ancestral and constitutional right to keep "military armes,"[10] but his duty as well, by citing the Statutum de Militibus and case law surrounding early militia Acts in this country.[11, 12, 13, 14, 15, 16, 17, 18, 19]

Three, that the ***universal understanding*** as to what ordinary military weapons are, under American jurisprudence, from the time of the Founding up until the United States Supreme Court decision in United States v. Miller, was that "[o]rdinary military weapons are... [t]hose arms which are within 'judicial notice that th[ese] weapon[s] [are] ***any part of the ordinary military equipment or that [their] use could contribute to the common defense.***"[20] "They are '***war arms***,' Wilson v. State, 33 Ark. 557, 560 (1878) (emphasis added), '**such as [are] in**

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[10] EDWARD COKE, THE SECOND PART OF THE INSTITUTES OF THE LAWS OF ENGLAND: CONTAINING THE EXPOSITION OF MANY ANCIENT AND OTHER STATUTES 597 (E. AND R. BROOKE ed., 1797).

[11] Pl.'s Compl. ¶¶s 333-409 at 116-54.

[12] Id. ¶ 328 at 114-5.

[13] Id. ¶¶s 300-5 at 106-7.

[14] Id. ¶ 56 at 22.

[15] Id. ¶ 373-4 at 131-2.

[16] Id. ¶¶s 375-81 at 132-5.

[17] Id. ¶ 355 at 125-6.

[18] Id. ¶ 327 at 114.

[19] Id. ¶ 410 at 155-6.

[20] United States v. Miller, 307 U.S. 174, 178, 59 S. Ct. 816, 818, 83 L. Ed. 1206 (1939) (emphasis added).

ordinary use [in the military], and *effective as a weapon of war*, and useful and necessary for 'the common defense.'

'[T]he idea of the Constitution is, the keeping and use of ***such arms as are useful either in warfare***, or in preparing the citizen for their use in warfare.' Andrews v. State, 50 Tenn. 165, 182 (1871) (emphasis added)..."[21]

Four, that his rights of keeping and bearing arms "could not possibly be within the power of the present government" to act upon or regulate in the slightest degree,[22] as not only are these rights beyond the joint-sovereign power of the Sovereign Body of this country to act upon in the slightest degree,[23, 24] as "the Kings of England, our predecessor sovereigns within the Anglo-American chain of power[, from whom we inherited our joint-sovereign powers,] did not possess the sovereign power to act upon the fundamental rights of free Englishmen,"[25,26] whose sovereign powers, at the time of the Founding, "devolved [up]on the people,"[27] coming subject to, and inherited subject to, all pre-existing limitations on said powers, including the Indians' usufruct rights in land they inhabited within our sovereign

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[21] Pl.'s Compl. ¶ 410 at 155, Doc. 1 (emphasis added).

[22] Id. ¶ 331 at 115-6.

[23] Id. ¶¶s 330-1 at 115-6.

[24] Id. ¶¶s 279-306 at 96-107.

[25] Pl.'s Compl. ¶ 283 at 98, Doc. 1.

[26] *See* Id. ¶¶s 279-83 at 96-8.

[27] Chisholm v. Georgia, 2 U.S. 419, 471–72, 1 L. Ed. 440 (1793).

territory and the fundamental, ancient, absolute, ancestral rights of the Founding Generation and their Posterity, we acceding as "joint tenants in the sovereignty,"[28] acceding as joint-sovereigns to all that power but no more, as "***neither the declaration of independence, nor the treaty confirming it, could give us more than that which we before possessed, or to which Great Britain was before entitled***,"[29] as it is a universal truth that "power, like matter, is neither created nor destroyed, but is finite, and one can inherit no more power from a predecessor sovereign than that which was held by said predecessor sovereign,"[30] but, also, even if said rights are within that joint-sovereign power, "the Founding Generation had no desire to divest either '[themselves] or [their] Posterity,' U.S. Const. Preamble, of their ancient, inalienable, private, individual, ancestral, sovereign common law rights to keep and bear arms, among other fundamental rights, which they expressly enumerated in the Bill of Rights to the United States Constitution,"[31] but, rather, "the sovereign power inherent in their 'ancient right,' District of Columbia et al. v. Heller, 554 U.S. 570, 599 (2008), to keep and bear arms" was "expressly retained"[32] for Petitioner by his Founding Generation

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[28] Id.

[29] Johnson v. M'Intosh, 21 U.S. 543, 584–85, 5 L. Ed. 681 (1823) (emphasis added).

[30] Pl.'s Compl. ¶ 99 at 35, Doc. 1.

[31] Pl.'s Compl. ¶ 287 at 100, Doc. 1.

[32] Id. ¶¶ 332 at 116.

ancestors and "passed"[33] to him, inviolate, by virtue of his descent from them,[34] and the federal government is "'in express terms denied [...that power], and...forbid[den]...to exercise [power over these rights].' Dred Scott v. Sandford, 60 U.S. 393, 450–51, 15 L. Ed. 691 (1857) (emphasis added)."[35]

Five, "[t]he National Firearms Acts define machine guns, the keeping and bearing of which they attempt to heavily regulate and prohibit with respect to those machine guns manufactured post-1986, as 'any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.' 26 U.S.C.A. § 5845,"[36] and "[t]his definition clearly encompasses not just M-16 rifles, but a plethora of ordinary military weapons which Plaintiff, as a member of the Posterity, by way of his lineal, legal, and biological descent from members of the body politic of the Founding Generation, has the lawful...ancient ancestral common law [and constitutional] right[s] to keep and bear,"[37] and which Petitioner "intends"[38] and "plans on...possessing in contravention to the National Firearms Acts in the immediate future."[39]

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[33] Id. ¶¶ 310 at 109.

[34] Id. ¶¶ 285-312 at 99-110.

[35] Id. ¶ 287 at 100.

[36] Id. ¶ 431 at 165 (emphasis added).

[37] Id. ¶ 432 at 165-6.

