No. 24-1185

IN THE

Supreme Court of the United States

NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.,
Petitioner,

v.

MARK GLASS, COMMISSIONER, FLORIDA DEPARTMENT OF LAW ENFORCEMENT,
Respondent.

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

BRIEF OF BRADY CENTER TO PREVENT GUN VIOLENCE AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENT

Douglas N. Letter
Shira Lauren Feldman
Tess M. Fardon
Jenna Klein
BRADY CENTER TO PREVENT GUN VIOLENCE
840 First Street, NE
Suite 400
Washington, DC 20002
(202) 370-8100

Timothy C. Hester
Counsel of Record
COVINGTON & BURLING LLP
850 Tenth Street NW
Washington, D.C. 20001
(202) 662-6000
thester@cov.com

Counsel for Amicus Curiae

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INTEREST OF AMICUS CURIAE[1]

Founded in 1974, Brady is the nation's most longstanding nonpartisan, nonprofit organization dedicated to reducing gun violence through education, research, legal advocacy, and political action. Brady works to free America from gun violence by passing and defending gun violence prevention laws, reforming the gun industry, and educating the public about responsible gun ownership.

Brady has a substantial interest in ensuring that the Constitution is construed to protect Americans' fundamental right to live. Brady also has a substantial interest in protecting the authority of democratically elected officials to address the nation's gun violence epidemic. Brady has filed amicus briefs in many cases involving state and federal firearms legislation.

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[1] Pursuant to Rule 37.2, amicus affirms that counsel of record received timely notice of amicus's intent to file this brief. Pursuant to Rule 37.6, amicus affirms that no counsel for a party authored this brief in whole or in part and that no person other than amicus or its counsel made any monetary contributions intended to fund the preparation or submission of this brief.

SUMMARY OF ARGUMENT

Petitioner challenges the constitutionality of Fla. Stat. § 790.065(13) (the "Challenged Law"), which restricts those ages 18 to 20 years old from purchasing firearms, and licensed importers, manufacturers, and dealers from facilitating or effecting the sale or transfer of firearms to such individuals. The petition does not present a question warranting this Court's review.

First, petitioner is incorrect in asserting a split in authority on the age-based regulation at issue. *Second*, this case is a poor vehicle for deciding whether the Challenged Law violates Petitioner's Second Amendment rights, because Florida's attorney general has disclaimed an intent to defend it, the record developed before the district court pre-dates this Court's announcement of the governing doctrinal framework, and the precise issue here continues to percolate in the federal appellate courts. *Finally*, the decision upholding the Challenged Law was correct. The Challenged Law is constitutional under the test articulated by this Court in *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), because it is consistent with historical restrictions on the acquisition of firearms by those under the age of 21, and has the same "why" as historical regulations—i.e., that those in this age cohort lack sufficient judgment and maturity to make consequential decisions, including regarding firearms.

ARGUMENT

I. There Is No Basis for Granting the Petition

A. There Is No Genuine Conflict Among the Circuits.

Petitioner is mistaken in asserting that the federal courts of appeals are "intractably divided" on the constitutionality of firearm purchase restrictions for those aged 18 to 20. Petition for Writ of Certiorari ("Pet.") at 13. The "conflict[ing]" opinions Petitioner relies on in an attempt to establish a circuit split are materially distinguishable from the Eleventh Circuit's decision in this case. *Id.*

First, as Petitioner acknowledges, two of the "conflict[ing]" opinions it cites were decided before this Court issued its seminal opinion in *Bruen*. *See* Pet. 16 (citing *Hirschfeld v. ATF*, 5 F.4th 407 (4th Cir. 2021), *as amended* (July 15, 2021), *vacated as moot*, 14 F.4th 322 (4th Cir. 2021), and *Jones v. Bonta*, 34 F.4th 704 (9th Cir. 2022), *vacated on reh'g,* 47 F.4th 1124 (9th Cir. 2022)).

Prior to *Bruen*, lower courts generally followed a "'two-step' framework for analyzing Second Amendment challenges" that "combine[d] history with means-end scrutiny." *Bruen*, 597 U.S. at 17. In *Bruen*, this Court announced a new framework, directing lower courts to first consider whether the Second Amendment's plain text covers an individual's conduct; if so, the Second Amendment "presumptively protects that conduct," and the burden shifts to the government to justify the challenged regulation by showing that it is "consistent with the Nation's

historical tradition of firearm regulation." *Id*. at 24. Neither *Jones* nor *Hirschfeld* applied the *Bruen* framework, and thus neither should form the basis for a circuit split. *See Jones*, 47 F.4th at 1125 (vacating Ninth Circuit *Jones* opinion for further proceedings consistent with *Bruen*); *Hirschfeld*, 5 F.4th at 414-15 (applying pre-*Bruen* test).[2] Indeed, the Fourth Circuit recently reached the opposite conclusion from its prior decision in *Hirschfeld*, upholding the federal age restriction as constitutional under *Bruen*. *See McCoy v. ATF*, 140 F.4th 568, 580 (4th Cir. 2025), *pet. for certiorari docketed*, No. 25-24 (July 3, 2025). Accordingly, *Hirschfeld* and *Jones* do not present a genuine conflict with the decision below, which applied the controlling *Bruen* framework.

