No. 26-550

In the Supreme Court of the United States

AMGAD MUKHTAR; MICHAEL BUSH;
JOSHUA ULRICH; PHILLIP MCLAINE;
VINCENT CEDRONE; EDWARD CHISHOLM;
KATALIN EGRI; AND ROBERT EGRI,

Petitioners,

v.

MAURA HEALEY; ANDREA JOY CAMPBELL;
JORDAN MAYNARD; AND TERRENCE M. REIDY,
IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES;
GEOFFREY D. NOBLE, IN HIS OFFICIAL CAPACITY;
AND THE MASSACHUSETTS PORT AUTHORITY,

Respondents.

On Petition for a Writ of Certiorari to the Commonwealth of Massachusetts Appeals Court

PETITION FOR A WRIT OF CERTIORARI

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FILED
OCT 15 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

October 15, 2026 *Petitioners Pro Se*
SUPREME COURT PRESS ♦ (888) 958-5705 ♦ BOSTON, MASSACHUSETTS

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QUESTION PRESENTED

In *Caetano v. Massachusetts*, 577 U.S. 411 (2016) (per curiam), this Court summarily corrected Massachusetts's highest court because its reasoning contradicted this Court's governing holdings. This case presents the same issue in a broader form. Petitioners—law-abiding citizens—sued via 42 U.S.C. § 1983 to challenge Massachusetts laws burdening their rights under the Second, Fourth, and Fourteenth Amendments. The Massachusetts courts foreclosed every claim. In doing so, they relied on dicta to displace this Court's holdings; relied on a decision involving no intended exercise of constitutional rights while ignoring *Olivier* and *First Choice*—intervening decisions of this Court that Petitioners timely presented; asserted that Massachusetts precedent bound them on federal constitutional claims; faulted Petitioners for not pleading precisely when, where, and why they would exercise their rights; and declared that permitting them to litigate would be "hardly fair to the future plaintiff with potentially an actual need . . . for example, a municipal employee with a dangerous ex-lover."

The Question Presented is:

May courts foreclose federal constitutional claims brought under 42 U.S.C. § 1983 by adding requirements or applying authorities that displace this Court's governing holdings?

PARTIES TO THE PROCEEDINGS

Petitioners and Plaintiffs-Appellants below

- Amgad Mukhtar
- Michael Bush
- Joshua Ulrich
- Phillip McLaine
- Vincent Cedrone
- Edward Chisholm
- Katalin Egri
- Robert Egri

Respondents and Defendants-Appellees below

In their individual and official capacities:

- Maura Healey
- Andrea Joy Campbell
- Jordan Maynard
- Terrence M. Reidy

In his official capacity:

- Geoffrey D. Noble

And:

- Massachusetts Port Authority

CORPORATE DISCLOSURE STATEMENT

Each of the Petitioners is an individual. None are corporations. No party has a stock-ticker symbol.

LIST OF PROCEEDINGS

Massachusetts Superior Court, Middlesex County
No. 2481CV02958
Amgad Mukhtar, et al. v. Maura Healey, et al.,
Memorandum and Order (Dismissal): Aug. 14, 2025
Judgment: August 25, 2025
Judgment After Rescript: August 7, 2026

Massachusetts Supreme Judicial Court
No. DAR-30595
Amgad Mukhtar, et al. v. Maura Healey, et al.,
Denial of Direct Appellate Review: Nov. 20, 2025

Massachusetts Appeals Court
No. 2025-P-1201
Amgad Mukhtar, et al. v. Maura Healey, et al.,
Memorandum and Order Affirming: June 5, 2026

Massachusetts Supreme Judicial Court
No. FAR-30975
Amgad Mukhtar, et al. v. Maura Healey, et al.,
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PETITION FOR A WRIT OF CERTIORARI

The Petitioners respectfully seek a writ of certiorari to review the judgment of the Massachusetts Appeals Court.

OPINIONS BELOW

The Supreme Judicial Court's order denying further appellate review, *Mukhtar v. Healey*, No. FAR-30975 (July 31, 2026), is unreported and reproduced at App.1a.

The Massachusetts Appeals Court's unpublished memorandum and order affirming dismissal, *Mukhtar v. Healey*, No. 2025-P-1201 (June 5, 2026), is unreported and reproduced at App.2a–7a.