[38] Id. ¶ 47 at 18.

[39] Pl.'s Compl. ¶ 24 at 9-10, Doc. 1.

Six, by doing so the NFA ***absolutely prohibit*** the law-abiding Posterity from keeping ordinary military weapons manufactured post-1986.[40, 41, 42]

Seven, Petitioner "***plans*** on...possessing [ordinary military weapons manufactured post-1986] in contravention to the National Firearms Acts in the immediate future,"[43] and, thus, "***intends***" [44] to violate the NFA in the ***immediate future***, by either lawfully acquiring such weapons or "convert[ing] his lawfully possessed AR-15 rifles into fully functional automatic weapons, to wit, machine guns, ordinary military weapons, without first asking permission from the Secretary before exercising his inalienable, private, individual, ancestral common law and constitutional right to possess such arms."[45]

Eight, the NFA "are regularly enforced"[46] and carry severe penalties for violations of said provisions, it being a "felony offense[]"to violate said Acts, upon conviction for which Petitioner "would be stripped entirely of his rights of keeping and bearing arms, subject to substantial prison time, and lose many other fundamental rights,"[47] Petitioner citing ***both the criminal penalty provisions of the NFA and governmental***

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[40] Id. ¶ 431 at 165 (emphasis added).

[41] Id. ¶ 24 at 9-10.

[42] Id. ¶¶s 27-36 at 10-14.

[43] Id. ¶ 24 at 9-10.

[44] Id. ¶ 47 at 18.

[45] Id. ¶ 35 at 14.

[46] Id. ¶ 444 at 174.

[47] Id. ¶ 53 at 20-1.

press releases to show that these acts are regularly and ardently enforced.[48]

Nine, due to this "***[credible and] substantial***"[49] threat, Petitioner ***reasonably fears enforcement*** of said Acts against him, and this threat of enforcement has ***unlawfully "coerced"***[50] Petitioner to "forgo [the] full exercise of [his] rights."[51]

Accordingly, Petitioner sought a declaratory judgment as to the legality of the challenged provisions and an injunction preventing their enforcement against him in order to protect his legal interests and guide his future conduct.

Thus, Petitioner ***averred*** "'an ***intention*** to engage in a course of conduct ***arguably affected with a constitutional interest,***'"[52] but which is unlawfully "'***proscribed by [the] statute' [he] wish[es] to challenge***;"[53] and, that the "the threat of future enforcement of the...statute is [***credible*** or] substantial."[54]

Both parties briefed the issues as to the defendants' motion to dismiss, and, in spite of Petitioner's detailed averments and in

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[48] Id. ¶¶s 30-1 at 11-2.

[49] Susan B. Anthony List v. Driehaus, 573 U.S. 149, 164 (2014) (emphasis added).

[50] Pl.'s Compl. ¶ 54 at 21.

[51] Babbitt v. United Farm Workers Nat. Union, 442 U.S. 289, 301 (1979).

[52] Susan B. Anthony List v. Driehaus, 573 U.S. 149, 161 (2014) (emphasis added).

[53] Id. at 162 (emphasis added).

[54] Id. at 164 (emphasis added).

contravention to this Court's clear and unequivocal standing doctrine jurisprudence, on October 3, 2023, the district court judge granted the defendants' motion to dismiss, dismissing Petitioner's case without prejudice.

Petitioner timely filed his Notice of Appeal with the district court on October 4, 2023, thereby initiating his appeal to the Eight Circuit Court of Appeals. A panel of the Eighth Circuit summarily affirmed the trial court's dismissal of Petitioner's case on December 4, 2023, and denied Petitioner's Petition for Rehearing En Banc on January 11, 2024.

ARGUMENT

LOWER COURT'S DECISION AND APPELLATE COURT'S AFFIRMATION CONTRARY TO UNITED STATES SUPREME COURT CASE LAW

In this case, the appellate court panel "summarily affirmed" the trial court's dismissal of Petitioner's pro se case without issuing any opinion. As Petitioner clearly has standing to challenge the presently-challenged provisions of the National Firearms Acts in this case, and the trial court's decision to dismiss Petitioner's case was ***highly erroneous***, both because it is based upon the trial court's self-contradictory findings with respect to Petitioner's pleadings and the trial court's purposefully erroneous misapplication of Supreme Court standing doctrine jurisprudence, ***in complete disregard of this Court's***

opinions, the appellate court's decision to summarily affirm such a decision not only egregiously "departed from the accepted and usual course of judicial proceedings," but, also, "sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power."[55]

ENUMERATIONS OF ERROR

In this case, the district court clearly erred by granting defendants' motion to dismiss for lack of subject-matter jurisdiction. The district court judge erroneously found that Petitioner did not allege facts sufficient to show that he had suffered an injury-in-fact sufficient to satisfy the injury-in-fact requirement of standing doctrine.

The court based this erroneous finding on its purported belief that Petitioner did not allege concrete plans to violate the challenged provisions of the National Firearms Acts, and, thus, that a threat of actual or imminent prosecution was not sufficiently alleged based upon the pleadings. The trial court's findings and holding are not only contrary to the averments contained within Petitioner's pro se complaint, and its own findings with respect to those averments, but also an erroneous espousal and application of the law with respect to standing doctrine.

In addition, while not basing its decision wholly on political question doctrine, the trial court erroneously invoked political question doctrine, which is completely inapplicable to the

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[55] Sup. Ct. R. 10.

present case, as part of its basis for dismissing Petitioner's pro se complaint.

Lastly, because the trial court wrongfully dismissed Petitioner's case, it erroneously failed to rule upon Petitioner's pending motions, including, but not limited to, Petitioner's Motion for Service by Publication upon Defendant Merrick Garland, in his individual capacity, and for the cost of service of process for said defendant's failure to waive service of process without good cause.

