

No. 26–255

In the Supreme Court of the United States

JEFFREY M. JOHNSON, SR.,
Petitioner,

v.

BOB JACOBSON, COMMISSIONER,
MINNESOTA DEPARTMENT OF PUBLIC SAFETY,
Respondent.

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

**BRIEF OF HUANG TIANGE AND COREY BIAZZO
AS *AMICI CURIAE* IN SUPPORT OF PETITIONER**

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TABLE OF CONTENTS

Table of Authorities.....	iii
Interest of <i>Amici Curiae</i>	1
Summary	3
Discussion.....	5
I. The Second Amendment secures a uniform national right that does not change at state borders.....	5
A. Text and history establish that the right belongs to the people, not to residents of particular States	5
1. The constitutional text protects the interstate bearer	5
2. History points in the same direction.	7
B. Incorporation and interstate citizenship confirm that the right is not a matter of interstate comity	8
1. The Fourteenth Amendment supplies a uniform constitutional baseline	8
2. Interstate citizenship does not reduce constitutional rights to comity	9
II. The lower courts have repeatedly reached interstate distinctions through shifting theories	10
A. The prior decisions must be understood within their limited holdings and superseded methodologies.....	10
1. Bach’s Second Amendment holding rested on a premise rejected by McDonald	10

2.	Peterson adjudicated a concealed-carry-only claim under the pre-Bruen framework	11
3.	Culp’s Second Amendment analysis depended on means-end scrutiny	12
4.	The Eighth Circuit’s comity theory repeats the threshold error by a new route	12
B.	The original posture of this litigation shows the instability of selective reciprocity	14
1.	McCoy’s dismissal shows the instability of selective recognition	14
2.	Johnson’s interstate occupation makes the recurring burden concrete	15
C.	Further percolation is unlikely to resolve the recurring question	16
III.	The pleading-stage disposition makes this case an unusually clean vehicle.....	17
A.	The step-one issue is legal and fully preserved.....	17
B.	The Court can correct the framework without deciding every licensing question	18
	Conclusion	19

Brief of Huang Tiange and Corey Biazzo as *amici curiae* in Support of
Petitioner

TABLE OF AUTHORITIES

Cases

<i>Bach v. Pataki</i> , 408 F. 3d 75 (CA2 2005)	3, 10–11, 16
<i>Crandall v. Nevada</i> , 6 Wall. 35 (1868)	10
<i>Culp v. Raoul</i> , 921 F. 3d 646 (CA7 2019)	4, 12, 16
<i>District of Columbia v. Heller</i> , 554 U. S. 570 (2008)	3, 5, 7, 10
<i>McCoy v. Jacobson</i> , 176 F. 4th 1055 (CA8 2026)	3, 6, 13–15, 17–18
<i>McDonald v. Chicago</i> , 561 U. S. 742 (2010)	3–4, 8–11, 16
<i>New York State Rifle & Pistol Assn., Inc. v. Bruen</i> , 597 U. S. 1 (2022)	3–4, 6–7, 11–13, 16, 19
<i>Peterson v. Martinez</i> , 707 F. 3d 1197 (CA10 2013)	3, 11, 16
<i>Saenz v. Roe</i> , 526 U. S. 489 (1999)	9
<i>United States v. Rahimi</i> , 602 U. S. 680 (2024)	8
<i>Wolford v. Lopez</i> , 609 U. S. ____ (2026)	2–4, 6–7, 9, 16–18

Constitutional Provisions, Statutes, and Rules

U. S. Const. Art. IV, §1.....	18
U. S. Const. Art. IV, §2, cl. 1.....	9, 11–12, 18
U. S. Const. Amdt. I.....	13
U. S. Const. Amdt. II.....	3–14, 16–18
U. S. Const. Amdt. IV.....	13
U. S. Const. Amdt. XIV	8–9
Fed. R. Civ. P. 12(b)(6).....	17

Interest of *Amici Curiae*

Amici curiae Huang Tiange and Corey Biazzo are law-abiding citizens who are permitted to keep and bear arms, including firearms, in their respective States of residence. ¹Both regularly travel to jurisdictions that do not generally recognize the carry authority of their home States for ordinary public carry. When *amici curiae* enter those jurisdictions, their ability lawfully to keep and bear the same commonly possessed arms may change solely because they have crossed a state boundary.