The Superior Court's memorandum of decision and order granting Respondents' motions to dismiss, *Mukhtar v. Healey*, No. 2481CV02958 (Aug. 14, 2025), is unreported and reproduced at App.12a–36a. The resulting judgment is reproduced at App.9a–11a, and the judgment after rescript is reproduced at App.8a.

The Supreme Judicial Court's earlier order denying direct appellate review, *Mukhtar v. Healey*, No. DAR-30595 (Nov. 20, 2025), is unreported and reproduced at App.228a.

JURISDICTION

The Massachusetts Appeals Court entered its memorandum and order affirming dismissal on June 5, 2026. (App.2a–7a). The Supreme Judicial Court denied Petitioners' timely application for further appellate review on July 31, 2026. (App.1a). This petition is filed within 90 days of that order and is timely under 28 U.S.C. § 2101(c) and this Court's Rule 13.1. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const., amend. II

> A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

U.S. Const., amend. IV

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const., amend. XIV, § 1

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 U.S.C. § 1983, in pertinent part

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

The pertinent text of the foregoing federal provisions is reproduced at App.37a. The Massachusetts provisions involved are Mass. Declaration of Rights arts. XI, XIV, XVII, XXIX, and XXX; Mass. Const. amend. art. CVI; G.L. c. 140, §§ 121, 121B(a)–(e), 121C(a)–(d), (g), 121F(o)–(p), 129C(a), (c), (f), (i)–(k), 131F½, 131½, 131¾, 131M(a), (b), (d), (e), 131R(a)–(c), 131S(a)–(i), and 131T; G.L. c. 231A, §§ 1–3 and 9; G.L. c. 258E, §§ 4A–4C; G.L. c. 269, §§ 10(b), 10(h)(1), 10(j)–(k), 10A, and 12D(a), (b), (d); 205 C.M.R. § 138.20; 740 C.M.R.

§§ 30.04–30.05; and 940 C.M.R. §§ 16.01–16.02 and 16.04–16.06. Their pertinent text is reproduced at App.38a–99a.

INTRODUCTION

Massachusetts courts now make it effectively impossible for law-abiding citizens to challenge laws burdening their constitutional rights. In practice, review of those laws must await a criminal defendant, as occurred in *Caetano v. Massachusetts*, 577 U.S. 411 (2016) (per curiam).

STATEMENT OF THE CASE

I. Petitioners—Eight Law-Abiding Citizens—Challenged Laws Burdening Rights Secured by Four Federal Constitutional Guarantees

Petitioners are eight law-abiding adult citizens of Massachusetts and the United States. (App.152a–156a). Seven possess firearms, ammunition, and current Massachusetts licenses to carry. (App.153a). All eight alleged that they would acquire additional arms but for the challenged laws. (App.153a).

On February 24, 2025, Petitioners filed the operative first amended complaint. (App.151a). They brought their federal constitutional claims under 42 U.S.C. § 1983 and G.L. c. 231A, seeking declaratory and injunctive relief under both statutes and monetary relief under § 1983. (App.177a–178a). Their complaint

challenged Massachusetts statutes and regulations under the Second and Fourth Amendments and the Due Process and Equal Protection Clauses of the Fourteenth Amendment. (App.178a–205a). It also brought parallel claims under the Massachusetts Constitution. (App.197a–210a).

The challenged laws prohibit Petitioners from acquiring or possessing common, modern, and safety-enhanced firearms and other arms; authorize executive-branch entities to determine which handguns citizens may acquire; compel serialization and registration of firearms and reporting of their loss, theft, or transfer; impose unequal licensing requirements and fees; prohibit Petitioners from possessing or carrying firearms or ammunition at schools, government buildings and parking areas, polling places, gaming establishments, and portions of airport property; and prohibit carrying loaded or uncased rifles and shotguns on public ways. (App.182a–194a, 204a–205a, 209a–210a). Petitioners alleged that, but for the challenged laws and threatened penalties, they would acquire additional firearms and other arms, possess and use the arms and devices the laws prohibit, and carry firearms at places they repeatedly visit and intend to visit again. (App.182a–194a). They also challenged being compelled to serialize, register, and report their firearms. (App.193a–194a).

