No. 25-238

In the Supreme Court of the United States

CUTBERTO VIRAMONTES, *et al.*,
Petitioners,

v.

COOK COUNTY, ILLINOIS, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

SUGGESTION OF MOOTNESS

Eileen O'Neill Burke
Cook County State's Attorney
Counsel of Record

Yvette Loizon
Anastasia Nowacki Harper
Jessica Megan Scheller
Prathima Yeddanapudi
Assistant State's Attorneys

COOK COUNTY
STATE'S ATTORNEY
500 Richard J. Daley Center
Chicago, IL 60602
(312) 603-6934
eileen.burke@cookcountysao.org

INTRODUCTION

On October 29, 2026, petitioners filed a motion to dismiss petitioner Cutberto Viramontes from this case. In his motion, Viramontes did not provide a basis for his request, nor did he submit a declaration to demonstrate that the membership associations continue to have standing. Without Viramontes' involvement, it is doubtful that any petitioner has Article III standing to litigate the question presented. Accordingly, pursuant to this Court's Rule 21.2(b), Cook County respectfully suggests that if Petitioner Viramontes were permitted to withdraw from litigation, the Court should dismiss the case as moot or as improvidently granted.[1]

ARGUMENT

"The standing Article III requires must be met by persons seeking appellate review, just as it must be met by persons appearing in courts of first instance." *Arizonans for Official English v. Arizona*, 520 U.S. 43, 64 (1997). And "[h]ere, as in all standing inquiries, the critical question is whether at least one petitioner has 'alleged such a personal stake in the outcome of the controversy as to warrant *his* invocation of federal-court jurisdiction.'" *Horne v. Flores*, 557 U.S. 433, 445 (2009) (quoting *Summers v. Earth Island Institute*, 555 U.S. 488, 493 (2009)) (emphasis in original).

[1] The jurisdictional issue raised would not prevent the Court from deciding the question presented given that *Grant v. Higgins*, No. 25-566, was consolidated with this matter.

Viramontes' dismissal in this matter makes it unlikely that any remaining petitioner satisfies Article III's criteria to litigate the question presented.

1. Prior to his motion for dismissal from the case, Cutberto Viramontes had standing to press this appeal. In district court, Viramontes maintained that he was a Cook County resident who sought "to own a Smith and Wesson Military & Police AR-15 style semiautomatic rifle." J.A. 72; *see* Pet. App. 8a. Viramontes' desire to own that AR-15-style weapon gave him a concrete stake in the question presented: "Whether the Second and Fourteenth Amendments guarantee the right to possess AR-15 platform and similar semiautomatic rifles." Pet. i. But if the Court grants Viramontes' motion for dismissal, he will no longer be a petitioner before the Court.

2. Unlike Viramontes, petitioner Christopher Khaya—the other individual petitioner—does not appear to have standing to litigate the question presented in this Court.[2] Khaya has not stated that he wishes to own an AR-15. Instead, he "wants an IMI [Industrial Military Industries] Galil semiautomatic rifle." Pet. App. 8a (brackets in original and internal quotation marks omitted). In district court, petitioners took care to explain that the IMI Galil weapon is *not* an AR-15-style weapon: While they initially "agreed

[2] The original plaintiffs also included Rubi Joyal, who "was removed in April 2022" and was not a party on appeal. Pet. App. 7a n.1.

with Defendant's description of this weapon as" an "AR-15 style semiautomatic rifle," they later "amended their response" to "clarif[y] that the firearm in question is not an AR-15 style rifle but is largely based on the AK-47 design." Pet. App. 8a n.3 (internal quotation marks omitted); *see* D. Ct. Doc. 101 ¶ 6 n.1.