As the district court severely and egregiously erred with respect to all of these points, departing entirely from this Court's standing-doctrine jurisprudence, so as to defeat Petitioner's claims in this case, the appellate panel's summary affirmance of the trial court's erroneous order and judgment was also highly erroneous and in derogation to this Court's jurisprudence, and this Court should exercise its powers of appellate review to correct the record and redress this injustice suffered by Petitioner at present.

RECITATION AND APPLICATION OF LAW

Article III Jurisdiction

As this Court is aware, federal courts are limited in their subject-matter jurisdiction to "cases or controversies."[56] While, ultimately, the

[56] Babbitt v. United Farm Workers Nat. Union, 442 U.S. 289, 297, 99 S. Ct. 2301, 2308, 60 L. Ed. 2d 895 (1979).

"inquiry is whether the 'conflicting contentions of the parties . . . present a real, substantial controversy between parties having adverse legal interests, a dispute definite and concrete, not hypothetical or abstract,'"[57] a crucial part of this inquiry is the court's determination as to a prospective plaintiff's standing to sue.

Establishing Standing Generally and Standard of Review as to Standing at the Motion to Dismiss Stage of Proceedings

All that is required for a plaintiff "[t]o establish Article III standing" is for the "plaintiff [to] show (1) an 'injury in fact,' (2) a sufficient 'causal connection between the injury and the conduct complained of,' and (3) a 'likel[ihood]' that the injury 'will be redressed by a favorable decision.'"[58]

I. Pleading an Injury-in-Fact in the Pre-Enforcement Context:

As explained by this Court in Susan B. Anthony, all that a plaintiff must do to satisfy the injury-in-fact requirement of standing when bringing a ***pre-enforcement*** action challenging a law is, simply, first, "allege[] 'an ***intention*** to engage in a course of conduct ***arguably affected***

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[57] Id.

[58] Susan B. Anthony List v. Driehaus, 573 U.S. 149, 157–58, 134 S. Ct. 2334, 2341, 189 L. Ed. 2d 246 (2014).

with a constitutional interest;"'[59] second, allege that the intended course of conduct is "'***proscribed by [the] statute' they wish to challenge***;"[60] and, third, allege that the "the threat of future enforcement of the...statute is [***credible*** or] substantial"[61] when he acts in accordance with his rights and in contravention to the challenged law.

II. Burden of Proof/Standard of Review:

While,

""[t]he party invoking federal jurisdiction bears the burden of establishing' standing,"'[62] it is only necessary that "'each element...be supported in the same way as any other matter on which the plaintiff bears the burden of proof, *i.e.*, with the manner and degree of evidence ***required at the successive stages*** of the litigation."'[63]

"At the pleading stage, general factual allegations of injury resulting from the defendant's conduct may suffice, for on a motion to dismiss we [take the allegations as true] and 'presum[e] that general allegations embrace those specific facts that are necessary to support the claim.' *National Wildlife*

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[59] Id. at 161(emphasis added).

[60] Id. at 162 (emphasis added).

[61] Id. at 164 (emphasis added).

[62] Id. at 158.

[63] Id (emphasis added).

Federation, supra, 497 U.S., at 889, 110 S.Ct., at 3189. In response to a summary judgment motion, however, the plaintiff can no longer rest on such 'mere allegations,' but must 'set forth' ***by affidavit or other evidence*** 'specific facts,' Fed.Rule Civ.Proc. 56(e), ***which*** for purposes of the summary judgment motion ***will be taken to be true***."[64]

"When the suit is one challenging the legality of government action or inaction, the nature and extent of facts that must be averred (at the summary judgment stage) or proved (at the trial stage) in order to establish standing depends considerably upon ***whether the plaintiff is himself an object of the action (or forgone action) at issue. If he is, there is ordinarily little question that the action or inaction has caused him injury***, and that a judgment preventing or requiring the action will redress it."[65]

Here, Petitioner ***is the object of the unconstitutional action***, and, moreover, Petitioner has done more than ***merely*** allege to certain facts, his complaint is ***verified***, and, thus, his factual allegations are in fact ***averments***, the same as if they had been made via ***affidavit***. Accordingly, while the defendants made, and the court below granted, a motion to dismiss, not a

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[64] Lujan v. Defs. of Wildlife, 504 U.S. 555, 561, 112 S. Ct. 2130, 2137, 119 L. Ed. 2d 351 (1992) (emphasis added).

[65] Id. at 561–62 (emphasis added).

motion for summary judgment, this Court is to take all of Petitioner's factual allegations, in this case averments, as true, and to make all reasonable inferences therefrom in Petitioner's favor.

And, because standing is a purely legal determination for this Court, the lower court's and appellate court's rulings are entitled to no deference and this Court is to review the record de novo.

Defendants' Challenge to Petitioner's Standing and Trial Court's Erroneous Application of Law

The defendants' challenge to Petitioner's standing in "[t]his case concerns the injury-in-fact requirement."[66]

In spite of the law, and Petitioner's averments and allegations, by which Petitioner clearly avers and alleges that, one, Petitioner ***intends*** to violate the presently-challenged provisions of the NFA in the ***immediate future by lawfully acting in accordance with his absolute rights by keeping ordinary military weapons manufactured post-1986,*** and, thus, Petitioner intends "to engage in a course of conduct...***affected with a constitutional interest***;"[67] two, that the presently-challenged provisions of the NFA ***absolutely*** prohibit him from possessing such arms and, in attempting to

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[66] Susan B. Anthony List v. Driehaus, 573 U.S. 149, 158, 134 S. Ct. 2334, 2341, 189 L. Ed. 2d 246 (2014).