Massachusetts is one of no more than eight States that prohibit citizens from possessing firearm suppressors. (App.182a). The amended complaint alleged that, from January 2023 through its filing, only two crimes in the United States involved a firearm equipped with a suppressor—and both occurred in States that also prohibited suppressors. (App.182a). By contrast,

more than 2.6 million suppressors were legally registered nationwide by 2021. (App.183a). Petitioners alleged that they would use suppressors to protect their hearing and the safety of people nearby but for Massachusetts's threat of criminal prosecution and punishment. (App. 182a–183a).

Some challenged restrictions came from legislation exceeding 100 pages that was first made public one day before passage. (App.154a–155a). The Governor later placed that legislation into immediate effect through an emergency preamble, although no related emergency had been identified. (App.155a). Other challenged restrictions were imposed by executive-branch entities. (App.186a–188a, 209a–210a).

Massachusetts generally requires citizens to obtain a firearm license and charges $100 to obtain or renew one. (App.172a). Yet its laws reduce or waive fees for selected groups and permit certain people—including common-carrier employees, firearms trainees, new residents, military personnel, police officers, and participants in theatrical productions—to possess or carry firearms without a license. (App.172a, 204a–205a). Petitioners challenged the licensing requirements and fees under the Second Amendment. They challenged under the Equal Protection Clause the unequal fees and licensing exemptions, as well as exemptions allowing law-enforcement personnel to possess otherwise-prohibited suppressors and carry firearms where Petitioners may not. (App.183a–184a, 203a–205a).

Petitioners also challenged Massachusetts's extreme risk protection order law, commonly known as a red flag law. (App.192a). That law permits revocation of firearms licenses and seizure of every firearm and round of ammunition without a criminal

charge or conviction. (App.192a, 199a). An order may last one year and may be renewed without limit. (App.199a). Petitioners challenged the resulting disarmament under the Second Amendment, the law's searches and seizures under the Fourth Amendment, and its vagueness under the Due Process Clause. (App.192a–202a).

Petitioners separately challenged provisions requiring the immediate suspension of a person's firearm licenses and surrender of every firearm and round of ammunition upon issuance of certain harassment-prevention orders. G.L. c. 258E, §§ 4A–4C. They challenged that forced disarmament under the Second Amendment and its warrantless seizure under Article 14 of the Massachusetts Declaration of Rights. (App.74a–77a, 193a, 198a).

The complaint alleged that research found no significant reduction in murder, suicide, mass-public-shooting deaths, robbery, aggravated assault, or burglary from red flag laws, and some evidence of increased rape rates. (App.192a). It also alleged a substantial rate of police killings of persons subjected to these orders when compared with the murder rate. (App.192a).

The complaint alleged that the Massachusetts Attorney General had prosecuted violations of several challenged firearm prohibitions. (App.175a). It also alleged that she had publicly described her office as "enforcing and defending our state's gun laws." (App.175a).

Massachusetts law mandates a civil-rights division within the Attorney General's office. G.L. c. 12, § 11A. The complaint nevertheless alleged that, from 2022

through 2024, that office filed no lawsuits against government entities or personnel to defend any citizen's state or federal constitutional rights. (App.174a).

II. The Superior Court Accepted Petitioners' Factual Allegations as True Yet Dismissed Every Claim at the Pleading Stage

Respondents—the Attorney General and the Massachusetts Port Authority (Massport)—each moved to dismiss the operative complaint under Massachusetts Rules of Civil Procedure 12(b)(1) and 12(b)(6). (App.12a–13a). The Superior Court recognized that Petitioners' well-pleaded factual allegations were required to be accepted as true. (App.14a). It nevertheless dismissed every claim. (App.9a–11a, 35a–36a).

The court held that the laws' application to Petitioners was insufficient because they applied "in the same way they apply to every citizen and visitor to the commonwealth." (App.28a–29a). It further declared that an enforcement threat "must be personal and not general" and faulted Petitioners because none had alleged a threat "against them personally." (App.27a).

The court therefore dismissed for lack of standing Petitioners' challenges to the arms and location prohibitions, licensing requirements, compelled serialization, registration, and reporting, searches and seizures, and the extreme-risk-protection-order and harassment-prevention-order confiscation provisions. (App.28a–31a, 35a–36a).

It reasoned that Petitioners had standing to challenge the licensing fees because most had already paid them. (App.33a). But it dismissed those claims by relying on state precedent and language in a footnote

in *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 38 n.9 (2022). (App.33a–35a).