While the Cook County ordinance applies to AK-47-style weapons, the question presented in this Court is specifically limited to "AR-15 platform and similar semiautomatic rifles." Pet. i. The Court did not grant review on petitioners' broader argument that Cook County's ordinance "is facially invalid under the Second Amendment." Pet. App. 2a. Accordingly, Khaya has no "personal stake" in the question on which the Court granted certiorari. *Horne*, 557 U.S. at 445.

Should petitioners disavow their prior statement and argue that the IMI Galil weapon is "similar" to an AR-15, the record would not support that about-face. There are no record facts concerning whether the IMI Galil weapon operates similarly to an AR-15. There are also no record facts concerning whether the IMI Galil weapon is "in common use for lawful purposes," which petitioners maintain is central to the Second Amendment inquiry. *See, e.g.*, Petrs. Br. 29. And public information strongly suggests that at least some variants of the IMI Galil weapon, which was manufactured in Israel, are extremely rare in the United States. *See, e.g.*, Legacy Collectibles, *SOLD* -

Very Rare, Minty IMI Galil Model 392, https://legacy-collectibles.com/very-rare-minty-imi-galil-model-392 (selling a Galil weapon and explaining that "[o]nly ~400 of these [were] imported during the 1980s"). Thus, the record contains no facts showing that Khaya's claim would fall within the question presented or that he would even prevail under petitioners' own proposed Second Amendment test.

Khaya may be an unsuitable petitioner for another reason, as well. Unlike Viramontes, who stated that he "intend[ed] to use" his AR-15-style weapon "for self-defense," Khaya stated in district court that he was "most likely to use [the IMI Galil] at the range, to be honest." Pet. App. 8a. He explained that he would use the weapon for self-defense only if "the other two guns he owns—a handgun and different (permitted) semiautomatic rifle—are out of commission." *Id.* at 9a (internal quotation marks omitted). It is therefore speculative that Khaya would ever use his weapon "for the core lawful purpose of self-defense." *District of Columbia v. Heller*, 554 U.S. 570, 630 (2008).

To establish standing through Khaya, petitioners would need the Court to undertake an analysis of whether his IMI Galil weapon is similar to the AR-15; whether it is in common use; and whether petitioner intends to use it for self-defense. These fact-bound, antecedent inquiries were unnecessary before Viramontes sought dismissal from the case. At a

minimum, these difficulties mean that the case may no longer be a good vehicle to answer the question on which the Court granted plenary review.

3. The two petitioner membership associations—the Firearms Policy Coalition and Second Amendment Foundation—also appear to lack standing to litigate the question presented. *See* Pet. App. 7a. For a membership association to have standing, it must "make specific allegations establishing that at least one identified member had suffered or would suffer harm." *Summers*, 555 U.S. at 498. In this case, the organizations identified only two members in all of Cook County: Viramontes and Khaya. Pet. App. 8a; *see* D. Ct. Doc. 1, ¶¶ 12-13. For the reasons just explained, Khaya lacks standing to litigate the question presented, and so the membership associations cannot establish standing through him. And they equally cannot establish standing through Viramontes if he disassociates himself from the suit.

Any suggestion from petitioners that Viramontes continues to want to purchase an AR-15, and so remains an identified member who qualifies the membership associations for standing, should be treated with skepticism. Viramontes has not offered any explanation as to why he sought to remove himself from the suit. And the most natural inference from the barebones motion is that Viramontes' circumstances have changed in some significant fashion. Thus, if petitioners dispute that premise, the Court should

require Viramontes to submit a declaration that he continues to qualify the membership associations for standing. Such a step would allow the Court to "assure that standing exists" before deciding this case. *Summers*, 555 U.S. at 499.

CONCLUSION

For the foregoing reasons, this Court should dismiss this case as moot or improvidently granted if petitioner Viramontes is removed from the case.

Respectfully submitted,

Eileen O'Neill Burke
Cook County State's Attorney
Counsel of Record

Yvette Loizon
Anastasia Nowacki Harper
Jessica Megan Scheller
Prathima Yeddanapudi
Assistant State's Attorneys

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