Second, two other cases on which Petitioner relies involved challenges to restrictions on the public carry of firearms for individuals aged 18 to 20. *See* Pet. 16-18 (citing *Worth v. Jacobson*, 108 F.4th 677 (8th Cir. 2024), *cert. denied*, 145 S. Ct. 1924 (2025), and *Lara v. Comm'r Pa. State Police*, 125 F.4th 428 (3d Cir. 2025)). These cases similarly present no genuine conflict; they address different conduct and impose different firearms limitations. *Worth* and *Lara* considered laws restricting that age group's ability to *publicly carry* firearms, not their ability to *purchase* firearms in commercial transactions. *Compare Worth*, 108 F.4th at 698 (holding unconstitutional Minnesota's age restriction on *public carry*), *and Lara*, 125 F.4th at 444 (same, as to Pennsylvania's age restriction on

[2] As Petitioner acknowledges, *see* Pet. 16, the *Hirschfeld* case was vacated as moot after the plaintiff turned 21. *See Hirschfeld*, 14 F.4th at 325.

open carry during a state of emergency), *with* Pet. App. 45a (upholding Florida age restriction on purchasing firearms).

Under this Court's precedent, the difference is not semantic. The *Bruen* framework emphasizes considering the specific conduct that is subject to restriction. At *Bruen*'s step one, courts must consider whether the Second Amendment's "plain text covers an *individual's conduct*." *Bruen*, 597 U.S. at 17 (emphasis supplied). The conduct at issue is likewise critical at *Bruen* step two, where courts determine "whether the new law is 'relevantly similar'" to historical laws, including evaluating *how* the conduct restriction burdens the Second Amendment right. *United States v. Rahimi*, 602 U.S. 680, 692 (2024) (quoting *Bruen*, 597 U.S. at 29). Given the different conduct being regulated, *Worth* and *Lara* are not in conflict with the decision below.

Finally, Petitioner relies on *Reese v. ATF*, 127 F.4th 583 (5th Cir. 2025), to assert a circuit split. *See* Pet. 14-16. The statute involved in *Reese* does restrict some substantially similar conduct as the law at issue here (commercial sale of certain types of firearms to those under 21). But the statutory schemes also have critically important differences. The federal law at issue in *Reese* restricts the commercial sale of handguns to individuals under 21. The Florida law at issue in *Bondi*, by contrast, applies to both sales and purchases, and to all types of firearms. Given this

important difference, the differing case outcomes do not establish a genuine circuit split.[3]

B. The Question Presented Would Benefit from Further Percolation in the Federal Appellate Courts.

Beyond the absence of a genuine split of circuit authority, "further percolation" in the courts below is warranted to aid this Court's review. *Box v. Planned Parenthood of Ind. & Ky., Inc.*, 587 U.S. 490, 496 (2019) (Thomas, J., concurring) ("join[ing] the Court in declining to take up the issue now"). Since *Bruen*, only three circuits have addressed firearm purchasing restrictions for 18-to-20-year-olds, but several others are likely to address the issue in the coming months. *See, e.g.*, *PWGG, LP v. Bonta*, No. 25-2509 (9th Cir. Apr. 18, 2025) (appeal from denial of constitutional challenge to California law restricting commercial sale of firearms to 18-to-20-year-olds); *Rocky Mountain Gun Owners v. Polis*, No. 23-cv-1077, 2025 WL 1591401 (D. Colo. June 5, 2025) (denying constitutional challenge to Colorado law restricting purchase of firearms by 18-to-20-year-olds).[4] Before

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[3] By contrast, the Fourth Circuit's decision in *McCoy* appears to present a direct circuit split with *Reese*.

[4] *See also Pinales v. Lopez*, 765 F. Supp. 3d 1024 (D. Haw. 2025) (denying preliminary injunction motion in challenge to Hawaii firearms age restrictions, including purchasing restrictions); *Succow v. Bondi*, No. 25-cv-250, 2025 WL 818622 (D. Conn. Mar. 14, 2025) (denying motion for temporary restraining order in challenge to federal and state handgun age purchasing restrictions); *Escher v. Noble*, No. 25-cv-10389 (D. Mass. filed Feb. 14, 2025) (challenge to Massachusetts firearm age (continued…)

granting *certiorari* to address any conflict in Second Amendment challenges to age-based restrictions, this Court would benefit from full analysis by these circuits in the first instance.

