No. 25-1190

In the
Supreme Court of the United States

PATRICK TATE ADAMIAK,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

BRIEF OF AMICI CURIAE SECOND AMENDMENT FOUNDATION, NATIONAL RIFLE ASSOCIATION OF AMERICA, CALIFORNIA RIFLE & PISTOL ASSOCIATION, INCORPORATED, SECOND AMENDMENT LAW CENTER, INC., MINNESOTA GUN OWNERS CAUCUS, AND THE CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS IN SUPPORT OF PETITIONER

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May 4, 2026

TABLE OF CONTENTS

TABLE OF AUTHORITIES

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

AMICI CURIAE STATEMENT OF INTEREST

Second Amendment Foundation ("SAF") is a non-profit membership organization founded in 1974 with over 720,000 members and supporters in every state of the Union. Its purposes include education, research, publishing, and legal action focusing on the constitutional right to keep and bear arms. Currently, SAF is involved in several Second Amendment-related lawsuits and thus has great interest in the outcome of this case.[1]

The National Rifle Association of America (NRA) is America's oldest civil rights organization and foremost defender of Second Amendment rights. It was founded in 1871 by Union veterans—a general and a colonel—who, based on their Civil War experiences, sought to promote firearms marksmanship and expertise amongst the citizenry. Today, the NRA is America's leading provider of firearms marksmanship and safety training for both civilians and law enforcement. The NRA has approximately four million members, and its programs reach millions more.

Founded in 1875, California Rifle & Pistol Association, Incorporated, is a nonprofit organization

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[1] No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution to fund this brief. No person other than the amici, their members, or their counsel made a monetary contribution intended to fund the preparation or submission of this brief. The parties were notified that this brief would be filed on April 15, 2026, in compliance with Rule 37.2.

that seeks to defend the Second Amendment and advance laws that protect the rights of individual citizens. In service of its mission to preserve the constitutional and statutory rights of gun ownership, California Rifle & Pistol Association regularly participates as a party or amicus in Second Amendment litigation.

Second Amendment Law Center, Inc. is a nonprofit corporation headquartered in Henderson, Nevada. Second Amendment Law Center is dedicated to promoting and defending the individual rights to keep and bear arms as envisioned by the Founding Fathers. Its purpose is to defend these rights in state and federal courts across the United States. It also seeks to educate the public about the social utility of firearm ownership and to provide accurate historical, criminological, and technical information about firearms to policymakers, judges, and the public.

Minnesota Gun Owners Caucus ("MGOC") is a 501(c)(4) non-profit organization incorporated under the laws of Minnesota with its principal place of business in Shoreview, Minnesota. MGOC seeks to protect and promote the right of citizens to keep and bear arms for all lawful purposes. MGOC serves its members and the public through advocacy, education, elections, legislation, and legal action. MGOC's members reside both within and outside Minnesota.

The Citizens Committee for the Right to Keep and Bear Arms is a non-profit corporation organized under Section 501(c)(4) of the Internal Revenue Code, dedicated to promoting the benefits of the right to bear arms. The Court's interpretation of the Second

Amendment directly impacts the Committee's organizational interests, as well as the Committee's members and supporters, who enjoy exercising their Second Amendment rights. The Committee's substantial expertise in the field of Second Amendment rights would aid the Court in this case.

SUMMARY OF ARGUMENT

The facts of this case are outrageous. That the Petitioner, a decorated Navy veteran, has only the long odds of a grant of certiorari standing between him and spending the prime decades of his life in prison because he possessed cut-up gun parts and a fake RPG-7 is a miscarriage of justice. The Petition covers the legal arguments well, but due to space limitations, it can only scratch the surface of the complex and unjust history of this case. One of the Amici, Second Amendment Foundation, has covered that saga extensively through its investigative journalism project across almost 40 articles, and it encourages the Court to peruse them.[2]

While the Petitioner's ordeal merits certiorari for all the reasons he asserts in his petition, his case especially highlights the damaging flaw in this Court's insistence on waiting for sufficient "percolation" before finally confirming which arms are protected by the Second Amendment. The Petitioner's Second Amendment arguments were not rejected on the merits; instead, they were never even considered because they were deemed foreclosed by circuit precedent. Pet. 24.

That circuit precedent is *Bianchi v. Brown*, 111 F.4th 438, 453 (4th Cir. 2024), a ruling that Justice Kavanaugh described as "questionable." *Snope v.*

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[2] *See* Lee Williams, *A Complete List of Our Stories About Patrick "Tate" Adamiak*, The Gun Writer (Apr. 9, 2026), https://thegunwriter.substack.com/p/a-complete-list-of-our-stories-about.

