

IN THE
SUPREME COURT OF THE UNITED STATES

TERRENCE TEMPLE, PETITIONER,

v.

PEOPLE OF THE STATE OF ILLINOIS, RESPONDENT.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE APPELLATE COURT OF ILLINOIS**

REPLY BRIEF OF PETITIONER

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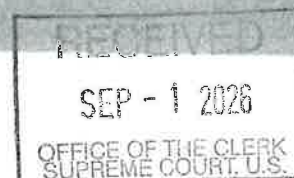


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REASONS FOR GRANTING CERTIORARI

I. **This case is an excellent vehicle to review the constitutionality of Illinois' ban on ready-to-use firearms in public parks.**

This case presents this Court with an ideal vehicle to determine whether public parks are a place where ready-to-use firearms may constitutionally be banned outright. Respondent Illinois claims the contrary in its Brief in Opposition (“BIO”), presenting several supposed hurdles to this Court’s review. But this Court can review a facial challenge, a ruling on the merits would apply to both the statute under which petitioner was convicted and the one currently in force in Illinois, and the statute is presumptively unconstitutional at the first step of *Bruen*’s analysis. *New York State Rifle & Pistol Assn., Inc. v. Bruen*, 597 U.S. 1, 17 (2022).

Petitioner brings a facial challenge, which respondent claims makes this case a poor vehicle for this Court’s review because any constitutional application can defeat a facial challenge. BIO at 8-9. In fact, this Court’s recent Second Amendment decisions have included successful facial challenges. This Court’s decision in *District of Columbia v. Heller* found the District of Columbia’s ban on handgun possession in the home facially unconstitutional. 554 U.S. 570, 635, (2008); *City of Los Angeles, Calif. v. Patel*, 576 U.S. 409, 415 (2015) (construing *Heller* as a facial challenge under the Second Amendment). This Court has also stated that in addressing facial challenges, courts should only consider “applications of the [challenged] statute in which it actually authorizes or prohibits conduct,” not circumstances for which the statute is irrelevant. *Patel*, 576 U.S. at 415-19. In *Heller*, while invalidating the ban on firearm possession in homes as unconstitutional, this Court stated that a law banning fully automatic firearms would be constitutional and that “nothing in our opinion should be taken to

cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings.” *Heller*, 554 U.S. at 626–27. Those restrictions, though constitutional, were not relevant to the conduct actually prohibited by the ban on firearm possession in the home.

Here, the conduct prohibited by the statute at issue, the unlawful use of a weapon statute, is possession of a ready-to-use firearm in a public park. 720 ILCS 5/24-1(a)(10),(c)(1.5) (West 2010); Pet. at 2. Respondent references preschool activities located within public parks as a constitutional application of the statute. BIO at 2–3, 22. The statute does not reference schools, which this Court has acknowledged are locations where firearm possession may be restricted, but respondent seems to argue that because firearms can be banned at schools, which may be located within parks, bans on firearm possession in all public parks are therefore justified. Had this Court adopted that logic in *Heller*, then the ban on firearm possession in homes would have been constitutional, as it restricted the possession of felons, who can constitutionally be disarmed. This Court nevertheless held that the statute’s broad ban on firearm possession in the home was not constitutional because the conduct actually prohibited by the statute infringed the Second Amendment. *Heller*, 554 U.S. at 635. Respondent here cannot rely on the constitutionality of school restrictions to justify what is actually prohibited under the statute: all ready-to-use firearm possession in public parks.

Respondent claims that identifying the myriad uses of parks is a concession that some applications may be constitutional. BIO at 10. But on the contrary, the breadth of uses for parks instead shows what a high burden respondent bears to demonstrate

the statute's constitutionality. In *United States v. Hemani*, 146 S. Ct. 1677, 1686 (2026), this Court described the “considerable” burden the government had in order to justify the constitutionality of a ban on firearms possession for unlawful users of controlled substances, as the statute automatically banned firearm possession without regard to the type of substance, frequency of use, or how dangerously the gun was possessed. Here, the statute at issue considers only whether someone is in a public park when possessing a ready-to-use firearm, not what sort of public park it is, how the park is being used, or the time of day possession occurs. Under the *Bruen* test, the State therefore has the burden to show the constitutionality of imposing felony penalties for possession of ready-to-use firearms in public parks regardless of any other circumstance, which is a high bar to clear. *Bruen*, 597 U.S. at 24. The facial nature of the challenge in this case provides no impediment to this Court’s review.