II. This Case Is a Poor Vehicle for Resolving a Constitutional Question

This case also presents a poor vehicle for the Court to consider the constitutional issue posed here. *First*, this case is unlikely to include the vigorous defense that the adversarial system demands. Florida Attorney General ("AG") James Uthmeier has publicly asserted that he will not defend the Challenged Law. *See* James Uthmeier (@AGJamesUthmeierFL), X (Mar. 15, 2025, 1:03 PM), https://x.com/JamesUthmeierFL/status/1900955966851747980 (asserting view that Challenged Law is unconstitutional); James Uthmeier (@AGJamesUthmeier), X (Mar. 14, 2025, 4:07 PM), https://x.com/AGJamesUthmeier/status/1900640027329098095 (AG Uthmeier stating he would "direct[] [his] office not to defend this law" should Petitioner "seek further review at SCOTUS").

Even assuming AG Uthmeier opposes *certiorari*, these statements strongly indicate an intent to abstain from meaningful defense of the Challenged

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restrictions, including purchasing restrictions); *Meyer v. Raoul*, No. 21-cv-518 (S.D. Ill. filed May 27, 2021) (challenge to Illinois public carry age restrictions). Notably, aside from *Reese* and *McCoy*, these cases all bear more directly on the issues in the decision below than do the cases cited by Petitioner to support a finding of a Circuit split. Each involves laws affecting the commercial *acquisition* of firearms by 18-to-20-year-olds.

Law were this Court to grant review. This prospect is problematic, because only the state Attorney General may represent the State of Florida in federal court, *see* Fla. Stat. § 16.01; *see also State ex rel. Shevin v. Weinstein*, 353 So. 2d 1251, 1252 (Fla. Ct. App. 1978) ("Only the Attorney General of Florida may represent the State of Florida in a federal court action."), and this Court has repeatedly emphasized the importance of the adversarial process in facilitating this Court's fully informed decision-making, *see Labrador v. Poe ex rel. Poe*, 144 S. Ct. 921, 938 (2024) (Jackson, J., dissenting from grant of stay) ("We do not have full adversarial briefing …."); *Apple Inc. v. Pepper*, 587 U.S. 273, 298 (2019) (Gorsuch, J., dissenting) (opposing departure from precedent in part where "we lack the benefit of the adversarial process"); *Czyzewski v. Jevic Holding Corp.*, 580 U.S. 451, 472 (2017) (Thomas, J., dissenting) ("We also would have benefited from full, adversarial briefing.").

Moreover, the record here was assembled at the district court before the legal framework that now applies to the case was announced by this Court in *Bruen*. Petitioner filed this lawsuit in 2018—several years prior to the *Bruen* decision—when the governing legal standard did not focus on examining a robust historical record, as *Bruen* demands. For example, Respondent therefore did not introduce expert declarations, which are now common in Second Amendment litigation. This Court should decide an issue of this importance on a record developed with the applicable legal framework in mind.

III. The Decision Below Is Correct

This Court should also deny review because the decision below is correct. The Eleventh Circuit faithfully applied the test articulated by this Court in *Bruen* to find the Florida law "consistent with our historical tradition of firearm regulation." Pet. App. 3a.

While Petitioner does not (and cannot) identify any actual conflict with this Court's prior holdings,[5] Petitioner appears to suggest that the asserted "conflict" stems from the majority's rejection of the relevance of Founding-era militia laws and its reliance on the common law. Yet nothing in this Court's jurisprudence suggests that courts cannot consider common law when evaluating a Second Amendment challenge. In fact, just the opposite. *See, e.g.*, *Bruen*, 597 U.S. at 39 ("[t]he language of the Constitution cannot be interpreted safely except by reference to the common law … *as [it was] when the instrument was framed and adopted*" (emphasis in original) (citation omitted)); *Rahimi*, 602 U.S. at 696-98 (upholding constitutionality of federal statute upon finding it consistent with two categories of historical laws incorporated through common law).

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[5] Indeed, Petitioner asserts that *Bondi*'s determinations as to whether 18-to-20-year-olds are part of "the people" to which the Second Amendment's protections extend, and whether the acquisition of firearms is covered by the Second Amendment's plain text, are consistent with Supreme Court precedent.

A. Militia laws did not mean that minors had the right to acquire firearms during the Founding Era.

Petitioner asserts that "[t]he clearest Founding-era evidence of our historical traditions surrounding the right of 18-to-20-year-olds to keep and bear arms comes from the Founders' understanding of militia service." Pet. 22. Petitioner concludes that "because militiamen were expected to appear bearing arms supplied by themselves and of the kind in common use at the time, militia service entailed an *obligation* to acquire firearms" and therefore "law-abiding 18-to-20-year-old citizens were understood at the Founding to enjoy the Second Amendment's protections." Pet. 24-25 (emphasis in original) (citations and quotations omitted).

Petitioner's entire argument is based on a critical misunderstanding of Founding-era laws and customs. Petitioner argues that because those laws obligated certain 18-to-20-year-old males to serve in the local and state militias, the Framers understood themselves to be enshrining into the Constitution an unstated right for those in this age cohort to purchase and bear firearms ***outside*** of required militia service. The actual history of this period reveals that Petitioner's conclusion is seriously mistaken.