Brown, 145 S. Ct. 1534, 1535 (2025) (Kavanaugh, J., statement respecting denial of certiorari). But he ultimately felt that "[o]pinions from other Courts of Appeals should assist this Court's ultimate decisionmaking on the AR-15 issue." *Id.* Justice Thomas disagreed, noting that "further percolation is of little value when lower courts in the jurisdictions that ban AR-15s appear bent on distorting this Court's Second Amendment precedents." *Id.* at 1538 (Thomas, J., dissenting from denial of certiorari).

Justice Thomas has it exactly right. Waiting for more courts to weigh in is pointless when those courts are not reaching their rulings in good faith. *See, e.g.*, *Duncan v. Bonta*, 83 F.4th 803, 808 (9th Cir. 2023) (Bumatay, J., Ikuta, J., R. Nelson, J., and VanDyke, J., dissenting) ("If the protection of the people's fundamental rights wasn't such a serious matter, our court's attitude toward the Second Amendment would be laughably absurd.").[3]

The Petitioner's situation reflects the most extreme example of the human cost of waiting to resolve pressing Second Amendment issues. He is now

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[3] As this brief was being drafted, Counsel received notification that the Ninth Circuit voted to vacate yet another Second Amendment three-judge panel victory, the 11th time this has occurred. *See Baird v. Bonta*, No. 24-565 (9th Cir. Apr. 15, 2026) (order granting rehearing en banc and vacating panel opinion); *see also* Brief of Second Amendment Foundation et al. as Amici Curiae Supporting Petitioners, *Duncan v. Bonta*, No. 25-198, at 17-23 (U.S. Sept. 12, 2025) (detailing the Ninth Circuit's practice of vacating almost every Second Amendment victory). Nothing insightful will come from allowing this sort of abuse to continue, as further percolation in such courts will only bring the same results.

serving 20 years in prison yet was not even heard on his Second Amendment claim because of it being foreclosed by the aforementioned "questionable" precedent.

As the Petitioner argues, if the items he is charged with possessing are illegal weapons like the government insists, then his conduct implicates the plain text of the Second Amendment, and a full historical analysis should have been completed. If instead they are *not* weapons, then the charges make no sense, and the Petitioner should be released from prison immediately.

A ruling on this point would allow this Court to clarify what an "arm" is, and to end the abuse of the *Bruen* test in another important way: recently, several lower courts have turned to a fabricated "plain text analysis" that this Court never endorsed to relieve the government of its historical burden. In practice, that "analysis" has been both underinclusive and overinclusive, turning *Bruen*'s landmark historical test into a rarely applied obscurity.

ARGUMENT

I. If Cut-Up Gun Parts Are Firearms, Then They Are Also "Arms" Under the Plain Text of the Second Amendment, and a Historical Analysis Is Required.

Petitioner argues that "if cut-up parts of a World War II Soviet gun and a conspicuously inert 'training aid dummy' shaped like an RPG-7 are, in fact, firearms, then *Bruen* requires historical analogues before imposing felony punishment on possession of those nonfunctional articles." Pet. 22.

If the government concedes those objects are not arms, then it should finally release the Petitioner from prison and drop this case. If instead the government continues to insist that those inert objects come within the National Firearms Act's definitions, then it must meet its historical burden because "when a firearm regulation is challenged under the Second Amendment, the Government must show that the restriction 'is consistent with the Nation's historical tradition of firearm regulation.'" *United States v. Rahimi*, 602 U.S. 680, 689 (2024) (quoting *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 24 (2022)).

For its part, the Fourth Circuit ruled that "Adamiak's Second Amendment challenge is squarely foreclosed by this court's holdings in *Bianchi v. Brown*." *United States v. Adamiak*, No. 23-4451, 2025 U.S. App. LEXIS 26673, at *7 (4th Cir. Oct. 14, 2025). *Bianchi*, in turn, held that "arms" are only those weapons "that are most appropriate and typically used for self-defense, it emphatically does not stretch to encompass excessively dangerous weapons ill-

suited and disproportionate to such a purpose." 111 F.4th 438, 452 (4th Cir. 2024).

But the idea that an arm must be "in common use for self-defense" to implicate the Second Amendment comes neither from the Amendment's text nor the precedents of this Court. While this inquiry may have some bearing on whether a given law aligns with our Nation's historical tradition, it is irrelevant to the determination of whether an item is an "Arm" within the scope of the right in the first place.