[67] Id. at 161(emphasis added).

and purporting to do so, unconstitutionally and unlawfully act upon and infringe his absolute ancestral and constitutional rights of keeping and bearing arms, and, thus, said Acts "***proscribe***"[68] his intended course of conduct "'***affected with a constitutional interest***;'"[69] and, three, that, upon so acting in accordance with his rights, a prosecution of Petitioner by the defendants would be imminent, as these Acts are regularly and fervently enforced, ***the government defendants' failing to disavow this fact***, and, thus, that not only upon lawfully exercising his absolute ancestral and constitutional rights, will Petitioner be unlawfully ***injured*** by said defendants as a result of their enforcement of said Acts against him, but, also, at present Petitioner has been unlawfully injured by said Acts due to the "[***credible*** or] substantial"[70] threat of enforcement of said Acts against him, and his correspondingly ***reasonable*** fear of enforcement of said Acts against him, which has ***caused*** him to "forgo [the] full exercise"[71] of his absolute ancestral and constitutional rights of keeping and bearing arms, the district court judge granted defendants' motion to dismiss for lack of subject-matter jurisdiction.

In doing so, the trial court, in an inherently self-contradictory order, ultimately ruled that

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[68] Id. at 162 (emphasis added).

[69] Id. at 161 (emphasis added).

[70] Id. at 164 (emphasis added).

[71] Babbitt v. United Farm Workers Nat. Union, 442 U.S. 289, 301 (1979).

Petitioner did not have standing to challenge the presently-challenged Acts in a pre-enforcement action under the erroneous legal conclusion that Petitioner has not suffered a concrete and particularized injury-in-fact to his absolute ancestral and constitutional rights of keeping and bearing arms, which conclusion was based upon three erroneous theories.

First, that Petitioner had not sufficiently pled his intentions to violate said Acts, but, rather, that he merely expressed a "wish"[72] to possess ordinary military weapons and, accordingly, his injury was "conjectural and hypothetical."[73] Second, that Petitioner had not sufficiently pled that prosecution would be imminent under said Acts, or that there existed a threat of prosecution, but, rather, that the threat of prosecution as alleged was merely "imaginary or speculative."[74] And, third, the court erroneously invoked political question doctrine in order to reject and abandon its "duty...to say what the law is."[75]

Petitioner will address each of the court's contentions in the order in which they have just now been presented, as the lower court's errors have become the errors of the appellate court panel judges by way of their summary affirmance.

I. Lower Court Erroneous in Finding, and Appellate Panel Erroneous in Affirming, that

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[72] Order at 6, Doc. 18.

[73] Id. at 7.

[74] Id. at 5.

[75] Marbury v. Madison, 5 U.S. 137, 177, 2 L. Ed. 60 (1803).

Petitioner Has Not Sufficiently Pled His Present Intent to Violate the Presently-Challenged Provisions of the National Firearms Acts:

In the lower court's order, it conceded and recognized that throughout the entirety of his complaint "Plaintiff consistently alleges his ***'intention'*** or ***'plan'*** to convert or possess machine guns and that his ***'intention'*** or ***'plan'*** will violate the firearms laws,"[76] but found that these averments constituted a mere "wish"[77] to engage in the proscribed conduct. The court erroneously found that Petitioner did not sufficiently allege facts showing that he is actually going to violate the challenged-provisions of the NFA because, according to the court, "Plaintiff has not alleged any prior violations of § 922(o) and has not alleged any concrete plan to violate section § 922(o),"[78] ultimately finding that Petitioner had not alleged a sufficiently "concrete and particularized," as opposed to "wholly conjectural and hypothetical,"[79] injury-in-fact to his absolute ancestral and constitutional rights of keeping and bearing arms. Based upon these findings, the court found that Petitioner lacked standing to bring suit, thereby agreeing with the defendants' arguments in their brief in support of their motion to dismiss.

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[76] Order at 2, Doc. 18 (emphasis added).

[77] Id. at 6.

[78] Id.

[79] Id. at 4.

That is not the law, "[n]othing in this Court's decisions requires a plaintiff who wishes to challenge the constitutionality of a law to confess that he will in fact violate that law."[80]

Under standing doctrine, Petitioner is not required to incriminate himself by pleading details with such specificity as the defendants and the lower court demand, rather, Petitioner is merely required to "allege[] 'an ***intention*** to engage in a course of conduct arguably affected with a constitutional interest.'"[81]

a. Sufficiently Alleging an Intention to Engage in Proscribed Conduct Arguably Affected with a Constitutional Interest:

All that is required for a plaintiff to allege "'an intention to engage in a course of conduct arguably affected with a constitutional interest,"[82] sufficient to satisfy the injury-in-fact requirement of Article III standing doctrine, is for the plaintiff to plead, with the minimal specificity necessary, allegations which evince "an 'inten[t]'"[83] to so act. There is ***no need*** for ***excessive specificity***, as the governmental defendants and the lower-court judge are attempting to require of Petitioner in this case. Indeed, this Court's jurisprudence is to the contrary.

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[80] Susan B. Anthony List v. Driehaus, 573 U.S. 149, 163, 134 S. Ct. 2334, 2345, 189 L. Ed. 2d 246 (2014).

[81] Id. at 161 (emphasis added).

[82] Id.

[83] Id. at 162.

In Susan B. Anthony and Babbitt, this Court held that the plaintiffs had standing to challenge the laws they were challenging, in ***pre-enforcement actions,*** even though they ***expressly pled*** that they ***had not violated the challenged laws and were not going to intentionally violate said laws***, and even though they did ***not*** allege ***when, where, or how***[84] they were going to violate the challenged laws, because their ***reasonable fears as to the repercussions*** of inadvertently violating said laws had ***deterred*** the full exercise of their rights. *See* Susan B. Anthony List v. Driehaus, 573 U.S. 149, 152-63 (2014); Babbitt v. United Farm Workers Nat. Union, 442 U.S. 289, 301 (1979).

b. Petitioner Clearly Averred That it is His Present Intent to Violate the Presently-Challenged Provisions of the National Firearms Acts:

Here, Petitioner alleged in his pro se complaint that he ***expressly intends to violate***, and ***plans on violating***, the presently-challenged provisions of the NFA by lawfully exercising his ancient, absolute, fundamental, private, individual, ancestral and constitutional rights of keeping and bearing arms in contravention to said Acts by keeping ordinary military weapons manufactured after the year 1986, to wit, M-16s, M-4s, and SAWs, ***in the immediate future***. Petitioner's

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[84] Other than general allegations as to the mediums that they would use to disseminate information.

allegations are sufficient to satisfy the injury-in-fact requirement of Article III standing doctrine.