As a threshold matter, militia service is manifestly different from bearing arms in a civilian capacity. In the Founding Era, militia service regularly meant that all able-bodied males of a certain age were required to serve in a military-type setting, either in training or in actual military duty. As is well known,

during the Revolutionary War, early conflicts with Native American tribes, and the War of 1812, militia duties often meant actual participation in battles or other engagements, subject to military orders and discipline. *See, e.g.*, Rick Atkinson, *The British Are Coming: The War for America, Lexington to Princeton, 1775-1777*, at 60-76, 251-53, 368-71 (2019); Rick Atkinson, *The Fate of the Day: The War for America, Fort Ticonderoga to Charleston, 1777-1780*, at 82-83 (2025); Donald R. Hickey, *Glorious Victory: Andrew Jackson and the Battle of New Orleans* 91-124 (2015); Nathaniel Philbrick, *Mayflower: Voyage, Community, War* 241-55, 319-23 (2020).

Requiring firearms for military service is different from the question presented here, which is whether *civilians* aged 18-to-20 have a constitutional right *outside* of military service to purchase firearms. *See* Robert J. Spitzer, *Historical Weapons Restrictions on Minors*, 76 Rutgers L. Rev. Commentaries 101, 110-11 (2024) (describing the distinction between a civic obligation and a personal right and noting that "[o]ne does not implicate the other"). Military service requirements do not address that question, and this key point fundamentally undermines Petitioner's argument. Petitioner cannot rely on the history of *military service* to establish whether 18-to-20-year-olds could purchase firearms *outside* the context of military service—i.e., the issue presented here.

In addition, Petitioner's understanding regarding economic and cultural reality in Founding-era America, and the status of 18-to-20-year-olds within it, is wildly historically inaccurate—a flaw that further dooms Petitioner's legal argument. As the

Eleventh Circuit correctly explained, during the Founding Era, 18-to-20-year-olds generally could *not* as a practical matter purchase firearms because "a person was an 'infant[]' or a 'minor[]' in the eyes of the law until age 21," Pet. App. 14a-15a (citing 1 Zephaniah Swift, *A System of the Laws of the State of Connecticut* 213 (1795)); *see also* 1 William Blackstone, *Commentaries on the Laws of England* 453 (1894) (explaining that "[i]t [was] generally true, that an infant can neither aliene his lands, nor do any legal act, nor make a deed, nor indeed any manner of contract, that will bind him").

As one consequence of this legal handicap, 18-to-20-year-olds "generally lacked the capacity to contract," which in turn meant that minors did not have the ability to purchase firearms. Pet. App. 17a-19a. One of the most knowledgeable historians on this subject has summarized the salient point that Petitioner disregards: "The common-law context of the original Second Amendment establishes clearly that infants [including 18-to-20-year-olds] would not have had the ability to make contracts for the purchase of arms." Saul Cornell, *Common-Law Limits on Firearms Purchases by Minors: The Original Understanding*, 173 U. Pa. L. Rev. Online 133, 142 (2025), https://pennlawreview.com/2025/06/24/common-law-limits-on-firearms-purchases-by-minors-the-original-understanding/ [hereinafter Cornell, *Common-Law Limits*].

Additionally, Founding-era militia laws did *not* provide for 18-to-20-year-olds to purchase firearms or to bear them outside of militia service. During that period, "[m]inors did not arm themselves for militia

service; they depended on parents and guardians to outfit them with the necessary arms, and, in some instances, depended on local government or the state to provide arms." Megan Walsh & Saul Cornell, A*ge Restrictions and the Right to Keep and Bear Arms*, 1791-1868, 108 Minn. L. Rev. 3049, 3056, 3077 (2024) [hereinafter Walsh & Cornell] (identifying "minors" as "meaning those under the age of twenty-one, or 'infants,' in the language used at the time of the Founding" (citation omitted)).

In fact, when the Second Congress debated the Militia Act of 1792, Representatives anticipated that 18-to-20-year-olds would rely on parents or the government to obtain firearms for militia service. Pet. App. 19a (citing 2 Joseph Gales, *The Debates and Proceedings in the Congress of the United States 1854-55* (1834)). Similarly, Founding-era laws requiring that militiamen report for armed service assumed parental responsibility when 18-to-20-year-olds had to be armed at all: twelve states held parents liable for fines related to this age group's militia service, including the failure to obtain a firearm; seven states required parents to supply firearms to their 18-to-20-year-old children; and two states exempted 18-to-20-year-olds from the obligation to be armed altogether. Pet. App. 19a-21a (collecting sources).

B. Petitioner's suggestion that minors could acquire firearms without parental involvement is historically inaccurate.

Any notion that 18-to-20-year-olds might purchase arms without the consent of their parents or guardians during the Founding Era rests on a

profound misunderstanding of common law and the realities of early American economic life.