This Court has defined "arms" under the plain text of the Second Amendment as follows:

> Before addressing the verbs "keep" and "bear," we interpret their object: "Arms." The 18th-century meaning is no different from the meaning today. The 1773 edition of Samuel Johnson's dictionary defined "arms" as "*[w]eapons of offence, or armour of defence.*" Timothy Cunningham's important 1771 legal dictionary defined "arms" as "*any thing that a man wears for his defence, or takes into his hands, or useth in wrath to cast at or strike another.*"

District of Columbia v. Heller, 554 U.S. 570, 581 (2008) (citations omitted).

This Court added that "[t]he term was applied, then as now, to weapons that were not specifically designed for military use and were not employed in a military capacity." *Id*. Indeed, the Second Amendment "extends, prima facie, *to all instruments that*

constitute bearable arms, even those that were not in existence at the time of the founding." *Bruen*, 597 U.S. at 28 (quoting *Heller*, 554 U.S. at 582) (emphasis added); *see also Rahimi*, 602 U.S. at 740 (Barrett, J., concurring) (describing *Bruen* as "explaining that the Amendment does not apply only to the catalogue of arms that existed in the 18th century, but rather to all weapons satisfying the '*general definition*' of 'bearable arms'").

Despite how clear this all is, "lower courts have been quick to make distinctions along various lines, carving items out from the textual scope of 'Arms' one by one." Jamie G. McWilliam, *Arms*, Paper No. 2026-3, at 6 (Univ. of Wyo. Firearms Rsch. Ctr. Mar. 31, 2026) (forthcoming 2026-2027 in 101 Tul. L. Rev.). "The result has been doctrinal fragmentation. Courts exclude weapons, components, and accessories from constitutional protection based on common use, military lineage, perceived functional necessity, or categorical labels such as 'accoutrements,' often without a clear theory of why those distinctions follow from the Amendment's text as originally understood." *Id*. at 50-51.

That will be discussed more in section II of this brief but suffice it to say for now that the plain text makes no such distinctions. What is presumptively covered by the plain text are simply "arms." That includes common arms, uncommon arms, non-lethal arms, and even "dangerous and unusual" arms.[4] All

[4] To be sure, the term is not *totally* limitless. "[W]hile you could bludgeon somebody with a taxidermied marmot, or beat them with a non-stick frying pan, a ban on stuffed rodents and

come under the plain text, so any restrictions on them must comport with historical tradition. Undoubtedly, the government will have no trouble upholding certain restrictions by pointing to historical tradition. But it must still meet that historical burden even if it will do so easily in some cases; it cannot dodge it by insisting the weapons it regulates are not arms.

Here, the government may also argue that it is merely regulating gun *parts,* and that cut-up parts of a World War II Soviet gun are not "arms" because they are inert. Setting aside the horrifying moral implications of sending a man to prison for parts the government concedes are inert, this argument still would not mean the government can shirk its historical burden.

Individual gun parts are still components of "weapon[s] of offence" that a person "takes into his hands, or useth in wrath to cast at or strike another." *Heller*, 554 U.S. at 581 (citing founding-era dictionaries). Of course, individual parts are harmless on their own. But that doesn't make them not "arms." If it did, the government could prohibit virtually any firearm component without constitutional consequence. The sights, the grips, the trigger guard,

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regulations on Teflon cookware do not implicate the Second Amendment as a threshold matter because those instruments are not designed or typically used as weapons." *Benson v. United States*, 352 A.3d 719, 731 (D.C. 2026), *reh'g en banc granted, opinion vacated sub nom.*, No. 23-CF-0514, 2026 WL 1098104 (D.C. Apr. 22, 2026). But if an instrument *is* designed to be used as a weapon, then it falls within the plain text of the Second Amendment.

and so forth, all of which are also harmless standing alone.

This reasoning "inevitably means that only the most dumbed-down or basic version of any component part of a gun is protected—and many parts of a gun are entirely unprotected if they aren't strictly necessary to make a gun go bang." *Duncan v. Bonta*, 133 F.4th 852, 918 (9th Cir. 2025) (VanDyke, J., dissenting); *see also Morse v. Raoul*, 804 F. Supp. 3d 808 (S.D. Ill. 2025) ("Thus, in the view of the Ninth Circuit in *Duncan*, no attachment, accessory, or accoutrement, regardless of its increased efficiency, its safety enhancements, or historical availability is protected.").