Contrary to the defendants', the lower court's, and the appellate court's contentions, Petitioner is not required to plead his plans and intentions with such specificity so as to impose criminal liability upon himself. "Nothing in this Court's decisions requires a plaintiff who wishes to challenge the constitutionality of a law to confess that he will in fact violate that law. See, *e.g.*, *Babbitt,* 442 U.S., at 301, 99 S.Ct. 2301 (case was justiciable even though plaintiffs disavowed any intent to 'propagate untruths')."[85]

The court's holding that Petitioner merely expressed a "wish"[86] or inchoate desire to own and possess ordinary military weapons is not only contrary to the pleadings, but also to the court's own ***concessions, recognitions, and findings*** as to Petitioner's pleadings contained within its very opinion. Indeed, the lower court's opinion repeatedly refers to how Petitioner "plans"[87] and "inten[ds]"[88] to violate the presently-challenged provisions of the NFA by "convert[ing] or possess[ing] machine guns,"[89] to wit, ordinary military weapons, conceding that Petitioner's "allegations" are "consistent"[90] throughout his complaint, yet tries to frame these ***concrete***

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[85] Id. at 163.

[86] Order at 6, Doc. 18.

[87] Id. at 2.

[88] Id.

[89] Id.

[90] Id.

words of ***intent*** to possess such weapons as merely a "wish," an inchoate desire, to possess such weapons.

However, merely "wanting," "wishing," or "desiring" to do something and "planning" or "intending" to do something are entirely different expressions with entirely different implications as to the concreteness of the ultimate intent to proceed. To "want" to do something is "to desire" to do it.[91] Similarly, to "wish" to do something is "to have a desire for [doing that thing; typically]...something unattainable...To have a desire: WANT."[92] Whereas, to "plan" to do something is much more than to just express a "wish" to do so, it is to "have a specified intention" to do it, "to have [it] in mind[;] [to] INTEND" to do it, to make it one's "purpose," to "prepare" to do it.[93] A "plan" is "a method for achieving an end[;]...a detailed formulation of a program of action."[94] Similarly, to "intend" to do something is to "have [it] in mind as [one's] purpose or goal[;]...to proceed on (a course)" to do it.[95]

Planning and intent are legally distinct concepts from a mere "wish" or inchoate desire. It is hornbook law, well within the capabilities of

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[91] *Want*, Merriam-Webster.com Dictionary (Nov. 18, 2023), https://www.merriam-webster.com/dictionary/want.

[92] *Wish*, Merriam-Webster.com Dictionary (Nov. 18, 2023), https://www.merriam-webster.com/dictionary/wish.

[93] *Plan*, Merriam-Webster.com Dictionary (Nov. 18, 2023), https://www.merriam-webster.com/dictionary/plan.

[94] Id.

[95] *Intend*, Merriam-Webster.com Dictionary (Nov. 18, 2023), https://www.merriam-webster.com/dictionary/intend.

even "persons of moderate capacity [who] confuse themselves at first setting out [in the study of the law], and continue ever dark and puzzled during the remainder of their lives,"[96] to understand that there is a huge difference between an inchoate desire to do something, a mere "wish," and an intent to do that thing, and this is a principle which underlies the entirety of the law, from criminal law to trusts and estates. *See* Mississippi Valley Tr. Co. v. Comm'r of Internal Revenue, 72 F.2d 197, 200–01 (8th Cir. 1934).

And, here, Petitioner ***averred*** that he "plans on"[97] lawfully exercising his absolute ancestral and constitutional rights of keeping and bearing arms by possessing ordinary military weapons, manufactured post-1986, and, thereby, "intends"[98] to violate the presently-challenged provisions of the NFA by engaging "in a course of conduct arguably affected with a constitutional interest"[99] in the "immediate future."[100] Petitioner is not required to actually violate the law to challenge these highly unconstitutional and unlawful Acts, as "'***it is not necessary that petitioner first expose himself to actual arrest or prosecution to be entitled to challenge a statute that he***

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[96] ST. GEORGE TUCKER, VIEW OF THE CONSTITUTION OF THE UNITED STATES 2 (LIBERTY FUND ed., 1999) (1803) (emphasis added).

[97] Pl.'s Compl. ¶ 24 at 9-10, Doc. 1.

[98] Id. ¶ 47 at 18.

[99] Susan B. Anthony List v. Driehaus, 573 U.S. 149, 161, 134 S. Ct. 2334, 2343, 189 L. Ed. 2d 246 (2014) (emphasis added).

[100] Pl.'s Compl. ¶ 24 at 9-10, Doc. 1.

claims deters the exercise of his constitutional rights[,]"[101] or, as noted above, incriminate himself through pleadings in federal court to do so, rather, he must merely "allege[] 'an ***intention*** to engage in a course of conduct arguably affected with a constitutional interest;'"[102] second, allege that the intended course of conduct is "'proscribed by [the] statute' [he] wish[es] to challenge;"[103] and, third, allege that the "the ***threat*** of future enforcement of the...statute is [credible or] substantial."[104]

Petitioner has not merely alleged facts sufficient to satisfy these requirements, he has ***averred*** facts sufficient to satisfy them, and, where, as here, "***the plaintiff is himself an object of the action (or forgone action) at issue...there is ordinarily little question that the action or inaction has caused him injury***, and that a judgment preventing or requiring the action will redress it."[105]

Because the lower court erred on this point and the appellate panel affirmed in contravention to the pleadings, and this Court's universal case law on the subject, this Court should grant Petitioner's Petition for a Writ of Certiorari.

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[101] Susan B. Anthony List v. Driehaus, 573 U.S. 149, 158-9, 134 S. Ct. 2334, 2343, 189 L. Ed. 2d 246 (2014) (emphasis added).

[102] Id. at 161 (emphasis added).

