

No. 25-1324

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

KATHERINE NOVOTNY, *et al.*,
Petitioners,

v.

WES MOORE, GOVERNOR OF MARYLAND, *et al.*,
Respondents.

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

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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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INTRODUCTION

Following this Court’s recent decision in *Wolford v. Lopez*, 609 U.S. ----, 146 S. Ct. 2032 (2026), it is clearer than ever that the decision of the Fourth Circuit below is fundamentally wrong about the propriety of post-*Bruen* “sensitive place” laws. *Wolford* holds that “the Second Amendment protects[] the right of Americans to carry arms for self-defense as they go about their daily lives.” *Id.* at 2041. The laws at issue prevent just that.

Maryland nevertheless claims that, compared to the restriction in *Wolford*, the laws at issue in this petition represent a “targeted approach” that “does not affect firearm carriage during ... an ordinary day” the way the *Wolford* law did. BIO 20–21. Maryland can retreat to this argument only because the very restriction at issue in *Wolford* was rejected by the Fourth Circuit below. And in any case, it is wrong. The restrictions at issue bar carriage, among other places, on mass transit, at many healthcare facilities, in vast acreages of public parks and forests, at “places of amusement,” and anywhere that sells alcohol for on-site consumption (including restaurants). *See* Pet. 4–5. By any measure, those restrictions directly impact the daily lives of countless Marylanders and subject the right to public carry to a death-by-a-thousand-cuts approach. An individual who merely wishes to carry peaceably for self-defense as she goes about her day can still find herself “a criminal at least six times over,” *Wolford*, 146 S. Ct. at 2049, if she deigns to carry anywhere but the “wastelands” “where people don’t care about assembling with others, eating and drinking, ... divisive opinions, amusement, recreation, education, ... public travel, leisure, community, and

where children or vulnerable people are not normally present,” *Koons v. Att’y Gen. N.J.*, 156 F.4th 210, 276 (3d Cir. 2025) (Porter, J., concurring and dissenting in part), *reh’g en banc granted, op. vacated*, 162 F.4th 100 (3d Cir. 2025) (mem.). Nothing in the text of the Second Amendment, which enshrines a right “to have and carry Arms,” *Wolford*, 146 S. Ct. at 2041 (quotation marks omitted), or in our Nation’s history of firearm regulation, under which “citizens were at perfect liberty to carry for lawful purposes,” *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1, 52 n.15 (2022) (quotation marks omitted), sanctions such restrictions.

This Court should grant review and reverse.

ARGUMENT

I. Certiorari is warranted because the decision below is contrary to this Court’s precedents and the courts of appeals are struggling to evaluate “sensitive place” restrictions.

Maryland argues that the Fourth Circuit’s “comprehensive opinion” correctly ratified its locational restrictions on the right to carry firearms based on historical laws “prohibit[ing] the carrying of firearms at crowded locations,” or at “places where vulnerable populations may be found” or, in cases that fit neither of those criteria, in places where (it believed) “dead ringer[] ... Reconstruction-era laws” existed. BIO 19–20. Even leaving aside the merits of restrictions in any *one* of the places that Maryland bans firearms, the “cumulative burden,” *Koons*, 156 F.4th at 301 (Porter, J., concurring and dissenting in part), of these myriad bans is “a tight web of laws that severely restricts the

carrying of firearms for self-defense,” *Wolford*, 146 S. Ct. at 2046. This scheme is fundamentally incompatible with the American tradition, which “does not broadly restrict arms use by the public generally,” *United States v. Rahimi*, 602 U.S. 680, 698 (2024), subject to limitations in “exceptional circumstances.” *Bruen*, 597 U.S. at 38. There is nothing “exceptional” about visiting a park or riding public transit. That Maryland’s bans sweep so broadly shows that they are built on faulty foundations.

Maryland nevertheless argues that certiorari is unnecessary because the lower courts are supposedly in broad agreement on the constitutionality of similar “sensitive places” laws and that further percolation is warranted because “[o]nly five courts of appeals ... have issued non-vacated merits decisions in challenges to sensitive places laws since *Bruen*.” BIO 26, 33. Taking these in turn, Maryland overstates the agreement among the lower courts. *See* Pet. 17–21. And the points of greatest agreement are also the points of greatest departure from this Court’s precedent. *See, e.g., id.* at 22–24.