The D.C. Court of Appeals recently rejected the same argument applied to firearm magazines, saying it "is not a defensible approach to identifying what constitutes an arm—a gun is also practically harmless and of no use without ammunition, but it is still obviously an arm." *Benson*, 352 A.3d at 729.[5]

If the government continues to maintain that pieces of an old machine gun and a dummy rocket launcher fall under the purview of the National Firearms Act, then those items are being regulated as *firearms*, and the Petitioner is thus challenging a

[5] As was recently announced by the D.C. Court of Appeals, *Benson* will be reheard en banc. But that does not take away the panel decision's persuasive merit and its faithfulness to this Court's precedent. That such a sound ruling was vacated just serves as further proof of the ongoing hostility of several courts towards the Second Amendment, and is another reason this Court should grant certiorari in a case like this one immediately.

firearm regulation. Therefore, the government may not escape its historical burden because, again, "when a firearm regulation is challenged under the Second Amendment, the Government must show that the restriction 'is consistent with the Nation's historical tradition of firearm regulation.'" *Rahimi*, 602 U.S. at 689 (quoting *Bruen*, 597 U.S. at 24).

II. In Many Lower Courts, the "Plain Text" of the Second Amendment Has Become a Highly Restrictive Goldilocks Test That Allows the Government to Escape Its Historical Burden.

a. Lower courts are being simultaneously overinclusive and underinclusive in their "plain text" analyses.

"The step one inquiry is confined to the text of the Second Amendment. The historical inquiry occurs at step two." Pet. 28. That would seem an elementary statement, obvious to anyone who has read *Bruen*. And yet, just four years on, many lower courts have turned the "plain text" step, paired with footnote 9 of *Bruen*, into the actual substantive part of the *Bruen* analysis. In all too many instances, a historical analysis never even occurs because courts decide arms-bearing conduct is not arms-bearing conduct.

In some cases, courts accomplish this by being draconian in their application of the text. To those courts, no conduct is protected by the plain text of the Second Amendment unless it literally consists of keeping or bearing arms. For example, the First Circuit just ruled that "laws regulating the purchase or acquisition of firearms do not target

conduct covered by the Second Amendment's 'plain text.'" *Beckwith v. Frey*, No. 25-1160, 2026 U.S. App. LEXIS 9723, at *15-16 (1st Cir. Apr. 3, 2026). According to the First Circuit, such laws are "constitutional unless plaintiffs demonstrate that the Act is abusive toward Second Amendment rights." *Id.* at *16.

So much for the government's burden and *Bruen*'s rejection of judge-empowering interest-balancing inquiries. 597 U.S. at 22. If judges are now going to decide whether a law is "abusive" enough before any historical analysis can even occur, then interest-balancing has made its triumphant return.[6]

Unsurprisingly, this funhouse mirror version of strict textualism evaporates when the hostile lower courts prefer to narrow what the Second Amendment requires. When a law no doubt directly impedes the literal keeping or bearing of arms, they *add* words to the text of the Second Amendment so they can assert that particular arms or conduct do not come within its scope. In those cases, it is no longer enough to just be an "arm" as this Court has defined it using founding-era dictionaries. Instead, several circuits now say "arms" are *only* those weapons commonly used for self-

[6] Other circuits have similar tests. In the Ninth Circuit, if the law only affects ancillary rights like acquiring arms, then there is no Second Amendment violation unless it "meaningfully constrains" the right to keep and bear arms. *See B&L Productions, Inc. v. Newsom*, 104 F.4th 108, 118 (9th Cir. 2024). Of course, "meaningful constraint" is just another way of saying there is no Second Amendment violation unless a court thinks the burden on the right is too great relative to the government's interest. In other words, interest balancing.

defense. If a plaintiff doesn't have sufficient statistical data to prove that common use in self-defense specifically (other "lawful purposes," like hunting or sports shooting, are not even considered), they lose, and no meaningful historical analysis occurs.

A recent example of that is the Second Circuit's summary order in *Calce v. Tisch*. In that case, plaintiffs challenged New York state and city laws that prohibit the possession of stun guns and tasers. No. 25-861-cv, 2026 U.S. App. LEXIS 10458, at *2 (2d Cir. Apr. 13, 2026). The district court had ruled that "Plaintiffs 'failed to provide any evidence that stun guns and tasers are in common use' and therefore, on the summary judgment record before it, 'no reasonable jury could return a verdict that stun guns and tasers are presumptively protected by the Second Amendment.'" *Id*. (quoting the district court ruling). The Second Circuit agreed.