Respondent next claims that this case is not a good vehicle because the exact statute is no longer in force, supposedly limiting the applicability of any decision. BIO at 10. Respondent is incorrect: there have not been “substantial and material modifications” to the statute as respondent suggests. BIO at 10. The same statute still prohibits possession of a firearm in a public park as it did in 2010. 720 ILCS 5/24-1(a)(10),(c)(1.5)(West 2010); Pet at 2. The statute is now titled unlawful possession of weapons and refers to a violator as “him or her” instead of just him, but the offense has stayed the same. 720 ILCS 5/24-1(a)(10)(West 2026); App 23–24. A person violates the statute when possessing a firearm on public lands, and both statutes make an offense that occurs in a public park a Class 3 felony. 720 ILCS 5/24-1(a)(10),(c)(1.5)(West 2026); 720 ILCS 5/24-1(a)(10),(c)(1.5)(West 2010); Pet. at 2; App 23–24.

The one other difference between the statute in force when petitioner was convicted and the current one is the addition of an exemption that changes little regarding carriage in a public park. In 2010, the statute exempted weapons that were broken down in a non-functioning state, weapons that were not immediately accessible, and weapons that were cased and unloaded. 720 ILCS 5/24-1(a)(10)(West 2010); Pet. at 2. The statute has since been amended to include one additional exemption for weapons that “are carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearm Concealed Carry Act.” 720 ILCS 5/24-1(a)(10)(West 2026); App 23–24. The Firearm Concealed Carry Act specifies prohibited areas where even licensees may not do so, and those prohibited areas include public parks: “a licensee under this Act shall not knowingly carry a firearm on or into any public park, athletic area, or athletic facility under the control of a municipality or park district, provided nothing in this Section shall prohibit a licensee from carrying a concealed firearm while on a trail or bikeway if only a portion of the trail or bikeway includes a public park.” 430 ILCS 66/65(a)(13). Illinois licensees thus may only possess a concealed firearm in a public park if they remain on a trail or bikeway that cuts through a park, but not if they are on a sidewalk or a path contained *within* a park. Respondent even admits that licensees may not possess firearms in public parks, explaining that the Firearm Concealed Carry Act “does not extend the licensee’s permission to carry into certain enumerated areas, including public parks.” BIO at 4. Respondent identifies that the same Class 3 felony penalties imposed on petitioner are still in force today. BIO at 4.

Respondent’s claim that the statute has been substantially modified is not

accurate. Allowing licensees to use trails and bikeways that cut through parks, though not ones that are within parks, is at most a minor change to the statute. The question presented in this case is whether a state can constitutionally ban all ready-to-use firearm possession in all public parks. Should this Court decide whether public parks are the type of sensitive places where firearm possession may be restricted outright, such a decision will bear directly on the constitutionality of the statute in effect now. Such a slight change to the statute should not allow Illinois to evade review a statute that prevents even licensees from exercising their Second Amendment rights when in parks for any reason besides using trails or bikeways that only cut through parks.

Finally, Illinois suggests that petitioner's age of 17 at the time of his arrest may effect the analysis at the first step of the *Bruen* test. BIO at 12. Respondent has not previously argued that the statute does not fall under the plain text of the Second Amendment, agreed in the court below that it did fall under the Second Amendment, and now concedes that "there is no dispute that the plain text is implicated here." BIO at 5, 13. Still, there is no doubt that Illinois' ban on firearm possession in parks implicates the plain text of the Second Amendment. This Court recently reiterated that "'all Americans'" have the right to keep and bear arms for self-defense and found the Second Amendment applied even though Hemani was an "unlawful user" of marijuana. *Hemani*, 146 S. Ct. at 1685 (quoting *Heller*, 554 U.S. at 581).

