

No. 25-1206

**In the
Supreme Court of the United States**

WES MOORE, GOVERNOR OF MARYLAND, ET AL.,
Petitioners,

v.

SUSANNAH WARNER KIPKE, ET AL.,
Respondents.

**On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Fourth Circuit**

BRIEF IN OPPOSITION

| | |
|-----------------------|--------------------------|
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May 20, 2026

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PARTIES TO THE PROCEEDING

Petitioners Wes Moore, in his official capacity as the Governor of Maryland, Michael Jackson, in his official capacity as Maryland Secretary of State Police, Ivan Bates, in his official capacity as State's Attorney for Baltimore City; Alison Healey, in her official capacity as State's Attorney for Harford County, Joshua Kurtz, in his official capacity as Maryland Secretary of Natural Resources, Scott Shellenberger, in his official capacity as State's Attorney for Baltimore County; and Kathryn Thomson, in her official capacity as Maryland Secretary of Transportation, were Defendants in the District Court and Appellees/Cross-Appellants in the Court of Appeals.

Respondents Katherine Novotny, Sue Burke, Esther Rossberg, Maryland Shall Issue, Inc., Second Amendment Foundation, Inc., Firearms Policy Coalition, Inc., Susannah Warner Kipke, and Maryland State Rifle & Pistol Association, Inc. were plaintiffs before the District Court and were Appellants/Cross-Appellees before the Court of Appeals.

CORPORATE DISCLOSURE STATEMENT

Maryland Shall Issue, Inc. has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

Second Amendment Foundation, Inc. has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

Firearms Policy Coalition, Inc. has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

Maryland State Rifle & Pistol Association, Inc. has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

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STATEMENT

The decision below involves a suite of restrictions Maryland has placed on law-abiding permit holders' ability to carry firearms in places frequented by the general public. Together these restrictions amount to a near comprehensive ban on public carry in Maryland. Most of those provisions operate as flat bans on the carriage of firearms in designated places frequented by the public. *See, e.g.*, MD. CODE, CRIM. LAW § 4-111(c) (banning firearms “in an area for children or vulnerable individuals”), *id.* at § 4-111(d) (banning firearms “in a government or public infrastructure area”); *id.* at § 4-111(e) (banning firearms “in a special purpose area”).

Each of these three “areas” is separately defined by Maryland’s law and encompasses multiple separate locations. *See id.* at § 4-111(a)(2) (“[a]rea for children and vulnerable individuals”); *id.* at § 4-111(a)(4) (“infrastructure area[s]”); *id.* at § 4-111(a)(8) (“[s]pecial purpose area[s]”). Respondents (plaintiffs below) likewise challenged the State’s regulatory bans on firearms in State parks, MD. CODE REGS. § 08.07.06.04 (State parks); State forests, MD. CODE REGS. § 08.07.01.04 (state forests); State Chesapeake forest lands, MD. CODE REGS. § 08.01.07.14 (Chesapeake forests); and Maryland’s flat statutory ban on concealed weapons “in any transit vehicle or transit facility” owned or controlled by Maryland, MD. CODE, TRANS. § 7-705(b)(6). Maryland otherwise bans all wear, carry or transport of a loaded handgun in public without concealed weapon permit issued by the Maryland State Police. MD. CODE, CRIM. LAW, § 4-203(b)(2). Permit holders must carry concealed. MD. CODE, PUB. SAFETY § 5-307(b).

Maryland’s petition challenges only the Fourth Circuit’s holding striking down as unconstitutional the restrictions imposed by MD. CODE, CRIM. LAW § 6-411(d). That provision presumptively bans possession of firearms on all private property held open to the public absent express permission by the owner or his agent or as allowed by a “clear and conspicuous sign.”

Respondents are plaintiffs in two separate cases which were consolidated both before the district court and the court of appeals. They filed their suits on May 16, 2023, in the District of Maryland, the same day the presumptive ban provision at issue here (and many of the other locational restrictions at issue below) was signed into law by Maryland Governor Wes Moore. Pet.App.107a.

The district court consolidated the cases and Respondents moved for a preliminary injunction against enforcement of all the challenged restrictions and for summary judgment. Pet.App.41a. The district court granted the motions for preliminary injunction in part, enjoining enforcement of the presumptive ban on private property and the locational restrictions on places selling alcohol and at public demonstrations. Pet.App.109a–110a. In all other respects it denied Respondents’ motions. *Id.* Both sides thereafter moved for summary judgment and the district court subsequently entered summary judgment along the same lines as its preliminary decision. Pet.App.117a–118a.

A partially divided panel of the court of appeals affirmed in part and reversed in part, with Judge Agee dissenting in part. The presumptive ban on private property held open to the public, raised by Maryland’s petition, however, was a point of unanimous agreement, as the full panel joined with every court to

consider the issue except for (in part) the Ninth Circuit in *Wolford v. Lopez*, 116 F.4th 959 (9th Cir. 2024), *cert. granted in part*, 146 S. Ct. 79 (2025) (mem.). The Fourth Circuit held that, at least as to private property held open to the public, no relevant historical tradition supported the presumptive ban and affirmed the district court’s injunction as to that provision. Pet.App.41a. The Fourth Circuit has stayed its mandate pending final disposition of a petition for certiorari by Respondents. On April 20, 2026, Maryland filed a timely petition for certiorari challenging the panel’s decision with respect to that issue.

RESPONDENTS’ ARGUMENT

In *Wolford*, the Ninth Circuit sustained the constitutionality of Hawaii’s presumptive ban of firearms on private property held open to the public and this Court has granted review on that question. Maryland’s ban on arms on such property is functionally identical to Hawaii’s ban. Respondents agree that holding Maryland’s petition respecting the private property presumptive ban is consistent with this Court’s ordinary practice. The question presented by Maryland is identical to the issue presented in *Wolford*.

If, however, this Court reverses the Ninth Circuit in *Wolford* and strikes down Hawaii’s ban then this Court should also deny Maryland’s petition. That conclusion would be entirely consistent with the Fourth Circuit’s decision below. *See* Pet.App.40a (rejecting argument that the statute is merely a regulation of default property rules, because “[i]t is a criminal statute that nowhere references the right of the property owner to exclude a gun owner”); Pet.App.41a (concluding that “there is no relevant historical tradition

supporting Maryland’s private-property consent rule, at least on this record and as to property held open to the public”).

Regardless of the eventual outcome of *Wolford*, however, the Court should grant Respondents’ non-conditional cross-petition, which was timely filed on May 20, 2026, within the period to file as extended by the April 16, 2026, order of the Chief Justice (No. 25A1140). That cross-petition challenges the Fourth Circuit’s decision below insofar as it approved Maryland’s bans on carrying in many specific locations. The locational restrictions at issue in Respondents’ cross-petition are the subject to widespread disagreements in both reasoning and result among the circuits, as more fully detailed in the cross-petition. The constitutionality of these provisions may not be settled by the Court’s decision in *Wolford*. Therefore, this Court should grant, or if appropriate, GVR, the cross-petition.

CONCLUSION

The Court should hold Maryland’s petition for writ of certiorari pending *Wolford*. If *Wolford* results in a reversal of the Ninth Circuit, this Court should deny Maryland’s petition. Regardless, this Court should grant Respondents’ non-conditional cross-petition for writ of certiorari or, if otherwise appropriate, GVR the cross-petition in light of this Court’s decision in *Wolford*.

Respectfully submitted,

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