The courts of appeals have themselves made clear their need for guidance, with the Ninth Circuit openly admitting that its answers to whether carrying firearms can be banned in any given place “appear arbitrary.” *Wolford v. Lopez*, 116 F.4th 959, 1003 (9th Cir. 2024); *see also* Pet. 32–33. That Maryland attempts to dismiss this concern by asserting that illogical results are “demanded by fidelity to this Court’s history and tradition test,” BIO 33, underscores the need for correction. Even if applying *Bruen* is “not mechanical,” *Wolford*, 146 S. Ct. at 2044, it is a “disciplined,” *id.*, “reasoned analysis,” *McDonald v. City of Chicago*, 561

U.S. 742, 804 (2010) (Scalia, J., concurring), the results of which are governed by “principles” that can be derived from “our regulatory tradition,” and which should accord with “common sense,” *Rahimi*, 602 U.S. at 692, 698. When an appellate court acknowledges that it is coming to results it cannot explain in ordinary terms and a state defending its laws asserts that seemingly arbitrary results are part-and-parcel of this Court’s Second Amendment jurisprudence, this Court must step in. It appears unlikely that *Wolford* will resolve the issue. Even though *Wolford* held that “the Second Amendment protects[] the right of Americans to carry arms for self-defense as they go about their daily lives,” 146 S. Ct. at 2041, the Ninth Circuit cursorily and summarily concluded that its “analysis as to all other aspects of Hawaii’s law is unaffected.” *Wolford v. Lopez*, No. 23-16164, 2026 WL 2291925, at *2 (9th Cir. Aug. 10, 2026) (mem.).

That “only five courts of appeals” have published, non-vacated opinions on “sensitive place” restrictions post-*Bruen* is no reason not to intervene. BIO 26. These restrictions are not uniformly dispersed throughout the country and the circuits that can weigh in on these comprehensive, *Bruen*-response restrictions, have largely done so, a notable exception being the Third Circuit, which is currently reconsidering *Koons* en banc. The decision below is a final decision on the merits that is broadly representative of the errors made by the other courts of appeals in these cases. A decision by the en banc Third Circuit in *Koons* will not resolve the existing conflicts.

II. Maryland’s historical evidence does not support its wide-ranging bans on places frequented by the public.

Maryland’s attempts to justify the decision below underscore the errors that require this Court’s attention. Lacking a common thread between the variety of places where it has banned the carry of firearms, Maryland adopts the circular conclusion of the Seventh Circuit in *Schoenthal*, that each banned place is the sort of place where firearms can be banned. *Schoenthal v. Raoul*, 150 F.4th 889, 910 (7th Cir. 2025) (The “unifying principle ... [is that] they are all discrete places with unavoidable characteristics that potentially render it ill-advised to allow firearms.”); BIO 20. But that principle effectively eviscerates the Second Amendment and runs contrary to *Bruen*’s rejection of judicial interest balancing by permitting bans wherever courts can be convinced “firearms are incompatible with the nature and purpose of the location.” BIO 20.

That “principle” also lacks historical support. *Wolford* emphasized that the first of “three important inquiries that courts should undertake in evaluating proffered analogues ... is the number of jurisdictions in which they were adopted.” 146 S. Ct. at 2044. Maryland begins with the Statute of Northampton, *see* BIO 16, but this Court has held that the Statute, and its later American analogues, forbade only *terrifying* carry, not *peaceable* carry, in places frequented by the general public, *Bruen*, 597 U.S. at 45, 47. From there, it jumps to an 1817 New Orleans ordinance prohibiting firearms in public ballrooms. *See* BIO 17. It claims that this local ordinance was similar to nine state and territorial restrictions that likewise banned arms in

ballrooms, or places where people assembled for a variety of social or educational purposes. *See id.* (citing laws from the New Mexico territory (1853), Tennessee (1869), Texas (1870), Georgia (1870), Missouri (1874), Arizona territory (1889), Oklahoma territory (1890), Idaho (1901), and Montana (1903)).