In *Wolford v. Lopez*, 146 S.Ct. 2032, this Court clarified the analysis at the first step of the *Bruen* test, which also shows that Illinois' ban on firearm possession in public parks is presumptively unconstitutional. To determine if a statute falls under the plain text of the Second Amendment, there are three relevant questions: "[f]irst,

does the law apply to ‘the people’—which is to say, to ‘all members of the political community? Second, does it concern any form of ‘Arms,’ *i.e.*, any weapon customarily used for offense or defensive purposes? Third, does the law place any restriction on either the ‘keep[ing]’ (*i.e.*, possession) or the ‘bear[ing]’ (*i.e.*, carrying) of arms?” *Wolford*, 146 S.Ct. at 2043 (citations omitted). Here, the answer to all three questions is yes. The statute at issue imposes felony penalties for the carriage of any ready-to-use firearm in public parks, and it is applicable to the entire political community. Therefore, the statute falls under the plain text of the Second Amendment and is presumptively unconstitutional. *Id.* at 2044.

Respondent additionally implies that petitioner would not be entitled to relief even if this Court should find that Illinois’ ban on firearm possession in public parks is facially unconstitutional. BIO at 12. Under Illinois law, however, a conviction based on a facially unconstitutional statute is void *ab initio* and may be vacated at any time. *In re N.G.*, 2018 IL 121939, ¶ 73, 115 N.E.3d 102, 130.

Altogether, there are no procedural impediments to this Court’s review, and petitioner’s case is an ideal vehicle to consider the question presented.

II. This Court should clarify that public parks—a broad category of public space—are not one of the few sensitive places where firearm possession may be banned outright.

A. This Court should weigh in on a question left open by its recent Second Amendment cases and which is contested within the circuit courts.

Respondent Illinois claims that this Court does not need to resolve the question presented because the federal circuit courts that have addressed firearm bans in public parks have all found a historical tradition of banning firearm carriage in parks. BIO at 7–8. But circuit splits are not the only cases that justify this Court’s review. This

case concerns a both state court's resolution of "an important question of federal law that has not been, but should be, settled by this Court" and an instance when a state court "has decided an important federal question in a way that conflicts with relevant decisions of this Court." Sup. Ct. R. 10(c). Either would justify this Court's review of petitioner's case. In *Bruen*, this Court acknowledged that it has not expressly provided a definition of sensitive places: "[a]lthough we have no occasion to comprehensively define "sensitive places" in this case, we do think respondents err in their attempt to characterize New York's proper-cause requirement as a 'sensitive-place' law." *Bruen*, 597 U.S. 1, 30 (2022). This case would allow this Court to answer—or at least begin to answer—a question that recent Second Amendment decisions have left open. Courts below, including the First District Appellate Court, have improperly applied *Bruen*'s "more nuanced approach" even though no modern-day problems are implicated by public parks because they existed at the founding. *Bruen*, 597 U.S. at 27. This has resulted in an expansion what places can be considered sensitive, and this Court should ensure "sensitive locations" are not construed too broadly.

Furthermore, respondent relies on three cases to demonstrate that there is no split on this issue: *Christian v. James*, 176 F.4th 189, 202-06 (2d Cir. 2026); *Kipke v. Moore*, 165 F.4th 194, 214–16 (4th Cir. 2026), *petition for cert. filed*, No. 1206; and *Wolford v. Lopez*, 116 F.4th 959, 982-85 (9th Cir. 2024), *rev'd and remanded*, 146 S.Ct. 2032 (2026). BIO at 7. However, each of these cases includes a dissent that objects to the findings regarding the constitutionality of bans on firearm possession in public parks and courts' reliance on late-nineteenth century statutes to justify those findings when a lack of founding-era regulation should have ben dispositive. In *Christian v.*

