

No. 24-1046

IN THE
Supreme Court of the United States

JASON WOLFORD, ALISON WOLFORD,
ATOM KASPRZYCKI, AND
THE HAWAII FIREARMS COALITION,

Petitioners,

V.

ANNE E. LOPEZ,
IN HER OFFICIAL CAPACITY AS THE
ATTORNEY GENERAL OF HAWAII,

Respondent.

On Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

**BRIEF OF
THE LIBERTY JUSTICE CENTER
AS *AMICI CURIAE*
SUPPORTING PETITIONERS**

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QUESTION PRESENTED

Whether the Ninth Circuit erred in holding, in direct conflict with the Second Circuit, that Hawaii may presumptively prohibit the carry of handguns by licensed concealed carry permit holders on private property open to the public unless the property owner affirmatively gives express permission to the handgun carrier?

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INTEREST OF AMICUS CURIAE¹

The Liberty Justice Center is a nonprofit, nonpartisan public-interest litigation organization that pursues strategic, precedent-setting cases to revitalize constitutional restraints on government power and protections for individual rights. LJC promotes and defends individuals' Second Amendment right to carry firearms in public for self-defense as part of its mission.

¹ Rule 37 statement: No counsel for any party authored any part of this brief, and no person or entity other than Amici funded its preparation or submission.

SUMMARY OF ARGUMENT

N.Y. State Rifle & Pistol Ass’n v. Bruen, 597 U.S. 1, 8-10 (2022), held that the Second and Fourteenth Amendments protect the right of ordinary, law-abiding citizens to carry a handgun in public for self-defense. Hawaii’s firearm bans, codified in Haw. Rev. Stat. §§ 134-9.1, 9.5, turns this principle on its head by only guaranteeing an individual’s Second Amendment rights if he is in his own home. The Court should not allow Hawaii to supplant the Second Amendment. Accordingly, the Ninth Circuit should be reversed.

ARGUMENT

“[I]t has always been widely understood that the Second Amendment, like the First and Fourth Amendments, codified a pre-existing right”—“the natural right of resistance and self-preservation,” which takes the form “of having and using arms for self-preservation and defense.” *District of Columbia v. Heller*, 554 U.S. 570, 592, 594 (2008) (internal quotation marks and citations omitted). Indeed, the Second Amendment protects this fundamental right for all “ordinary, law-abiding citizens” to “possess a handgun” and “carry [it] publicly for their self-defense.” *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 8-10 (2022).

“[T]he inherent right of self-defense [is] central to the Second Amendment right.” *Heller*, 554 U.S. at 628. This “constitutional right to bear arms in public for self-defense is not a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees.” *Bruen*, 597 U.S. at 70 (internal quotation marks omitted). Indeed, “history reveals a consensus that States [can]not ban public carry altogether,” and that “concealed-carry prohibitions [are] constitutional only if they did not similarly prohibit open carry.” *Bruen*, 597 U.S. at 53. *See also id.* at 67 (there is “overwhelming evidence of an otherwise enduring American tradition permitting public carry.”). And someone may only be “temporarily” disarmed if they are “found by a court to pose a credible threat to the physical safety of another.” *United States v. Rahimi*, 602 U.S. 680, 702 (2024).

All of these Second Amendment principles will be negated if Haw. Rev. Stat. §§ 134-9.1, 9.5 are allowed

to stand. The laws effectively prohibit carrying a firearm in public. Indeed, the only place a person's Second Amendment rights would be secure is in their own home.

Specifically, Haw. Rev. Stat. § 134-9.1 prohibits firearm license holders from carrying firearms in or in the parking lots of: any government owned or leased building; hospitals, mental health facilities, nursing homes, etc.; correctional; bars and restaurants; public libraries; any type of education facility, including athletic venues; beaches or parks; government housing facilities; voting locations; financial institutions; locations and vehicles used for public transportation; amusement parks, aquariums, circus, museum, etc.; and public gatherings on property open to the public. And Haw. Rev. Stat. § 134-9.5 prohibits firearm license holders from carrying firearms “on private property of another person” without the “express authorization to carry a firearm on the property by the owner, lessee, operator, or manager of the property.”

This Court must not retreat from its Second Amendment precedents. If *Bruen* is applied to Hawaii's laws, they will fail. Because “the standard for applying the Second Amendment is as follows: When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation.” *Bruen*, 597 U.S. at 24. “Only” after this process “may a court conclude that the individual's conduct” is not protected by the Second Amendment. *Id.*

Here, banning the carrying of firearms as described in Haw. Rev. Stat. §§ 134-9.1, 9.5 is clearly covered by the plain text of the Second Amendment. And there is nothing in the exhaustive history of this Nation's tradition of firearm regulation recounted in *Heller*, 554 U.S. at 576-629; *McDonald v. City of Chicago*, 561 U.S. 742, 767-80 (2010); or *Bruen*, 597 U.S. at 38-70, that indicates that Hawaii's laws are consistent with it. Therefore, Hawaii's laws are unconstitutional.

CONCLUSION

The decision below should be reversed.

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