Huang is an incoming law student who has previously submitted *amicus curiae* briefs to this Court in cases involving constitutional questions, most recently in *Viramontes v. Cook County, Illinois*, No. 25–238, and *Grant v. Higgins*, No. 25–566 (cert. granted together with *Viramontes*), with Biazzo. Biazzo is an appellate advocate, civil trial attorney, and U. S. Navy veteran. He has submitted *amicus curiae* briefs in this Court in constitutional cases, including *United States v. Hemani*, 608 U. S. ____ (2026), and has written on the Second Amendment and related constitutional questions.

Amici have a direct interest in the question presented because the differential interstate treatment challenged here is not abstract to them. They submit this brief to address three matters not developed in the same way by the petition or other *amici*: the

¹ Counsel of record for all parties received timely notice of *amici*’s intent to file this brief. No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund its preparation or submission. No person other than *amici* or their counsel made such a monetary contribution.

Interest of *Amici Curiae*

national constitutional baseline established by incorporation and *Wolford*; the limited and shifting rationales of the lower-court decisions; and the unusually clean procedural vehicle presented by the pleading-stage judgment below.

Summary

This case presents an important question left open by this Court’s modern Second Amendment decisions. *District of Columbia v. Heller*, 554 U. S. 570 (2008), recognized an individual right belonging to members of the national community. *McDonald v. Chicago*, 561 U. S. 742 (2010), made that right fully applicable to the States. *New York State Rifle & Pistol Assn., Inc. v. Bruen*, 597 U. S. 1 (2022), held that ordinary law-abiding citizens are entitled to bear handguns publicly for self-defense and rejected means-end scrutiny. Most recently, *Wolford v. Lopez*, 609 U. S. ___, ___ (2026) (slip op., at 18), confirmed that “the Second Amendment has the same meaning in all parts of the United States.”

The decision below nonetheless permits the practical exercise of that national right to turn on a state boundary. The Court of Appeals acknowledged that Johnson’s public carrying is conduct covered by the Second Amendment. *McCoy v. Jacobson*, 176 F.4th 1055, 1057 (CA8 2026). It nevertheless isolated Minnesota’s reciprocity provision from the State’s carry prohibition and permit requirement, held that reciprocity “standing alone” regulates no arms-bearing conduct, and concluded that reciprocal recognition depends on “interstate comity, not the Second Amendment.” *Id.*, at 1057–1058. That reasoning mistakes the regulatory mechanism for the protected conduct.

The lower-court authorities do not supply a stable answer. *Bach v. Pataki*, 408 F.3d 75 (CA2 2005), disposed of a Second Amendment claim under the pre-*McDonald* rule that the Amendment did not bind the States. *Peterson v. Martinez*, 707 F.3d 1197 (CA10 2013), adjudicated a concealed-carry-only claim after

Summary

the plaintiff expressly waived a challenge to an open-carry restriction and before *Bruen* displaced the prevailing two-step framework. *Culp v. Raoul*, 921 F.3d 646 (CA7 2019), sustained an interstate licensing distinction under intermediate scrutiny. The Eighth Circuit has now preserved a similar distinction by moving the question outside the Amendment at step one. Further percolation is more likely to produce new labels than clarity.

This case is also an unusually clean vehicle. It was resolved on a motion to dismiss, and the Court of Appeals' dispositive premise was legal: reciprocity can be examined "standing alone" and placed outside the Second Amendment even though the combined statutory regime determines whether Johnson may carry. Correcting that threshold error would not require the Court to decide that every State must automatically recognize every permit. The Court can hold that the entire challenged legal regime must be assessed under *Bruen*, then remand for the historical inquiry the Court of Appeals never reached.

The petition should be granted so that the Court may decide the interstate consequence of the uniform constitutional baseline announced in *McDonald* and reaffirmed in *Wolford*. Those decisions do not themselves establish universal permit reciprocity. They do establish that a State cannot avoid constitutional scrutiny merely by assigning the burden on protected conduct to "comity," an "exemption," or the geographic provenance of a permit.

This Court should grant certiorari to decide whether a State may, consistent with the Second Amendment, make a nonresident's ability to continue bearing arms depend on the State that issued his existing permit while characterizing the resulting burden as constitutionally irrelevant.