James, Justice Menashi concurred that New York’s Private Property Provision infringed the Second Amendment but dissented that the Public Parks Provision was consistent with the historical tradition of firearms regulations. *Christian v. James*, 176 F.4th at 206–07 (Menashi, J., *concurring in part, dissenting in part*). In *Kipke v. Moore*, Justice Agee similarly concurred regarding several of the Fourth Circuit’s findings but crucially dissented from the majority’s finding that Maryland’s prohibitions on firearms possession in state parks were constitutional. *Kipke v. Moore*, 165 F.4th 194, 238–243 (4th Cir. 2026) (Agee, J., *concurring in part, dissenting in part*). And as discussed in the petition, Justice VanDyke, joined by five other justices, dissented from the denial of rehearing *Wolford v. Lopez en banc* regarding its findings on the constitutionality of California and Hawaii’s laws prohibiting carrying firearms in *Wolford v. Lopez*, 125 F.4th 1230, 1242–45 (9th Cir. 2025) (VanDyke, J., *dissenting from the denial of rehearing en banc*). Pet. at 9–10. In a footnote, respondent also references *Koons v. Att’y Gen. N.J.*, 156 F.4th 210 (3d Cir. 2025), *reh’g en banc granted, opinion vacated* 162 F.4th 100 (3d Cir. 2025). Just like the other circuit court opinions, Justice Porter dissented from the majority’s finding that firearm bans at public parks were constitutional. *Koons v. Att’y Gen. N.J.*, 156 F.4th 210, 305–08 (3d Cir. 2025) (Porter, J., *concurring in the judgment in part and dissenting in part*). Thus, the issue is not settled in the circuit courts as respondent suggests.

These dissents consistently identify that circuit courts have misapplied *Bruen* on the constitutionality of bans on firearm possession in public parks, with various circuit courts making the same errors of ignoring the founding-era historical record regarding the existence of public parks, claiming the founders could not have imagined

public parks, and relying on late-nineteenth century parks prohibitions instead of the lack of regulation at the founding. “There is ample historical evidence of public parks used for recreational purposes in the colonial and Founding eras.” *Wolford*, 125 F.4th at 1242 (VanDyke, J., *dissenting from the denial of rehearing en banc*). “While these [founding-era] outdoor green spaces may lack the ‘modern’ urban park landscaping envisioned by Frederick William [sic] Olmsted and others, their functions and existence are no less relevant to the historical inquiry *Bruen* requires.” *Kipke*, 165 F.4th at 238–243 (Agee, J., *concurring in part, dissenting in part*). “The majority insists that ‘modern urban public parks’ are so different from the public parks of the founding period that such parks were ‘unimaginable at the founding.’” *Christian*, 176 F.4th at 217 (Menashi, J., *concurring in part, dissenting in part*). “In principle, there is no difference between Colonial-era park-goers fishing, watching cockfighting, or playing whist; Victorian-era park-goers playing tennis, riding horse-drawn carriages, or doing whatever one does to foster solidarity across social classes; and modern park-goers playing pickleball, hiking, or riding hoverboards.” *Koons*, 156 F.4th at 307 (Porter, J., *concurring in the judgment in part and dissenting in part*). “The regulatory tradition of prohibiting carriage in public parks that emerged in the late nineteenth century contradicted the understanding of the Second Amendment in 1791 as reflected in analogous regulations during the founding period.” *Christian*, 176 F.4th at 219 (Menashi, J., *concurring in part, dissenting in part*).

Whether bans on firearm possession in public parks are constitutional is not at all a settled question within the lower courts, and this Court should ensure that it is resolved consistently with *Bruen*.

B. This Court should ensure proper consideration of founding-era history of public parks and the lack of firearms restrictions in those recreational spaces.

In resolving whether flat bans on firearm possession in public parks are constitutional, this Court should look to the uses of founding-era public parks to determine whether they were sufficiently analogous to modern parks. Respondent claims public parks were an invention of the mid-nineteenth century where firearms were prohibited as soon as public parks existed, the Boston Common's many uses render it unlike a public park, and that founding-era public recreational spaces "were outliers." BIO at 14, 23–24. This is inconsistent with respondent's acknowledgment that modern parks are "varied and serve a multitude of functions," BIO at 2, and the historical record that demonstrates that "examples of Founding-Era urban and rural public spaces abound; and all without any firearm prohibitions." *Kipke*, 165 F.4th at 239 (Agee, J., *concurring in part, dissenting in part*). The semantic shift that Respondent identifies—that the term "park" initially referred to private lands before encompassing public lands—does not mean there were no public recreational spaces, just that terms such as "green," "square," "commons" and "yard" were used instead. BIO at 15; *Square*, National Gallery of Art, History of Early American Landscape Design, <https://heald.nga.gov/mediawiki/index.php/Square> (last visited Aug. 25, 2026).