But none of that is relevant to the plain text. Stun guns are undoubtedly "arms" under the plain text of the Second Amendment because they are "[w]eapons of offence," as Samuel Johnson's 1773 dictionary defined the term. *Heller,* 554 U.S. at 581 (quoting 1 Dictionary of the English Language 106 (4th ed.) (reprinted 1978)). Given that, a historical analysis should have been conducted. Instead, the Second Circuit asserted that:

> To determine under step one whether the Second Amendment's plain text covers certain conduct, this Court looks to: whether the weapons at issue are "weapons in common use today for self-

> defense" and whether the conduct at issue implicates the right to armed self-defense. *Gomez*, 159 F.4th at 177-78 (quotation marks omitted). Plaintiffs bear the burden of proof on both of these inquiries.

Calce, 2026 U.S. App. LEXIS 10458, at *3 (citations omitted). Other than a passing reference to Justice Alito's concurrence, this Court's per curiam opinion in *Caetano v. Massachusetts*, a case also about stun guns, went completely unmentioned. Which is not surprising, given that in *Caetano*, this Court reiterated *Heller*'s instruction that "the Second Amendment extends, prima facie, to all instruments that constitute bearable arms." 577 U.S. 411, 411 (2016) (quoting *Heller*, 554 U.S. at 582). That line is quite inconvenient to a court looking to shift massive burdens to the plaintiffs at the "plain text" step, so *Caetano* was simply ignored. Chalk it up to yet another "judicial middle finger" to this Court from an inferior court determined to undermine its Second Amendment jurisprudence. *Duncan*, 133 F.4th at 890 (R. Nelson, J., dissenting).

The role of "common use," properly understood, arises only within that historical tradition analysis, as *Heller* made clear. There, this Court explained that certain uncommon arms may sometimes be restricted based on the "historical tradition of prohibiting the carrying of 'dangerous and unusual weapons.'" *Heller*, 554 U.S. at 627 (quoting 4 Blackstone, Commentaries on the Laws of England 148-49 (1769)). Later, in

criticizing D.C.'s handgun ban, the Court wrote that "[f]ew laws *in the history of our Nation* have come close to the severe restriction of the District's handgun ban. And some of those few have been struck down." *Id.* (emphasis added).

The Second Circuit is not alone in its insistence that statistical evidence of a type of arm's use in self-defense incidents is necessary for any protection to apply. *See, e.g., Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38, 46 (1st Cir. 2024); *United States v. Alaniz*, 69 F.4th 1124, 1128 (9th Cir. 2023). But if the "threshold" or "plain text" inquiry really required an arm to be "in common use *for self-defense*" to be presumptively protected, then hunting rifles, shotguns made for trap shooting, and even historical muskets would be unprotected and could be banned without any historical analysis.

That would be an absurd result. The Second Amendment protects arms used for "lawful purposes *like* self-defense," *Heller*, 554 U.S. at 624 (emphasis added), implying the existence of *other* lawful purposes. Even the dissenting opinion in *Bruen* seemed to acknowledge this when it explained that "[s]ome Americans use guns for legitimate purposes, such as sport (e.g., hunting or target shooting), certain types of employment (e.g., as a private security guard), or self-defense." *Bruen*, 597 U.S. at 89 (Breyer, J., dissenting). The suggestion that an arm must be commonly used for the sole lawful purpose of self-defense to merit constitutional protection is baseless. The Court has consistently used the phrase "lawful purposes"—plural—not to exclude other uses, but to

include self-defense as one of several protected purposes.

Thus, the current state of Second Amendment law in many circuits is a restrictive "Goldilocks" test that keeps historical analysis at bay and upholds almost every challenged law. Under these "extremely narrow reading[s]," the Second Amendment is "wrongly … reduced to 'a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees.'" *Yukutake v. Lopez,* 130 F.4th 1077, 1092 (9th Cir. 2025) (quoting *Bruen*, 597 U.S. at 70).[7]

If a plaintiff sues over an "ancillary" right that is not the literal keeping or bearing of arms, their conduct is "too cold," too far away from the plain text to merit historical analysis. If instead a plaintiff challenges a law that undeniably blocks the keeping or bearing of an arm, then it is "too hot," and no historical analysis will occur unless the plaintiff can prove, with statistical evidence, that the specific type of arm is commonly used for self-defense.

Who decides when the challenge is "just right" to merit a historical analysis? Why, the lower courts of course. Again, interest balancing is back with a vengeance, and only this Court can stop it.