During the Founding Era, "contracts with infants, except for necessaries, [were] either void or voidable" since "infants … [were] supposed to want judgment and discretion in their contracts and transactions with others[.]" 1 Samuel Comyn, *A Treatise of the Law Relative to Contracts and Agreements Not Under Seal* 148 (1807). This inability to contract was significant, because during the Founding Era, the United States had a cash-poor economy and "most economic transactions involved credit of some form." Cornell, *Common-Law Limits* at 135. Given that "voidability threatened sellers with a 'high risk' that they could not recover goods sold if they contracted with infants, 'infants were effectively unable to form contracts.'" Pet. App. 18a (alterations accepted) (quoting Holly Brewer, *By Birth or Consent: Children, Law, and the Anglo-American Revolution in Authority* 271 (2005)).

While Founding-era common law recognized a narrow exception to the general prohibition on contracting by minors for "necessaries," firearms were not among them. *See* Blackstone, *Commentaries* at 464-66. Rather, those goods were understood to include "meat, drink, apparel, physic [medicine], and such other necessaries," as well as "good teaching and instruction[.]" *Id.*; *see also* 2 Nathan Dane, *A General Abridgement and Digest of American Law* 363 (1824) ("The articles for which a minor is bound, and usually his parent where the credit is proper, are alone *necessaries*; as food[,] drink, clothing, washing, physic, education or instruction, fire-wood, and lodging." (emphasis in original)); Walsh & Cornell at 3065

(noting minors could only contract for "necessaries, such as food, clothes, lodging, and occasionally education" (citation omitted)). Pistols and "matters which pertain only to the preservation, protection, or security of the infant's property" were generally *not* considered necessaries in the Founding Era. J.G. Woerner, *A Treatise on the American Law of Guardianship of Minors and Persons of Unsound Mind* 11-12 (1897); *see also Cornell, Common-Law Limits* at 138.

Reflecting this point, multiple courts during the 19th century did not identify guns among the items that qualified as "necessaries." *See, e.g.*, *McKanna v. Merry*, 61 Ill. 177, 179 (1871) ("necessaries" generally excludes "horses, saddles, bridles, pistols, liquors, fiddles, [and] chronometers"); *Saunders Glover & Co. v. Ott's Adm'r*, 12 S.C.L. (1 McCord) 572, 572 (1822) (similar). And Petitioner's claim, *see* Pet. 34, that barring contracts for "pistols" does not implicate long guns ignores the fact enunciated by this Court, that pistols—a type of handgun—are the "quintessential" weapon of self-defense. *See District of Columbia v. Heller*, 554 U.S. 570, 629 (2008) (citation omitted).

C. Petitioner's claim that no law expressly prohibited 18-to-20-year-olds from purchasing firearms disregards Founding-era law and society.

Petitioner's claim that no Founding-era statute expressly prohibited those under 21 from purchasing firearms ignores that during the Founding Era, those in this age cohort generally could not purchase firearms under the prevailing common law and could

only access firearms "in supervised situations where [they] were under the direction of those who enjoyed legal authority over them: fathers, guardians, constables, justices of the peace, or militia officers." Walsh & Cornell at 3075. Indeed, "[u]nder common law … minors enjoyed few rights that could be asserted in court," and "the law subsumed the legal identity of minors almost entirely within their parents, guardians, or masters, with a few well-defined exceptions." *Id*. at 3064 (citing Swift, *supra*, at 212-18).

Rules governing college students further reflect that during the Founding Era, those under 21 could not freely purchase, possess, or bear arms. Colleges were among the few places where those under 21 lived beyond the direct authority of their parents or guardians. See Saul Cornell, *"Infants" and Arms Bearing in the Era of the Second Amendment: Making Sense of the Historical Record*, 40 Yale L. & Pol'y Rev. 1, 13 (2021). Yet as a legal matter, students "traded strict parental authority for an equally restrictive rule of *in loco parentis*." *Id.* (citation omitted); *see also* 1 Blackstone, *Commentaries* at 452-53 (a father may "delegate part of his parental authority … to the tutor or schoolmaster of his child; who is then in loco *parentis*"). Consistent with this *in loco parentis* authority, in the 18th and 19th centuries, at least a dozen state university systems "overseen by state legislatures" and dozens of private colleges restricted firearms and other weapons. *See* Spitzer, *supra*, at 112-18; *see also* Walsh & Cornell at 3069-72 (similar). These restrictions often applied to students living both on and off campus, who fell within an age range similar to that of college students today: between

eighteen and twenty-two. Spitzer, *supra*, at 113-14 (citations omitted).[6]

These regulations are consistent with the broader historical context in which those under 21 had "no unfettered right to purchase, keep, or bear arms," Walsh & Cornell at 3074-75, and inform the "public understanding" of the Second Amendment during the Founding Era, *see Bruen*, 597 U.S. at 20 (emphasis omitted) (quoting *Heller*, 554 U.S. at 605).