Public areas for recreation were well known in the founding era. William Penn's plan for Philadelphia, published in 1683, included public squares that were "for the like Uses, as the Moore-fields in London." Elizabeth Milroy, "For the like Uses, as the Moore-fields:" *The Politics of Penn's Squares*, *The Pennsylvania Magazine of History and Biography*, Vol. CXXX, No.3, 257 (2006). The Moore-fields of London were public

lands landscaped in the early seventeenth century that provided space accessible to all for promenading and recreation. *Id.* at 266–67. Penn’s plan thus “carried the explicit political message that the squares would be preserved and protected by the civil government as public parks for healthful recreation.” *Id.* at 266. Respondent discounts that New York City’s Battery Park was used for recreation because it was first used for military purposes. BIO at 23. George Washington later mentioned “frequent walks ‘round the Battery’ in the diaries he kept during his time in New York at the beginning of the republic.” *The Earliest New York City Parks*, N.Y. City Dept of Parks and Recreation, <https://www.nycgovparks.org/about/history/earliest-parks> (last visited August 24, 2026). Battery Park’s military genesis does not mean later recreational uses can be ignored when its use as a public park in the founding era is well-established.

Pierre L’Enfant, in describing his plan for Washington, D.C. in 1791, included that he had

placed the three grand Department of States contiguous to the principle Palace and on the way leading to the Congressional House the gardens of the one together with the park and other improvement on the dependency are connected with the publique walk and avenue to the Congress house in a manner as most [must] form a whole as grand as it will be agreeable and convenient to the whole city which form [from] The distribution of the local [locale] will have an early access to this place of general resort and all along side of which may be placed play houses, room of assembly, academies and all such sort of places as may be attractive to the learned and afford diversion to the idle.

Park, National Gallery of Art, History of Early American Landscape Design, <https://heald.nga.gov/mediawiki/index.php/Park> (last visited Aug. 25, 2026). The Founders were familiar with public parks that were planned and used for recreation, and any claims that modern parks are categorically different or would have been unimaginable to the Founders should be rejected.

Respondent also relies on a “historical tradition of banning firearms in places specifically reserved for social, recreational, and leisure activities” that it claims is supported by laws prohibiting “going armed.” BIO at 18. This Court has addressed these laws and found that they prohibited “bearing arms in a way that spreads ‘fear’ or ‘terror’ among the people” and required “something more than merely carrying a firearm in public.” *Bruen*, 597 U.S. at 50. These laws cannot justify a general ban on firearms carriage in public, including in public parks.

III. Upholding bans on firearm possession in public parks as permissible “sensitive place” restrictions is an avenue to severely curtail the general right to bear arms in public.

Since the filing of this petition, this Court has reiterated that the Second Amendment protects the right to carry firearms in public for self-defense. *Wolford*, 146 S.Ct. at 2040. This Court identified the difficulties a hypothetical woman carrying a licensed handgun going about her daily activities in Hawaii would face in trying to comply with Hawaii’s statutes. *Id.* at 2048–49. Likewise, a person in Illinois who wants to make use of a public park to use athletic fields, admire nature, or simply take a direct route to walk home would have to forego their right to armed self-defense.

Respondent claims that Illinois’ exemption for firearms that are broken down, not functioning, not immediately accessible, or unloaded and cased lessens the burden imposed on Illinoisans’ Second Amendment rights. BIO at 11. But this is at odds with what the Second Amendment protects—the right to bear arms in public for self-defense. In *Heller*, this Court addressed a requirement that firearms kept in the home were inoperable and found that “this makes it impossible for citizens to use them for the core lawful purpose of self-defense and is hence unconstitutional.” *Heller*, 554

U.S. at 630. Respondent essentially concedes that in Illinois, Second Amendment rights in public parks are non-existent.