These late-in-time laws are insufficient to establish a tradition of regulation that would help Maryland. Several are territorial restrictions, which *Bruen* discounted as “transitory.” 597 U.S. at 67–69. There are *zero* state laws that predate adoption of the Fourteenth Amendment and just four that precede the end of Reconstruction. Those four were all adopted by former slave states in the wake of the Civil War. *See id.* at 64–65 (discounting unrepresentative post-bellum Texas law). And even if those flaws are ignored, there were 45 states in the Union by 1900, so at best the pre-20th century laws represent a distinctly minority rule. That is not sufficient to establish a “widespread, well-known, and widely accepted” tradition. *Wolford*, 146 S. Ct. at 2053.

Maryland’s attempt to buttress its case with “local ordinances” is unsuccessful precisely because such laws, like its exemplars from Stockton, Kansas in 1887 or Columbia, Missouri in 1890, cannot demonstrate a broad acceptance of such restrictions by the American people. That several of these ordinances “restricted the carrying of firearms in entire municipalities,” does not help Maryland, which asserts that they “rendered more specific restrictions unnecessary.” BIO 18. Such laws are flatly unconstitutional under *Bruen* and only serve to highlight the outlier nature of the restrictions on which Maryland rests its case.

See 597 U.S. at 68–70 (rejecting reliance on a Salina, Kansas law that forbade carriage entirely).

Wolford’s second “important inquiry” was “the extent to which [the analogues] were well-accepted.” 146 S. Ct. at 2044. Here too, Maryland’s historical case falters. It identifies several cases which it claims “show that these restrictions passed legal muster.” BIO 18. These cases are inapposite or outliers. *English v. State*, 35 Tex. 473 (1871), held the Second Amendment and the Texas constitution protected only those arms “as are useful and proper to an armed militia, including holster pistols, but not other kinds of handguns.” *Bruen*, 597 U.S. at 64 (quotation marks omitted). That holding is impossible to square with *Heller*, and *Bruen* specifically called *English* an “outlier[]” that “provide[s] little insight into how postbellum courts viewed the right to carry protected arms in public.” *Id.* at 64–65.

In *State v. Shelby*, 2 S.W. 468, 469 (Mo. 1886), the court relied upon *State v. Wilforth*, 74 Mo. 528 (1881), for the constitutionality of a law restricting carriage at public assemblies. *Wilforth*, in turn, construed the law to be limited to a restriction on *concealed* carriage only, to save it from a charge that it violated the right to keep and bear arms. 74 Mo. at 531. *Andrews v. State* said in dictum that restrictions on the carrying of firearms in places of “public assemblage[]” may well be constitutional, but to the extent the challenged law, which made no distinctions with regard to “time or place, or circumstances,” applied to the types of arms it deemed protected, it held the law unconstitutional. 50 Tenn. 165, 186–87 (1871). Finally, *Hill v. State* dealt specifically with an indictment for carrying a firearm into a court. 53 Ga. 472, 473, 480–81

(1874). As Petitioners have argued, that is an entirely different form of restriction, and differently justified, than a widespread prohibition on carry into unsecured places frequented by the public. *See* Pet. 30.

III. History shows that “sensitive place” restrictions are permissible only where the government secures a place against armed attack.

Notably absent from the State’s narrative is any reference to laws restricting carriage in courthouses, legislative assemblies, and polling places that this Court pointed to in *Bruen* as the Founding-era examples of “sensitive places” where firearms were sometimes banned. *See* 597 U.S. at 30. That omission is telling. Those laws restricted carriage in discrete locations which most people did not ordinarily visit in the course of their day. Nothing in that tradition would extend to bans on carrying, for example, in all locations where alcohol is served for onsite consumption, at public demonstrations, or in wilderness areas designated as State parks and forests.

Petitioners have explained at length that there is a common historical thread that unites these places: the principle of comprehensive, government-provided security. *See* Pet. 27–33. Maryland spends much of its brief attempting to poke holes in Petitioners’ proffered historical principle, both on the grounds that it is not adequately historically evidenced and on the grounds that, as a principle, it is unworkable. Neither is true and both are addressed below, but ultimately those objections are self-defeating. It is Maryland’s burden to derive a legitimate historical principle from the record. *See Bruen*, 597 U.S. at 24. The Court does not need to accept Petitioners’ historical analysis to find

that Maryland has failed to identify any historical regulations that could support its sweeping bans. *See, e.g., Rahimi*, 602 U.S. at 701–02 (rejecting government’s “responsible” person principle, even as it ruled in its favor). So even if Maryland were correct that government security is not the appropriate historical standard, that would not help Maryland, because it offers no explanation for these historical restrictions and does not attempt to tie them into its own historical story in support of its law.