D. Florida's modern restrictions on firearms access for 18-to-20-year-olds are consistent with this nation's historical traditions.

The current legal status of 18-to-20-year-olds under the Challenged Law is entirely consistent with this country's historical tradition, which this Court has focused on in its modern Second Amendment jurisprudence. *See*, *e.g.*, *Heller*, 554 U.S. at 634-35 ("Constitutional rights are enshrined with the scope they were understood to have when the people adopted them ….]"); *Rahimi*, 602 U.S. at 692; *Bruen*, 597 U.S. at 17, 26.

Petitioner argues that because "[i]n states across the country, 18-to-20-year-olds are considered legal

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[6] Data on New England college graduates from 1751 to 1860 reflect that although a minority "graduated younger than eighteen and older than twenty-eight," the "most common age of students at graduation was consistently from ages twenty to twenty-two." Spitzer, *supra*, at 114 n.74 (citing David F. Allmendinger, Jr., *Paupers and Scholars: The Transformation of Student Life in Nineteenth-Century New England* 131-38 (1975)) (other citation omitted).

adults for virtually all purposes," Pet. 19, they are "analogous to legal adults at the time of the Founding, not legal minors," Pet. 4 (quoting Pet. App. 156a-157a (Brasher, J., dissenting)). Petitioner further asserts that "even if the majority's interpretation of this common-law contract rule were correct, it is sharply disanalogous to modern age-based gun bans in terms of both the 'why' and the 'how' of regulation." Pet. 3 (quoting *Bruen*, 597 U.S. at 29). Petitioner concludes that even if "the common law at the Founding barred minors from acquiring firearms, this evidence would still fail to justify Florida's ban" because "a restriction on the Second Amendment rights of minors at the Founding is simply not analogous to a restriction on the Second Amendment rights of adults today." Pet. 29 (emphasis omitted).

Petitioner's claims are legally unsupportable and historically wrong. Petitioner's argument that Founding-era laws must be discounted or ignored because modern society has made a different determination regarding the legal age of majority is directly at odds with nearly two decades of this Court's precedent regarding the proper interpretation of the Second Amendment. This Court has made clear that modern laws that "contradict[] earlier evidence" generally cannot be used to rebut clear evidence of the country's Founding-era regulatory tradition. *Bruen*, 597 U.S. at 66 & n.28 ("As we suggested in *Heller* … late-19th-century evidence cannot provide much insight into the meaning of the Second Amendment when it contradicts earlier evidence." (citing *Heller*, 554 U.S. at 614) (other citation omitted)).

Moreover, Petitioner is incorrect in claiming that the Founding-era common law principle, that contracts with 18-to-20-year-olds were generally voidable, does not have the same "how" and "why" as the Challenged Law. *See* Pet. 3. As discussed *supra* in Part III.B, the Founding-era constraints on minors' ability to contract "existed because the prevailing legal understanding was that those under the age of twenty-one were not able to make mature, reasonable decisions," Walsh & Cornell at 3057; *see also* Pet. App. 16a-19a. Laws imposing a minimum age on the purchase or commercial sale of firearms today have the same "how" and "why" as the Founding-era constraints on contracting. Both "make it exceedingly difficult for a minor to purchase" a firearm commercially, and both were "motivated by a recognition that individuals under the age of 21 lack good judgment and reason." *McCoy*, 140 F.4th at 577.

Historical and contemporary legal restrictions on minors' access to firearms are rooted in a recognition that those under 21 often lack sound reasoning and judgment, and thus must be "secure[d] … from hurting themselves by their own improvident acts." 1 Blackstone, *Commentaries* at 463. The Founders expressed this understanding, describing those under 21 as "want[ing] prudence" and "hav[ing] no will of their own," 4 *The Writings of James Madison* 119 (Gaillard Hunt ed., 1903) (Constitutional Convention, Aug. 7, 1787), and as akin to "maniacs, gamblers, drunkards" and others who "cannot take care of themselves," *Letter from Thomas Jefferson to Samuel Smith* (May 3, 1823), https://founders.archives.gov/documents/Jefferson/03-19-02-0446; *see also Letter from John Adams to James Sullivan* (May 26, 1776),

https://founders.archives.gov/documents/Adams/06-04-02-0091 (in voting context, identifying 21 years as an age at which the "Understanding and Will of Men in general is fit to be trusted by the Public").

This Founding-era understanding of minors' judgment and reasoning has continued to "guide[] modern law's treatment of minors." Cornell, *Common-Law Limits* at 141; *see, e.g.*, Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, § 901(a)(6), 82 Stat. 197, 225-26 (1968) (in federal statute imposing minimum age on commercial sale or delivery of certain firearms, noting finding of widespread past sales of firearms to "emotionally immature" or "thrill-bent juveniles and minors prone to criminal behavior").