I

The Second Amendment secures a uniform national right that does not change at state borders. We begin with the meaning of the Second Amendment in the interstate context.

A

The constitutional text and historical tradition establish that the right belongs to the people, not to residents of particular States. The starting point is the constitutional text.

1

The constitutional text protects the interstate bearer. The Second Amendment secures “the right of the people to keep and bear Arms.” *Heller* explained that “the people” refers to persons who are part of a “national community,” 554 U.S., at 580, and that to “bear” arms means to carry them for confrontation, *id.*, at 584. Nothing in either phrase makes the existence of the right depend upon the holder's State of residence. A citizen who is one of “the people” in Georgia does not cease to be one of “the people” when his truck enters Minnesota.

That conclusion does not disable the States from enforcing constitutionally permissible firearm laws

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

within their borders. State boundaries may mark changes in permissible regulation; they do not mark changes in the meaning of the Constitution. *Wolford* put the matter plainly: “the Second Amendment has the same meaning in all parts of the United States.” 609 U.S., at ____ (slip op., at 18). The question is therefore not whether Minnesota must copy Georgia’s firearm code. It is whether Minnesota may treat the underlying right itself as dependent on a Minnesota-issued credential, or on Minnesota’s discretionary determination that another State’s credential is sufficiently similar.

The Court of Appeals’ own analysis shows why the distinction matters. It acknowledged that “publicly carrying a firearm in Minnesota is covered by the Second Amendment’s text.” *McCoy v. Jacobson*, 176 F.4th 1055, 1057 (CA8 2026). That should have identified the relevant conduct. Yet the court next asked whether the Constitution mentions “permitting reciprocity,” *ibid.*, as though constitutional text ordinarily catalogues the administrative mechanisms by which governments burden protected conduct. *Bruen* asks whether the conduct is covered by the Amendment’s text. 597 U.S., at 24. Johnson’s conduct is carrying a handgun for self-defense. Minnesota’s combination of a carry prohibition, a permit requirement, and selective recognition determines whether he may engage in that conduct without criminal exposure. Separating one gear from that machine does not make the machine disappear.

Wolford rejected the same sort of analytical sidestep. The principal dissent characterized the dispute as concerning “property rights, not gun rights.” The

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

Court answered that States may not alter generally applicable property-law rules in ways that violate constitutional rights and emphasized that the Second Amendment is “entitled to no less protection than other constitutional rights.” 609 U. S., at ___, n. 13 (slip op., at 18). Calling interstate recognition “comity” likewise does not answer the antecedent constitutional question. A State may define the ordinary consequences of its own licenses. It may not define away the constitutional significance of conduct those licensing rules determine.

2

History points in the same direction. *Heller* did not discover a state-created entitlement. It held that the Amendment “codified a pre-existing right.” 554 U. S., at 592. *Bruen* likewise asks whether a modern restriction is consistent with “this Nation’s historical tradition of firearm regulation,” 597 U. S., at 17, not whether one State today is willing to extend regulatory comity to another.

Other *amici* provide extensive evidence that historical carry restrictions frequently accommodated travelers. See Br. for Second Amendment Foundation et al. as *Amici Curiae* 8–13. *Amici* do not duplicate that survey here. Its narrower significance for this brief is that interstate travel was not treated as extinguishing the underlying right to bear arms. The history therefore reinforces the need to evaluate Minnesota’s complete legal regime rather than treating selective recognition as constitutionally invisible.

That history is relevant under the analogical method this Court has prescribed. *Rahimi* does not

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

require a modern regulation to have a “historical twin”; the question is whether it is “relevantly similar” to historical regulations and consistent with the principles that underpin the Nation’s regulatory tradition. 602 U. S. 680, 692 (2024). Whether Minnesota can satisfy that inquiry is a step-two question. It is not a reason to terminate Johnson’s claim at the textual threshold.

B

The Fourteenth Amendment makes the national character of the right unmistakable. Incorporation and interstate citizenship confirm that the right is not a matter of interstate comity.

1

The Fourteenth Amendment supplies a uniform constitutional baseline. *McDonald* rejected Chicago’s invitation to permit a different, more deferential version of the Second Amendment to operate against state and local governments. 561 U. S., at 780–791. The plurality specifically rejected the suggestion that local variations in conditions justified allowing fundamental rights to mean different things in different places. *Id.*, at 783–785. Uniform constitutional meaning does not require identical state regulations, but every regulation must be measured against the same constitutional standard.