[103] Id. at 162.

[104] Id. at 164 (emphasis added).

[105] Lujan v. Defs. of Wildlife, 504 U.S. 555, 561-62, 112 S. Ct. 2130, 2137, 119 L. Ed. 2d 351 (1992) (emphasis added).

II. Lower Court Erred in Finding, and Appellate Panel Erred in Affirming, that Petitioner Did Not Clearly Allege and Show the Lower Court that the Threat of Prosecution Under the Presently-Challenged Provisions of the National Firearms Acts is Credible When Petitioner Proceeds Along His Planned Course of Conduct and, Therefore, That Such Threat Has Not Deterred the Lawful Exercise of his Absolute Ancestral and Constitutional Rights:

Secondly, the lower court erroneously found that Petitioner had not alleged facts sufficient to show that prosecution would be certainly impending should Petitioner proceed along his planned course of conduct, finding that Petitioner's "allegations are conclusory,"[106] and that Petitioner's fear of prosecution was "imaginary or speculative,"[107] as the threat of prosecution, as alleged, was not credible, but, rather, "wholly conjectural and hypothetical,"[108] while at the same time recognizing that all that is required of a plaintiff to allege a credible threat of prosecution, and reasonable fear derived therefrom, in a pre-enforcement action is for the plaintiff to "***claim*** that they have...been threatened with prosecution, that a prosecution is

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[106] Order at 4, Doc. 18.

[107] Id. at 5.

[108] Id at 7.

likely, ***or...that a prosecution is remotely possible.***'"[109]

However, contrary to the lower court's contentions, Petitioner clearly ***averred***, much less ***claimed***, throughout his complaint that prosecution would be imminent should Petitioner proceed along his planned course of conduct by lawfully exercising his absolute ancestral and constitutional rights of keeping and bearing arms in contravention to the presently-challenged provisions of the NFA, cited the NFA to show that the penalties for violating said acts are severe and would amount to a complete deprivation of all of Petitioner's ancestral and constitutional rights, and cited press releases from the Bureau of Alcohol, Tobacco, Firearms and Explosives to show the court that prosecutions under these Acts regularly take place, and that the penalties for violating said Acts are not just severe *de jure*, but that violators are prosecuted severely with the goal of imposing severe penalties *de facto*.

a. Sufficiently Alleging an Impending Injury/Credible Threat of Prosecution in a Pre-Enforcement Action:

As made clear by this Court in Susan B. Anthony, a threat of enforcement is sufficient to create "'***certainly impending***'" injury to one's rights, sufficient to confer pre-enforcement standing on the rights-holder, if that threat is

[109] Id at 5 (emphasis added).

credible,[110] and, in that case, this Court detailed that three factors are relevant for determining whether a plaintiff has shown a credible threat of prosecution under a challenged law.

First, the plaintiff must allege or show "a history of past enforcement."[111] The second factor to be considered is the "rar[ity]" of prosecutions under the challenged law. [112] And, third, the court should take into account whether or not the governmental defendants have "disavowed enforcement [of the challenged law] if petitioners" proceed with their planned course of conduct.[113]

Ultimately, the whole purpose of the three-factor test laid out in Susan B. Anthony for determining whether there exists a ***credible threat*** of prosecution, is to determine the ***reasonableness*** of a prospective plaintiff's ***fear*** of prosecution under the challenged law, and, correspondingly, the ***but for and proximate cause*** behind plaintiff's not lawfully exercising his rights, to wit, whether the plaintiff has been unlawfully ***coerced*** and ***deterred*** from lawfully exercising his rights due to unlawful and unconstitutional governmental action in the form

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[110] *See* Susan B. Anthony List v. Driehaus, 573 U.S. 149, 158, 134 S. Ct. 2334, 2341, 189 L. Ed. 2d 246 (2014) (emphasis added) ("An allegation of future injury may suffice if the threatened injury is 'certainly impending,' or there is a '***substantial risk***' that the harm will occur,'" to wit, if there is a ***credible threat*** of future injury.)

[111] Id. at 164.

[112] Id. at 165.

[113] Id.

of the challenged law, which has thereby infringed and ***injured*** the plaintiff's rights, or whether that plaintiff is simply not exercising his rights of his own un-coerced volition in an attempt to pre-textually gain standing to challenge a law he simply doesn't like but that has absolutely ***no effect*** on his behavior.

See MedImmune, Inc. v. Genentech, Inc., 549 U.S. 118, 122, 127-130, S. Ct. 764, 768-73, 166 L. Ed. 2d 604 (2007) (emphasis added) (This Court noting that while the Federal Circuit court had previously held that a non-breaching patent licensee cannot challenge the validity of it's licensor's patent so long as that licensee is not in breach of its license agreement because it has ***no "reasonable apprehension"*** of suit under said agreement while in good standing, that a non-breaching licensee has Article III standing to bring suit to determine the validity of the patent under which it has entered into a license agreement because its failure to breach the license agreement, to wit, its "self-avoidance of ***imminent*** injury[,] is ***coerced*** by the threatened enforcement action of" the licensor, as a result of its ***reasonable fear*** of enforcement of the patent against it and the severe civil penalties for such enforcement, to wit, "treble damages and attorney's fees," as well as an injunction enjoining the petitioner from selling their primary product.)

Thus, whenever a plaintiff reasonably perceives a threat of prosecution, that threat is sufficiently credible to confer standing upon the plaintiff in a pre-enforcement action. And, as this Court explains in Babbitt, the primary factor to

account for when determining whether a plaintiff reasonably perceives an imminent threat of prosecution should he act according to his rights in contravention to a challenged law, is ***whether or not the "the State has...disavowed any intention of invoking the [challenged law] against"***[114] the plaintiff, this Court consistently continuing to rely on this primary factor in determining the credibility of the threat of prosecution of the plaintiff, and the corresponding reasonableness of the plaintiff's fear of prosecution under the law that he challenges, in subsequent cases.[115]

Indeed, as shown by Babbitt, this factor is accorded more weight than past prosecutions or the rarity of prosecutions under a challenged statute in determining the credibility of the threat of prosecution, and, therefore, the imminence of the injury to the plaintiff's rights, as, in Babbitt, this court found the plaintiffs in that case had

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[114] Babbitt v. United Farm Workers Nat. Union, 442 U.S. 289, 302, 99 S. Ct. 2301, 2311, 60 L. Ed. 2d 895 (1979).