Contemporary scientific understanding of brain development reaffirms the view of the Founding Era that those under 21 generally "lack the maturity to make fully informed decisions in many areas," including with respect to firearms. Walsh & Cornell at 3102; *see also Rocky Mountain Gun Owners ("RMGO") v. Polis*, 121 F.4th 96, 106, 126-27 (10th Cir. 2024).

Reliable data establish that "several aspects of brain development affecting judgment and decision-making … continue at least until age 21," with the result that "individuals in their late teens and early 20s are less mature than adults in several significant … ways" relevant to access to firearms. *RMGO*, 121 F.4th at 126 (quoting expert declaration); *see also, e.g.*, *Pinales*, 765 F. Supp. 3d at 1032, 1054 (citing State's evidence that requested injunction to enjoin

enforcement of Hawaii statutes analogous to Challenged Law "would not serve the public interest," in part because "deficiencies in self-control" among 18-to-20-year-olds—including greater propensity for "poor decision-making and impulsive behavior"—are "'likely to interfere with safe firearm usage'" (quoting expert declaration)).

Access to guns is particularly dangerous for 18-to-20-year-olds, who are disproportionately prone to gun violence. For instance, although those in this age cohort accounted for less than 4% of the U.S. population in 2019, they comprised more than 15% of manslaughter arrests and homicides. *See* Spitzer, *supra*, at 103. In Florida, 18-to-20-year-olds reportedly carried out fatal shootings at about "three times the rate of a person in their 30s." Samantha Putterman, *What Does the Data Show on Deadly Shootings by 18-to-20-Year-Olds?*, Tampa Bay Times (Feb. 7, 2024), https://www.tampabay.com/news/florida-politics/2024/02/07/what-does-data-show-deadly-shootings-by-18-20-year-olds (citation omitted)); *see also* Pet. App. 95a-96a (Rosenbaum, J. concurring) (noting the same).

Further, 18-to-20-year-olds are disproportionately responsible for mass shootings—including the 19-year-old who shot and killed 17 people and injured 17 more in Parkland, Florida, leading Florida to pass the Challenged Law. *See* Pet. App. 6a (citation omitted). While historically comprising roughly 4% of the country's post-World War II population, 18-to-20-year-olds "have been involved in perpetrating 20% of the mass shootings resulting in 10 or more deaths—a roughly five-fold over-representation." *Jones v.*

Bonta, 705 F. Supp. 3d 1121, 1140 (S.D. Cal. 2023) (citation omitted); *see also Lara v. Comm'r Pa. State Police*, 130 F.4th 65, 68-69 (3rd Cir. 2025) (Krause, J., dissenting from denial of rehearing en banc) (noting 18-to-20-year-olds "commit[] gun homicides at a rate three times higher than adults aged 21 or older" and "[a]dditional studies show that at least one in eight victims of mass shootings from 1992 to 2018 were killed by an 18 to 20-year-old" (second alteration in original) (citations omitted)).

Unsurprisingly, age-based firearm regulations such as the Challenged Law are likely to be effective in reducing gun violence among young people. *See RGMO*, 121 F.4th at 107, 127 (citing declaration of state's expert, a psychology and neuroscience professor, concluding the Colorado statute would "likely reduce the numbers of firearm homicides, nonhomicide violent crimes, suicides, and accidental firearm injuries in Colorado").

Research has established that mass shooters most commonly obtain their weapons lawfully. *See* FBI, *A Study of the Pre-Attack Behaviors of Active Shooters in the United States Between 2000 and 2013*, at 14 (2018), https://www.fbi.gov/file-repository/reports-and-publications/pre-attack-behaviors-of-active-shooters-in-us-2000-2013.pdf. This includes the 19-year-old Parkland high school shooter. *See* Bart Jansen, *Florida Shooting Suspect Bought Gun Legally, Authorities Say*, USA Today (Feb. 15, 2018), https://www.usatoday.com/story/news/2018/02/15/florida-shooting-suspect-bought-gun-legally-authorities-say/340606002. Further, survey data on offenders incarcerated for offenses involving firearms found

that 17% would have been barred from possessing firearms if the minimum legal age in that state had been 21 years, "underscor[ing] the importance of minimum-age restrictions[.]" Katherine A. Vittes et al., *Legal Status and Source of Offenders' Firearms in States with the Least Stringent Criteria for Gun Ownership*, 19 Inj. Prevention 26, 29-30 (2013).

Such regulations are also effective in reducing suicide risk among those in this age group. More than half of the 2,735 suicide deaths among 16-to-20-year-olds in the U.S. in 2021 involved firearms. *See* RAND Corp., *The Effects* of *Minimum Age Requirements* (updated July 16, 2024), https://www.rand.org/research/gun-policy/analysis/minimum-age.html. One recent study found that from 2000 to 2022, "[s]tates with a minimum age requirement of 21 to purchase a handgun [] experienced a significantly lower firearm-related suicide rate for 18-to-20-year-olds." Archie Bleyer et al., *Raising Firearm Purchase Age Supports Suicide Prevention*, Baker Inst. For Pub. Pol'y: Ctr. for Health Pol'y (May 16, 2025), https://doi.org/10.25613/QQ4K-7N08.