Wolford removes any remaining doubt about that distinction. Hawaii invoked its own history, customs, and local attitudes toward firearms. The Court responded that this was “little different from the central argument offered by the city of Chicago in *McDonald*,”

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

and that Hawaii’s version “fares no better.” 609 U. S., at ____ (slip op., at 18). “Merely local attitudes,” the Court explained, “can neither shrink nor inflate the meaning of fundamental Bill of Rights guarantees that apply to the States through the Fourteenth Amendment.” *Ibid.*

Minnesota’s interstate classification raises the next question. Minnesota may enforce firearm regulations that satisfy the Constitution’s text-and-history test. But the geographic provenance of a permit cannot determine whether the Second Amendment applies at all. Incorporation supplies the baseline; Minnesota’s regulatory choices must be tested against it.

2

The Constitution’s treatment of interstate citizenship confirms the structural point. The right to travel includes the right of a citizen “to enter and to leave another State” and, while temporarily present, to be treated “as a welcome visitor rather than an unfriendly alien.” *Saenz v. Roe*, 526 U.S. 489, 500 (1999). That doctrine does not decide this case, and *amici* do not ask the Court to add an unrepresented Article IV claim. The welcome-visitor principle nevertheless underscores why an incorporated Bill of Rights guarantee cannot be reduced to interstate grace.

A related structural concern appeared in *Crandall v. Nevada*, 6 Wall. 35, 44–49 (1868), which invalidated a state exaction imposed on persons leaving Nevada and emphasized the national citizenship of persons moving among the States. That decision did not

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

involve the Second Amendment or permit recognition. Its relevance is limited but real: state boundaries do not sever the citizen's relationship to the Federal Constitution.

That is also why the Eighth Circuit's analogy to professional licenses cannot carry its conclusion. A license to practice medicine, dentistry, or law is permission created by positive state law to engage in a regulated profession. The right to keep and bear arms has a different source. A carry permit may reflect regulatory vetting, but it does not create the underlying constitutional right. Treating the nonextraterritorial character of professional licenses as dispositive confuses the credential with the conduct the credential regulates.

II

The lower courts have repeatedly reached interstate distinctions through shifting theories.

A

The prior decisions must be understood within their limited holdings and superseded methodologies.

1

The Second Circuit's decision in *Bach v. Pataki*, 408 F.3d 75 (CA2 2005), came before *Heller* and *McDonald*. *Bach* disposed of the plaintiff's Second Amendment claim under then-binding precedent holding that the Amendment imposed no limitation on the States. *Id.*, at 84–86. That premise did not survive *McDonald*, which held that the Second Amendment

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

right is fully applicable to the States. 561 U.S., at 791.

Bach separately rejected the plaintiff's Article IV and right-to-travel arguments after accepting New York's asserted monitoring rationale under the distinct Privileges and Immunities framework. 408 F.3d, at 90–94. *Bruen* did not overrule that separate Article IV holding. But the interest-based reasoning used there cannot substitute for the text-and-history inquiry governing Johnson's Second Amendment claim.

2

The Tenth Circuit followed a different route in *Peterson*. The plaintiff expressly waived any challenge to Denver's open-carry restriction. The court therefore considered only Colorado's restriction on concealed-carry licenses and held that concealed carry, viewed in isolation, fell outside the Second Amendment. 707 F.3d, at 1208–1212. *Bruen* later displaced the court's two-step methodology and recognized a general right to public carry, while preserving the historical distinction between concealed and open carry. 597 U.S., at 31–33, 46–47, 54–55.

Peterson thus did not hold that States may deny every form of public carry to nonresidents, and *Bruen* did not necessarily disturb its narrow concealed-carry result. Its significance here is methodological: once a plaintiff seeks to engage in public arms-bearing conduct, a court must identify the complete restriction before deciding whether the constitutional text is implicated.

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

3

The Seventh Circuit’s *Culp* decision illustrates a third approach. Illinois accepted nonresident applications only from persons whose home States had laws Illinois deemed “substantially similar.” 921 F.3d 646, 648–650 (CA7 2019). On an uncontested evidentiary record, the court sustained the requirement under intermediate scrutiny, relying on Illinois’s asserted difficulty both in vetting applicants and in monitoring licensees’ continuing eligibility. *Id.*, at 655–656.