[115] *See* Susan B. Anthony List v. Driehaus, 573 U.S. 149, 160-5, 134 S. Ct. 2334, 2343-45, 189 L. Ed. 2d 246 (2014) (emphasis added) (This Court finding standing to challenge a law where "[the governmental actors] have not disavowed enforcement [of the challenged law] if [plaintiffs] make similar statements in the future," in potential violation of said law but in accordance with their rights of free speech, because the government's failure to disavow enforcement made their ***fear of future enforcement real and reasonable***, as opposed to "imaginary or ***wholly speculative***.")

standing in spite of the fact that the challenged law ***had never been applied against anyone***, much less the plaintiffs, largely because the governmental defendants would not disavow their intent to enforce the law against the plaintiffs in the future.

Similarly, in both Susan B. Anthony and Babbitt, this Court found it exceedingly important that violations of the challenged regulations in those cases "may be criminally punishable,"[116] and held that the plaintiffs in Babbitt had standing to challenge the regulations in that case, ***in spite of the fact that the regulations had never been enforced against anyone***, much less the plaintiffs, because the more severe the punishment, the more reasonable the fear held by a pre-enforcement plaintiff as to enforcement of the law against him, and, correspondingly, the more likely it is that the plaintiff's failure to exercise his lawful rights in contravention to said law is caused by unlawful and unconstitutional governmental deterrence and coercion as opposed to the plaintiff's own volition.

"When an individual is subject to such a threat, an actual arrest, prosecution, or other enforcement action is not a prerequisite to challenging the law."'[117]

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[116] Babbitt v. United Farm Workers Nat. Union, 442 U.S. 289, 301, 99 S. Ct. 2301, 2310, 60 L. Ed. 2d 895 (1979).

[117] Susan B. Anthony List v. Driehaus, 573 U.S. 149, 158–59, 134 S. Ct. 2334, 2342, 189 L. Ed. 2d 246 (2014).

b. The Unlawful Deterrent Effect is the Injury-in-fact:

Because ***any*** regulation that is so severe as to ***cause*** the Posterity to be ***coerced and deterred, in the slightest degree,*** from lawfully exercising our absolute ancestral and constitutional rights, to their fullest extents, is ***a present unlawful and unconstitutional infringement of said rights and an unconstitutional and illegal injury to said rights,*** this Court has recognized that ***any*** deterrence as to the lawful exercise of the Posterity's absolute ancestral and constitutional rights caused by governmental action, laws, or regulations, is a present injury sufficient to confer standing upon the rights-holders to challenge said actions, laws, or regulations in federal court.

Indeed, as this Court explains, in pre-enforcement challenges to unconstitutional laws, the injury-in-fact is not the prosecution or enforcement of unconstitutional laws against rights-holders, but, rather, the ***threat*** of prosecution and that ***threat's deterrent effect on the lawful exercise of a prospective plaintiff's rights***. And, this holding is in line with the very purpose of a ***pre-enforcement*** action, to wit, a declaratory judgment action, which is to challenge a law ***before*** violating it, because that law unlawfully deters one from lawfully exercising one's rights.

So, while,

> "[a] plaintiff who challenges a statute must demonstrate a ***realistic*** danger of sustaining a direct injury as a result of the statute's

operation or enforcement[,]...'[o]ne does not have to await the consummation of threatened injury to obtain preventive relief. If the injury is certainly impending, that is enough.'...[Thus,] [w]hen contesting the constitutionality of a criminal statute, 'it is not necessary that [the plaintiff] first expose himself to actual arrest or prosecution to be entitled to challenge [the] statute that he claims deters the exercise of his constitutional rights,'...[because] [w]hen the plaintiff has alleged an intention to engage in a course of conduct arguably affected with a constitutional interest, but proscribed by a statute, and there exists a credible threat of prosecution thereunder, he 'should not be required to await and undergo a criminal prosecution as the sole means of seeking relief,'...[so long as his fear of prosecution under the challenged law is ***reasonable***, as it is only] 'persons having ***no fears*** of state prosecution ***except those that are imaginary or speculative***, [who] are not to be accepted as appropriate plaintiffs.'"[118]

c. Petitioner Has Sufficiently Alleged an Impending Injury/Credible Threat of Prosecution in this Case:

In this case, Petitioner's fear of prosecution under the presently-challenged Acts is exceedingly

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[118] Babbitt v. United Farm Workers Nat. Union, 442 U.S. 289, 298, 99 S. Ct. 2301, 2308–09, 60 L. Ed. 2d 895 (1979) (emphasis added).

reasonable, and is ***far from speculative or imaginary, but, rather, fact-based.*** Petitioner showed the lower court and sufficiently alleged that the threat of prosecution under these Acts is real and would be imminent should Petitioner violate said Acts by pursuing Petitioner's planned course of conduct.