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[7] *Yukutake* was vacated and will be reheard en banc, as is always the case for any Second Amendment victory in the Ninth Circuit, with only one exception. *See* Brief of Second Amendment Foundation et al. as Amici Curiae Supporting Petitioners, *Duncan v. Bonta*, No. 25-198, at 17-23 (U.S. Sept. 12, 2025) (detailing the Ninth Circuit's practice of vacating almost every Second Amendment victory). Still, the three-judge panel's point quoted above is persuasive.

b. *Bruen is a one-step substantive test with a simple qualifier.*

Nothing in this Court's Second Amendment jurisprudence—either the majority opinions or concurrences—supports the existence of a substantive "threshold inquiry" that goes beyond the simple qualifier that arms-bearing conduct must be implicated. By its plain language, *Bruen* eschews a two-step analytical test for deciding Second Amendment challenges: "Despite the popularity of th[e] two-step approach, it is one step too many." 597 U.S. at 19. It makes little sense to strike down the old two-step test only to replace it with a new one.

If there were any doubt, *Rahimi* dispelled it: "In *Bruen*, we explained that when a firearm regulation is challenged under the Second Amendment, the United States must show that the restriction 'is consistent with the Nation's historical tradition of firearm regulation.'" 602 U.S. 680, 689 (2024) (citing *Bruen*, 597 U.S. at 24); *see also id.* at 692 ("[T]he appropriate analysis involves considering whether the challenged regulation is consistent with the principles that underpin our regulatory tradition."). The analysis is one step: history and tradition.

To be sure, a challenger must show that the Second Amendment right to keep and bear arms is at least *implicated*. *Bruen*, 597 U.S. at 17. As Justice Thomas explained, "[a] challenger need only show that 'the plain text' of the Second Amendment covers his conduct. (citation omitted) This burden is met if the law at issue 'regulates' Americans' 'arms-bearing conduct.'" *Snope*, 145 S. Ct. at 1536 (Thomas, J.,

dissenting from denial of certiorari). But that initial showing is not an intensive analytical step. Like the First Amendment, which applies whenever speech is regulated, the Second Amendment applies whenever the law regulates acquisition, ownership, possession, carrying, use, or commerce in arms.

Put more simply, "implicating" the right to keep and bear arms is far more expansive than covering only laws that directly restrict the literal "keeping" and "bearing" of arms. A law may "implicate" the Second Amendment either directly or indirectly because constitutional rights protect not only core conduct but they also "implicitly protect those closely related acts necessary to their exercise." *Luis v. United States*, 578 U.S. 5, 26 (2016) (Thomas, J., concurring). Indeed, lower courts have long recognized the Second Amendment protects such "attendant rights." *See, e.g.*, *Boland v. Bonta*, 662 F. Supp. 3d 1077, 1085 (C.D. Cal. 2023) (citing *Jackson v. City & Cnty. of San Francisco*, 746 F.3d 953, 967 (9th Cir. 2014)); *Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011); *Rigby v. Jennings*, 630 F. Supp. 3d 602, 615 (D. Del. Sept. 23, 2022).

As the Tenth Circuit recently put it, "[t]he Second Amendment's text is not limited to direct prohibitions on possessing or using firearms. It states that the 'right of the people to keep and bear Arms, shall not be infringed.'" *Ortega v. Grisham,* No. 24-2121, 2025 U.S. App. LEXIS 21192, at *13 n.3 (10th Cir. Aug. 19, 2025). And once that right is implicated, the government "must show that the restriction 'is consistent with the Nation's historical tradition of

firearm regulation'"—full stop. *Rahimi*, 602 U.S. at 689 (quoting *Bruen*, 597 U.S. at 24).

In short, any law that affects the right of an American to peaceably acquire, possess, use, or carry bearable arms for any lawful purposes must be backed by historical tradition. That is *Bruen*'s fundamental holding. It is not for any inferior court to ask whether particular aspects of the Second Amendment right are "really worth insisting upon." *Heller*, 554 U.S. at 634. This Court's intervention is desperately needed to save both the Petitioner from tremendous injustice, and to end the abuse of the *Bruen* test.

CONCLUSION

When it comes to the Second Amendment aspect of this case, Petitioner's ordeal is the most extreme example of how the abuse of *Bruen* by some of the lower courts has led to unjust results. The Petition should be granted or at least held pending the disposition of another case that resolves these same issues.

May 4, 2026

Respectfully submitted,

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