Bruen displaced that Second Amendment methodology by rejecting means-end scrutiny. 597 U.S., at 17–19. *Culp* also decided a separate Article IV claim, which *Bruen* did not address. For present purposes, the relevant point is narrower: the Second Amendment result can stand only if Minnesota’s restriction is assessed under the text-and-history methodology this Court now requires.

4

The Eighth Circuit has now produced a fourth route, this time after *Bruen*. It did not deny that Johnson is one of “the people,” that his handgun is an “Arm,” or that he seeks to “bear” it. It expressly acknowledged that public carrying in Minnesota is covered by the Second Amendment. 176 F.4th, at 1057. But because Johnson did not challenge Minnesota’s general shall-issue requirement, the court isolated the reciprocity provision and held that the provision “standing alone” regulates no protected conduct. *Ibid.*

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

That formulation cannot be squared with *Bruen*'s first step. The inquiry concerns the conduct burdened by the challenged legal regime, not whether the Constitution uses the legislature's chosen administrative vocabulary. The First Amendment says nothing about parade permits; the Fourth Amendment says nothing about warrant forms; and the Second Amendment unsurprisingly says nothing about "reciprocity." Constitutional text identifies protected activity and persons. A statute's label does not determine whether it burdens that activity.

Nor does it answer the problem to describe reciprocity as an "exemption." *McCoy*, 176 F.4th, at 1058. From Minnesota's perspective, the statute excuses some travelers from a permitting process. From Johnson's perspective, the combined rule determines whether he may continue carrying when he enters Minnesota. A State could not avoid scrutiny of a speech restriction by enacting a broad prohibition and then distributing exemptions according to criteria that burdened protected expression. The same threshold principle applies here.

Minnesota's availability of permits to nonresidents is part of the case. The Court of Appeals states that Minnesota issues permits to qualifying residents and nonresidents alike, and Johnson has conceded the constitutionality of Minnesota's general shall-issue requirement for purposes of this litigation. 176 F.4th, at 1057–1058 & nn.2–3. The narrower question is whether selective recognition can be severed from the complete regime and declared categorically irrelevant to the Second Amendment.

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

The court’s final move—to “interstate comity”—only restates the question. 176 F. 4th, at 1058. Its supporting analogy was to professional licenses, citing authority for the proposition that one State need not recognize another State’s license to practice a profession. *Ibid.* But the fact that Minnesota need not recognize Georgia’s permission to practice dentistry says nothing about whether Minnesota may treat a Georgia citizen’s incorporated constitutional right as geographically contingent. No one contends that a Georgia law license entitles its holder to practice before a Minnesota court. Johnson contends that the Constitution entitles him to invoke the same Second Amendment in Minnesota that applies to Minnesotans. That is not comity. It is supremacy.

B

The original posture of this very litigation shows the instability of treating the right through state-to-state recognition.

1

Johnson did not file alone. David A. McCoy, II, another long-haul truck driver, held a Texas carry license. During the litigation Minnesota added Texas to its reciprocity list, and McCoy voluntarily dismissed his claim. Pet. 5, n.2; Pet. App. 12a & n.3. Nothing material about McCoy’s citizenship, conduct, firearm, occupation, or constitutional status changed. Minnesota changed a reciprocity determination, and the practical availability of armed carriage during his interstate work changed with it.

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

That episode illustrates why this is not an abstract complaint about administrative convenience. Under the decision below, a law-abiding interstate traveler's ability to continue bearing an arm may depend upon a periodically revised comparison between the licensing laws of his home State and those of the destination State. The citizen remains the same person; the arm remains the same arm; the purpose remains self-defense; and the Constitution remains the same Constitution. Yet the legal ability to continue the protected conduct can switch solely because the truck crosses a state line or because an agency revises a reciprocity list.

2

Johnson's occupation makes the recurring character of that problem concrete. He is a long-haul truck driver who resides in Georgia and travels through Minnesota. *McCoy*, 176 F.4th, at 1056. Interstate movement is not an occasional vacation for him; it is the ordinary course of his work. A route can therefore require repeated transitions among jurisdictions whose treatment of public carry differs sharply.