Not only has Petitioner pled that the presently-challenged Acts are regularly enforced, and cited Bureau of Alcohol, Tobacco, Firearms and Explosives press releases to that effect, but, also, the governmental defendants ***have not, at any point, disavowed*** their intent to prosecute Petitioner under the presently-challenged provisions of the NFA when Petitioner proceeds to lawfully exercise his absolute ancestral and constitutional rights of keeping and bearing arms in contravention thereto in the immediate future. "On these facts, the prospect of future enforcement is far from 'imaginary or speculative.'"[119]

And, as noted in Petitioner's pro se complaint, the reasonableness of Petitioner's fear of prosecution under said Acts, and the corresponding deterrent effect on Petitioner's lawful exercise of his absolute ancestral and constitutional rights, is evident from the very fact that, universally, law-abiding citizen members of the Posterity have been deterred from lawfully exercising our absolute ancestral and

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[119] Susan B. Anthony List v. Driehaus, 573 U.S. 149, 165, 134 S. Ct. 2334, 2345, 189 L. Ed. 2d 246 (2014).

constitutional rights to keep ordinary military weapons manufactured post-1986, and the fact that no law-abiding citizen has had the resolute courage to gain standing to challenge these unconstitutional acts by intentionally violating said acts, as the penalties for violation are severe. As such, it is clear that the sort of unlawful coercion, which this Court held sufficient to constitute an injury-in-fact under standing doctrine analysis with respect to pre-enforcement actions, has been successful in preventing challenges to the NFA.

Because the lower court erred on this point and the appellate panel affirmed in contravention to the pleadings, and this Court's universal case law on the subject, this Court should grant Petitioner's Petition for a Writ of Certiorari.

III. Declaratory Judgment Act's Entire Purpose is To Provide a Means by Which a Prospective Plaintiff Can Challenge a Law Arguably Affected with his Absolute Ancestral and Constitutional Rights in a Pre-enforcement Action:

> "'***The declaratory judgment procedure is an alternative to pursuit of the arguably illegal activity.***'...In each of these cases, the plaintiff had eliminated the imminent threat of harm by simply not doing what he claimed the right to do...***That did not preclude subject-matter jurisdiction*** because the threat-eliminating behavior was ***effectively coerced***. See *Terrace, supra,* at 215–216, 44 S.Ct. 15;

> *Steffel, supra,* at 459, 94 S.Ct. 1209. ***The dilemma posed by that coercion***—putting the challenger to the choice between abandoning his rights or risking prosecution—***is 'a dilemma that it was the very purpose of the Declaratory Judgment Act to ameliorate.***'"[120]

Indeed, to make the erroneous claim that Petitioner can only seek a declaratory judgment as to the legality and constitutionality of the presently-challenged provisions of the NFA if he incriminates himself by claiming that he has, in the past, violated said provisions, is ***to completely and ineptly*** misconstrue the equitable powers of the courts. Once Petitioner actually violates these provisions, he would have no recourse in a court of equity, assuming the defendants enforce the law, which they are duty-bound to do as they argue that it is lawful and constitutional, as Petitioner, at that point, would have an adequate remedy at law, to wit, a valid legal defense based upon the entirety of the law and regulatory history regarding the absolute ancestral and constitutional rights of keeping and bearing arms. As this Court is aware, when one has an adequate remedy at law, one loses one's ability to seek relief in equity.

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[120] MedImmune, Inc. v. Genentech, Inc., 549 U.S. 118, 128–29, 127 S. Ct. 764, 772–73, 166 L. Ed. 2d 604 (2007) (emphasis added).

Because the lower court erred on this point and the appellate panel affirmed in contravention to the pleadings and this Court's universal case law on the subject, this Court should grant Petitioner's Petition for a Writ of Certiorari.

IV. Political Question Doctrine is Inapplicable to this Case:

Lastly, to the extent the lower court's decision to dismiss Petitioner's case was based on that court's invocation of political question doctrine, that decision was erroneous, as political question doctrine is inapplicable in the present case.

Political question doctrine is only applicable in cases where the government, as agent of the Sovereign Body of this country, is acting within the scope of its just constitutional powers, to wit, that limited and enumerated sovereign power which was delegated to the government by virtue of express enumerations in the United States Constitution, and, thus, where such actions can be considered "mere political act[s],"[121] well-within the power of the political branches to enact and enforce, and subject to the ***discretion*** of the ***political branches.***

But, the ***unlawful use*** of ***non-existent*** power is ***never*** a political question, because ***intent*** without power is ***meaningless***. Thus, the Sovereign's (or his agents') actions as to the

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[121] Marbury v. Madison, 5 U.S. 137, 164, 2 L. Ed. 60 (1803).

absolute ancestral rights of rights-holders from within his chain of power, as to which rights he is ***devoid*** of power, are ***never*** a political question, but, to the contrary, ***always unlawful***, regardless of the intent or reason behind such actions.

It is a fact that the federal government has no power, and could have no power to act upon or regulate Petitioner's absolute ancestral and constitutional rights of keeping and bearing arms, as not only was it not delegated this power, but, also, even if it were delegated this power, the Sovereign Body of this country does not possess the sovereign powers, which we inherited from our predecessor Sovereigns within the Anglo-American chain of power, to act upon these rights in the slightest degree, as Petitioner's ancestral rights of keeping and bearing arms have always been beyond the power of all Sovereigns within this chain of power to act upon in the slightest degree, and, thus, any attempt by the Sovereign Body to delegate to our agent, the government, the power to act with respect to these rights would have been futile, as one cannot give what one does not possess.

In spite of these facts, universal truths, and case law, the lower court still found that, even though there is no legitimate argument that can be made as to any governmental power to act with respect to these rights, "Plaintiff's remedy for [the unlawful and unconstitutional acts of the political branches], lies in the political branches, not in the judiciary."[122] This is clearly an erroneous refusal

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[122] Order at 6, Doc. 18.

by the lower court to do its duty to "say what the law is."[123]

Because the lower court erred on this point and the appellate panel affirmed in contravention to the pleadings and this Court's universal case law on the subject, this Court should grant Petitioner's Petition for a Writ of Certiorari.

CONCLUSION

For the foregoing reasons, Petitioner prays that this Court GRANT his Petition for a Writ of Certiorari.

WHEREFORE, Petitioner prays that this Court:

1. Grant his petition.
2. Permit Petitioner to file a brief in support of his appeal to this Court.
3. Reverse the appellate panel's affirmation of the trial court's erroneous order.
4. Grant any further relief that this Court deems just.

/s/ Mark J. Blount
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[123] Marbury v. Madison, 5 U.S. 137, 177, 2 L. Ed. 60 (1803).

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