Without this Court's clarification of the definition of a sensitive place, states will seek to categorize as many places as possible as sensitive ones. Respondent claims that firearm bans at schools are justified by the need to keep children safe, and that same interest justifies firearm bans at parks. BIO at 21. Respondent also excuses the First District Appellate Court's lack of reasoning in comparing public parks and schools. BIO. at 27. However, this ignores that this Court has recognized that schools, due to their authority over students, have specific characteristics pertinent to the interpretation of constitutional rights. This Court has "emphasized, that the nature of that power is custodial and tutelary, permitting a degree of supervision and control that could not be exercised over free adults. '[A] proper educational environment requires close supervision of schoolchildren, as well as the enforcement of rules against conduct that would be perfectly permissible if undertaken by an adult.'" *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 55 (1995), citing *New Jersey v. T.L.O.*, 469 U.S. 325, 339 (1985). This Court has "repeatedly emphasized the need for affirming the comprehensive authority of the States and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools." *Tinker v. Des Moines Independent Community School Dist.* 393 U.S. 503, 507 (1969) (internal citations omitted). The "special characteristics of the school environment," as identified by *Tinker*, 393 U.S. at 506, can justify restraints on constitutional rights unavailable elsewhere, because "Fourth Amendment rights, no less than First and Fourteenth Amendment rights, are different in public schools than elsewhere; the

‘reasonableness’ inquiry cannot disregard the schools’ custodial and tutelary responsibility for children.” *Vernonia*, 515 U.S. at 656. No such authority over park goers has been recognized.

Without further explanation from this Court on what places may be considered sensitive, states will justify firearm bans with weak comparisons to the sensitive places this Court has identified. Respondent suggests that prohibitions on firearms in schools are justified by the need to keep children safe, and that since parks are another locations where children need to be kept safe, firearm restrictions there are justified. *BIO*. at 21. However, allowing firearm restrictions at all the spaces where children’s safety is a concern would permit virtually any public space to be considered “sensitive.” That definition would reach nearly the breadth of the one rejected in *Bruen* as over broad, which was “all places of public congregation that are not isolated from law enforcement.” *Bruen*, 597 U.S at 31. Children’s safety is a concern on sidewalks and public ways, but this Court continues to recognize that the Second Amendment protects the general right to carry arms in public for self-defense. This Court should provide guidance on what constitutes sensitive places to prevent states using loose comparisons to the enumerated sensitive places to curtail Second Amendment rights.

IV. Felony penalties for firearm possession in public parks fail *Bruen*’s requirement that modern restrictions comparably burden Second Amendment rights in how they regulate.

Respondent does not meaningfully address the severity of the felony penalties that Illinois imposes for firearm possession in a park, both at the time of petitioner’s conviction and today. 720 ILCS 5/24-1(c)(1.5)(West 2010); 720 ILCS 5/24-1(c)(1.5)(West 2026); Pet. at 2; App 23–24. Respondent argues only that some of the late-nineteenth

century statutes imposed fines equivalent to over \$3,000 in today's dollars. BIO at 26. In *United States v. Hemani*, the difference in the operation between the proffered analogues and modern regulation weighed in the analysis and ultimate conclusion that the prosecution did not comport with the Second Amendment. *Hemani*, 146 S. Ct. at 1692. Felony penalties for firearm possession in a public park deprive a person of liberty but also result in felon status, which this Court has stated constitutionally allows disarmament. *Heller*, 554 U.S. at 626–27. Therefore, the burden on Second Amendment rights imposed by the ban on firearm possession in public parks is onerous. This Court should grant review to ensure that such a heavy burden is appropriately weighed in assessing the constitutionality of firearms regulations.

CONCLUSION

For the foregoing reasons, petitioner, Terrence Temple, respectfully prays that a writ of certiorari issue to review the judgment of the Illinois Appellate Court.

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