No. 24-6046

In The Supreme Court of the United States

Steven E. Walker,

Petitioner

vs.

Robb Bonta, Attorney General of The State Of California; **Merrick Garland,** Attorney General Of The United States Of America; And **DOES 1-100,**

Respondents.

SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI[1]

On Petition for a Writ of Certiorari to
United States Court of Appeals for
The Ninth Circuit.

This Case Arises Under the Second Amendment to the Constitution of the United States

Steven E. Walker
6503 Roxy Lane
San Diego, California 92115
(858) 789-0774
waverider.ca69@yahoo.com
In Pro Se

1 This *Pro se* pleading must be liberally construed. No technical forms of pleading are required. *Swierkiewicz v Sorema NA*, 534 U.S. 506, 508-514 & n. 1 (2002); *Estelle v Gamble*, 429 U.S. 97, 106 (1976).

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SUPPLEMENTAL ARGUMENT

The Third Circuit's recent decision in *Range v. Attorney General*, No. 21-2835 (3d. Cir.), which was remanded for reconsideration in light of *United States v. Rahimi*, 602 U.S. 680 (2024); *Garland v. Range*, 144 S. Ct. 2706 (2024) has reaffirmed that Mr. Range, a discharged felon (i.e. free citizen), is among "'the people' protected by the Second Amendment." *Range v. Attorney General*, ___ 4th ____ 2024 WL 5199447 (3d Cir. Dec. 23, 2024). *Range* is in direct conflict with the district court and Ninth Circuit decisions relayed in this case. Appendix A pp. 49-50 & 67-73; Petition at pp. 6-10 & 16-18. *Range* however is consistent with the allegations and questions presented in Mr. Walker's petition currently before this Court, and reply brief submitted to this Court on December 31, 2024. *See* Exhibit A, attached hereto (Reply Brief). The Third Circuit sustained Mr. Range's as-applied challenge to the lifetime ban on his possession of weapons under § 922(g)(1). WL 5199447 at *5-6. In so holding, the Third Circuit found that the government did not meet its burden of showing a historical analogue to permanent disarmament of someone who no longer posed a credible threat to society. *Id.* at *6-8. The court relied on the forfeiture laws that "prescribed the forfeiture of the specific weapon" but did not forbid acquisition of arms after completion of one's sentence and reentry into society. *Id.* at *8.

In addition, Judge Phipps, in his concurring opinion concluded that "once a citizen repays his debt to society, a legislative restriction on the right to keep and bear arms based on nothing more than a prior conviction "is without relevant historical antecedent" and permanently disarming a person who has repaid his debt to society is even "further removed" from our Founding-era traditions. Thus, lifetime

disarmament of an otherwise "free citizen. . . . violates the Second Amendment." *Range*, WL 5199447 at *21 (Phipps J., concurring)(Cleaned up).

Judge Phipps' observations align with Walker's undisputed facts set forth in the Petition at pages 6-8.

Also, the previous concurring opinion by Judge Porter, in *Range v Attorney General United States of America*, 69 F.4th 96, 106-109 (3rd Cir. 2023), *vacated on other grounds Garland v Range,* 144 S. Ct. 2706 (2024), makes clear that Walker's plausible questions need to be addressed. First, Judge Porter states that until well into the 20th Century it was settled that "Congress lacked power to abridge anyone's rights to keep and bears arms." 69 F.4th at 106-107. Walker's questions are that Congress, and the States have no delegated power to infringe upon his right to keep and bear arms. Petition at pp. 8-14; Reply at pp. 2-5. Judge Porter further stated that even without the Second Amendment, "the combination of enumerated powers and the Ninth and Tenth Amendments ensured that Congress could not permanently disarm anyone." 69 F.4th at 107. Walker's issues and argument in his case before the federal courts are directly on point with Judge Porter's historical observations. *Also see* Walker's First Amended Complaint, Appendix B at pp. 22-48; Petition at pp. 10-18.

As stated by Walker, Congress was never given any power delegated by the Constitution to infringe upon the right to keep and bear arms. Petition at pp. 9-18. Judge Porter seems to agree, that Congress' s "lack of delegated power" is grounded in the Second Amendment's restrictions to "prevent the pursuit of 'inordinate power.'" 69 F.4th at 107; *also see* Petition at pp. 14-18.[2] Yet, it appears that in 1934 Congress gave itself power in the New Deal Era and with this Court's expansive

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[2] Judge Porter's plausible interpretation of the Second Amendment's non-delegation of power is more consistent with its stated command and purpose, and "will" be favored. *E.g. NY Pistol & Rifle Assoc v. Bruen*, 597 U.S. 1, 44 n. 11 (2022) Coincidently, the express prohibition of power is "the very product" of interest balancing by the people, which "demands" the judiciary's "unqualified deference." *Bruen*, 597 U.S. at 26. Accordingly, there are no presumptively lawful firearm regulations because the Amendment prohibits the power to prohibit the right. Thus, deferring blindly to a power that is not delegated by the Constitution operates at such a high level of generality that "it waters down the right." *Range*, 2024 WL5199447 *7 & *21.

conception of the Commerce Clause, without any Amendment to the Constitution or repeal of the Second Amendment. *Range*, 69 F.4th at 107-108 ("Before the New Deal Revolution Congress was powerless to regulate gun possession and use") Also, with the enactment of the 14th Amendment, and the incorporation of the Second Amendment, there is no daylight between the federal and state conduct in prohibits. 69 F.4th at 109; Petition at pp. 4-6 & 8-14; Reply at pp. 2-5. [3]

There will continue to be an ongoing circuit split concerning the scope of Second Amendment rights until this Court remains true to the plain text "self-executing prohibition on government action." *E.g. City of Boerne v Flores*, 521, U.S. 507, 524 (1997); *and Wilson v Hawaii*, 604 U.S. ___ (Case No. 23-7517)(Slip Op. at pp. 4-5)(Statement by Thomas J, respecting denial of certiorari)(Constitutional rights are "self-executing prohibitions on governmental action." A constitutional violation accrues the moment the government undertakes an unconstitutional act).

CONCLUSION

Now is the time to resolve the issues presented in Walker's petition. The unopposed *Pro se* Petition should be granted, the matter heard by this Court or remanded back to the lower courts. Either way, the constitutional questions advanced will more than likely appear before this Court again, and again, and again.

Dated: January 14, 2025.

By _____

STEVEN WALKER
Petitioner in Pro se

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[3] The Second Amendment's unqualified command is an *affirmative prohibition* on government power. *National Federation of Independent Business v Sebelius,* 132 S. Ct. 2566, 2577-2578 (2012); *with Bruen,* 597 U.S. at 23-24. If no enumerated power authorizes government to pass a certain law, that law may not be enacted. *Id.,* 132 S. Ct. at 2577. Only laws within the scope of the Constitution, "*which are not prohibited,*" are constitutional. *Id.* 132 S. Ct. at 2579.