Moreover, these objections do not amount to much. First, Petitioners have not suggested that theirs is the *only* principle that might support a ban with a locational element, only that it is the principle that explains polling places, legislatures, and courthouses. Historical bans on firearms at schools, *see* BIO 21–22, applied to *students*, *see, e.g., The Minutes of the Senate Academicus, 1799-1842* at 86, UNIV. OF GA. LIBRS. (Nov. 4, 1976), <https://perma.cc/J3ZV-XMEC>. And those restrictions were historically justified based on the *in loco parentis* principle. *See Lara v. Comm’r Pa. State Police*, 125 F.4th 428, 450–51 (3d Cir. 2025) (Restrepo, J., dissenting); *Morse v. Frederick*, 551 U.S. 393, 413 n.3 (2007) (Thomas, J., concurring); *id.* at 416 (schools traditionally exercised *in loco parentis* authority over those in their care). Petitioners have not discussed that principle because it has no application here.

Second, the evidence Petitioners have offered to show that legislative assemblies, courthouses, and polling places at the Founding were secured, *see* Pet. 26–32; BIO 22–24, is considerably more robust than the handful of late-in-time outlier laws on which Maryland stakes its entire case. And even if that were not

the case, the burden is with Maryland to explain how these laws worked. It has not attempted to do so.

Maryland contends that Petitioners' theory is ahistorical, because under it "any public place in Maryland may potentially be a sensitive place ... regardless of historical tradition," BIO 25, such as a grocery store that the government secures, *id.* But if government-provided security is the historical principle, then there is nothing ahistorical about the types of locations to which the principle attaches changing in response to varying societal conditions. One can easily imagine a scenario in which the government deems it necessary to secure a grocery store—for example, if a prominent public official makes an appearance there. Petitioners' argument is thus an explicitly *historical* one, tied to a principle underlying restrictions that stretch from the Statute of Northampton to our Founding.

There is nothing "ironic" about the fact that a secured place may be treated as sensitive when an unsecured one may not. *Id.* This principle, unlike any offered by Maryland, is directly connected to "the Second Amendment's central objective: protecting the fundamental right to self-defense." *Wolford*, 146 S. Ct. at 2052. That this principle applies without respect to whether the modern secured location is otherwise functionally similar to a secured location at the Founding is a feature, not a bug, because that allows the government to decide *today* what places are actually treated as sensitive. For example, it provides an argument for why firearms may be banned at commercial airports and on airlines where the government screens everyone who flies, even though they

were never banned on any form of transportation at the Founding.

Finally, Maryland argues that Petitioners' proposed principle is problematic because Petitioners have not identified precisely "how much security is in fact needed for a weapons restriction to cross the invisible line from unconstitutional to valid," BIO 25–26, and argues that if security is determinative of constitutionality, Petitioners' facial challenge must fail because Maryland could always secure the places it has declared sensitive, so there would always be some set of circumstances under which its laws would be valid, *id.* at 26. These arguments both fail for the same reason: the prohibitions in question do not turn on the presence of *any* security at all. Just as the fact that *some* handguns might be "dangerous and unusual weapons" did not save D.C.'s handgun ban from a facial challenge in *Heller*, the fact that Maryland *could* secure the places where it bans firearms cannot stop a facial challenge here. Because nothing in the statute turns on the presence of security, there is no constitutional application of this statute *as written*. See Peter A. Patterson, *Facial Confusion: Lower Court Misapplication of the Facial/As-Applied Distinction in Second Amendment Cases*, 19 HARV. J.L. & PUB. POL'Y: PER CURIAM 1, 2 (2025). And although some future case may present a difficult question of whether security provided at a location is sufficient to justify a ban, this case does not present that issue because Maryland provides *no* security before declaring a place sensitive. In any event, to the extent the Court were to determine something less than facial relief is appropriate, any injunction could be limited to unsecured locations. But to do that, the historical principle

needs to be established—and that is just an additional reason why this Court should grant certiorari.

CONCLUSION

The Court should grant the petition for a writ of certiorari or, in the alternative, GVR in light of *Wolford*.

Respectfully submitted,

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