Florida's law has likely already prevented firearm homicides, firearm-related violent crimes, suicides, and accidental firearm injuries in the State. For example, the State's firearm death rate among children ages 1 to 19 fell below the national average for the first time since at least 2012, and it has stayed below the national average since the statute's enactment. *See* United Health Found., *America's Health Rankings: Firearm Deaths—Children in Florida*, https://www.americashealthrankings.org/

explore/measures/firearm_deaths_children/FL#measure-trend-summary (last visited Aug. 5, 2025).

Modern laws regulating commercial firearm purchasing and sales involving 18-to-20-year-olds, and other laws restricting substances such as alcohol and tobacco, reinforce the Founding-era understanding of 18-to-20-year-olds' comparatively limited "cognitive, emotional, and social capacities." *RGMO*, 121 F.4th at 127 (quoting state expert's declaration); *see also* Walsh & Cornell at 3102-03 & nn.228, 230 (citing federal statutes restricting those under 21 from purchasing tobacco products and using alcohol, and state statutes restricting those under 21 from adopting a child).

E. Laws from the Reconstruction period and beyond are relevant to this inquiry, and several expressly restricted minors from purchasing firearms.

Finally, Petitioner errs in asserting that regulations enacted after the Founding Era fail to "establish a 'tradition of firearm regulation'" under *Bruen*. Pet. 26 (quoting *Bruen*, 597 U.S. at 24) (other citation omitted). This Court in *Bruen* recognized that 19th century history may offer "confirmation" of the original understanding of the Second Amendment. *Bruen*, 597 U.S. at 37 (citation omitted). *Bruen* further instructed courts to adopt a "more nuanced approach" to historical analysis when confronted with "cases implicating unprecedented societal concerns or dramatic technological changes," because "[t]he regulatory challenges posed by firearms today are not always the same as those that preoccupied the

Founders in 1791 or the Reconstruction generation in 1868." *Id.* at 27.

Both guideposts control here. During the Founding Era, restrictions on minors' access to weapons were accomplished not through direct regulation, but rather via "the main mechanism minors use[d] to obtain weapons" in that period—i.e., the family structure and "comparable institutions governed by the principle of in loco parentis." Walsh & Cornell at 3107-08, 3118. This mode of indirect regulation evolved by the mid-to-late 19th century in tandem with technological and societal developments, *see id.* at 3111, in a manner that could not have been foreseen by the Framers.

During the Founding Era, firearm violence was "not a serious problem that prompted governments to limit minors' access to guns," in part due to rudimentary firearms technology, where, for example, "[f]lintlocks and muzzle-loading weapons took too long to load" and were "too inaccurate to make them effective instruments of anti-social violence or criminal activity." Walsh & Cornell at 3108-09. By the mid-19th century, however, transformations in "gun technology, gun commerce, and gun culture" resulted in an "increase in gun crime and gun injury," leading states and localities to respond to these new problems with new regulations. *Id.* at 3091. Specifically, from 1856 to 1897, at least 20 jurisdictions enacted laws proscribing the sale of certain firearms to those under 21 or limiting their use of certain firearms. *See McCoy*, 140 F.4th at 578-79 & n.3 (collecting statutes); *see also* Walsh & Cornell at 3089-93, 3111. Notably, while these statutes

"responded to novel problems," they reflected the same Founding-era concerns about minors' compromised ability to exercise sound decision-making and judgment. Walsh & Cornell at 3091, 3100-01; *see also McCoy*, 140 F.4th at 579.

If these 19th century statutes have no Founding-era "historical *twin*," *Bruen*, 597 U.S. at 30 (emphasis in original), it is because Founding-era legislators had no comparable "problem with minors and gun violence to regulate," Walsh & Cornell at 3109 (citation omitted). Yet *Bruen*'s inquiry demands not a historical "twin," but a "well-established and representative historical *analogue*," which is satisfied by the Founding-era's common law restrictions on minors' access to firearms. *Bruen*, 597 U.S. at 30 (emphasis in original). Petitioner's claim notwithstanding, the 19th century regulations "confirm[]" the Founding-era tradition and demonstrate a historic "tradition of firearm regulation" limiting minors' access to firearms. *Id*. at 24, 37.

CONCLUSION

For the foregoing reasons, this Court should deny the petition for certiorari.

Respectfully submitted,

Douglas N. Letter
Shira Lauren Feldman
Tess M. Fardon
Jenna Klein
BRADY CENTER TO PREVENT GUN VIOLENCE
840 First Street, NE
Suite 400
Washington, DC 20002
(202) 370-8100

Timothy C. Hester
Counsel of Record
COVINGTON & BURLING LLP
850 Tenth Street NW
Washington, D.C. 20001
(202) 662-6000
thester@cov.com

Counsel for Amicus Curiae

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