The same journey may permit a lawful bearer to carry before reaching Minnesota, require him to unload and secure his handgun while traversing Minnesota, and permit him to resume carrying after crossing the next boundary. His conduct and qualifications do not change at those invisible lines. Only the jurisdiction does. For an occupation organized around continuous interstate movement, that is an especially apt vehicle for deciding whether the Constitution

Brief of Huang Tiange and Corey Biazso as *amici curiae*
in Support of Petitioner

tolerates a right whose practical exercise is treated as territorially discontinuous.

C

Further percolation is unlikely to resolve the recurring question.

The lower courts have now considered interstate firearm restrictions through at least four different approaches over more than two decades. *Bach* relied on nonincorporation for its Second Amendment holding before *McDonald*. *Peterson* addressed a deliberately narrowed concealed-carry claim under the pre-*Bruen* framework. *Culp* relied on intermediate scrutiny before *Bruen*. The Eighth Circuit, after *Bruen*, moved selective recognition outside the Amendment at step one by characterizing it as an exemption grounded in comity.

That sequence shows a recurring question surviving successive doctrinal changes. It does not produce a clean circuit conflict because the earlier decisions arose under different claims and superseded methodologies. But that is precisely why further percolation is unlikely to help: another lower court may preserve an interstate distinction through another characterization without addressing the antecedent question identified by *Wolford*—whether the same national constitutional baseline governs the analysis.

This petition presents that threshold question without asking the Court to constitutionalize every detail of state licensing. Johnson holds carry permits, seeks to carry a handgun for lawful self-defense, and repeatedly enters Minnesota through his interstate occupation. The Court of Appeals accepted that his

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

proposed public carrying is covered by the Second Amendment's text, yet ended the inquiry by isolating one statutory component. That legal framework is fully preserved and outcome determinative.

The question will recur wherever Americans cross state lines, particularly for truck drivers, traveling workers, military families, and others whose lives are not confined to one jurisdiction. Criminal liability can attach immediately at the border. The Court should not await a mature conflict produced through prosecutions or additional pleading-stage dismissals under still more labels.

III

The pleading-stage disposition makes this case an unusually clean vehicle.

A

The step-one issue is legal and fully preserved.

The district court dismissed under Rule 12(b)(6), and the Court of Appeals reviewed that judgment *de novo*. *McCoy*, 176 F. 4th, at 1057. No disputed trial record, credibility determination, or historical fact-finding obscures the question. The Eighth Circuit accepted that public carrying in Minnesota is covered by the Second Amendment's text and affirmed solely because it viewed the reciprocity provision "standing alone" as regulating no protected conduct. *Id.*, at 1057–1058.

Wolford confirms that step one asks whether the challenged law applies to the people and restricts the keeping or bearing of arms. 609 U. S., at ___ (slip op., at 7, 13–16). Historical materials are considered

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

only after the text covers the proposed conduct. *Id.*, at ____ (slip op., at 16). Here, the Court of Appeals already accepted the relevant textual premises. The remaining threshold question is whether one component of an integrated statutory regime may be isolated from the prohibition and permit requirement that give it practical effect.

B

The Court can correct the framework without deciding every licensing question.

The Court need not hold at this stage that every State must automatically recognize every permit issued elsewhere. It can decide the narrower antecedent question: when a State's carry prohibition, permit requirement, and selective-recognition rule together determine whether a nonresident may bear arms, the recognition rule cannot be removed from the Second Amendment inquiry merely by calling it an exemption or comity. The Court may then remand for the historical analysis the Eighth Circuit did not conduct.

That disposition would leave for another case any challenge to Minnesota's general shall-issue regime, whose constitutionality Johnson has conceded here; any challenge to a regime that completely bars nonresidents from carrying, which the Eighth Circuit expressly reserved; and any claim under Article IV, equal protection, or the Full Faith and Credit Clause. See *McCoy*, 176 F. 4th, at 1057–1058 & nn.2–3. The narrowness of that route makes this case a strong vehicle for enforcing the methodology reaffirmed in *Wolford*.

Brief of Huang Tiange and Corey Biazzo as *amici curiae*
in Support of Petitioner

* * *

The petition for a writ of certiorari should be granted. The Court should reverse the judgment below or, at minimum, vacate and remand for analysis of Minnesota's complete legal regime under *Bruen*.

Respectfully submitted.

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