Petitioners sought direct appellate review in the Supreme Judicial Court, which denied it. (App.228a). The case then proceeded in the Appeals Court.

III. After Petitioners Supplied *First Choice* and *Olivier*, the Appeals Court Ignored Both and Added Standing Requirements Found in Neither

On appeal, Petitioners again invoked 42 U.S.C. § 1983 and G.L. c. 231A and pressed their preserved claims under the Second, Fourth, and Fourteenth Amendments. Rev. Opening Br. 14–15, 19–24. They specifically challenged the Superior Court's personal-threat and shared-injury requirements and its dismissal of their firearm-license-fee claims. *Id.* at 19–24, 31–35.

While the appeal remained pending, this Court decided *First Choice Women's Resource Centers, Inc. v. Davenport*, 608 U.S. 174 (2026), and *Olivier v. City of Brandon*, 607 U.S. 552 (2026). Petitioners promptly filed notices presenting both decisions and showing how their complaint satisfied the standards those decisions applied. (App.140a–150a).

The Appeals Court acknowledged that Petitioners "would act in various ways currently prohibited by law were it not for those laws." (App.4a). It nevertheless called each allegation "conclusory." (App.4a). The court faulted Petitioners for failing to provide "a[] plan to act in these ways," identify the particular institutions they intended to visit, explain why they wished to visit while armed, and specify when they intended to do so. (App.4a–5a).

The Appeals Court also considered it "hardly fair" to permit Petitioners' challenge when a hypothetical future plaintiff might have "an actual need" to exercise the same right. (App.5a). It supplied its own example: "a municipal employee with a dangerous ex-lover." (App.5a).

The court affirmed dismissal of every claim except the licensing-fee claims for lack of standing. (App.3a–7a). It affirmed dismissal of those remaining claims after expressly identifying the language it applied from *Bruen* as "dicta." (App.6a–7a). Its memorandum did not mention § 1983, G.L. c. 231A, *First Choice*, or *Olivier*. (App.2a–7a).

IV. Petitioners Presented the Errors and Four Intervening Decisions of This Court to the Supreme Judicial Court, Which Again Denied Review Without Explanation

Petitioners applied to the Supreme Judicial Court for further appellate review. (App.107a–108a). Their application challenged the Appeals Court's demands for personal enforcement threats, detailed future plans, particular dates and locations, reasons for exercising constitutional rights, and an "actual need." (App.110a–112a). It also presented *First Choice*, *Olivier*, and *United States v. Hemani*, 608 U.S. 772 (2026). (App.111a, 119a–120a).

Three days later, this Court decided *Wolford v. Lopez*, 609 U.S. 185 (2026). Following procedural guidance from the Supreme Judicial Court Clerk's Office, Petitioners promptly filed an addendum addressing that decision. (App.100a–101a).

The addendum showed that the *Wolford* plaintiffs were licensed to carry firearms, as are most Petitioners. (App.102a–103a). Both groups brought prospective constitutional challenges to laws restricting where they may carry firearms. (App.102a–103a). This Court adjudicated the *Wolford* plaintiffs' claims based on their routine activities and visits without demanding exact future dates, detailed plans to violate the laws, or an "actual need." (App.102a–103a).

The Attorney General opposed further review without addressing *First Choice*, *Olivier*, *Hemani*, or *Wolford*. (App.137a–139a). Massport likewise addressed none of those decisions, although *Wolford* closely paralleled Petitioners' challenge to Massport's firearm ban. (App.134a–136a).

On July 31, 2026, the Supreme Judicial Court denied further appellate review without explanation. (App.1a). This timely petition followed.

REASONS FOR GRANTING THE PETITION

I. The Massachusetts Appeals Court Refused to Follow This Court's Controlling Precedents in Three Distinct Ways

Lower courts have refused to follow this Court's instructions in multiple ways. They have:

1. On questions of federal law, declared themselves bound by state precedent and applied it instead of this Court's governing precedent.

2. Acted as though this Court's controlling precedents do not exist.

3. Acknowledged those precedents yet done the opposite of what they require.

In this case, the Appeals Court employed all three of those methods, as follows.

A. The Appeals Court Ignored *First Choice* After Acknowledging the Injury *First Choice* Recognizes

This Court unanimously holds that a plaintiff need not await coercive enforcement and that a governmental burden on constitutional rights can itself establish injury. *First Choice Women's Resource Centers, Inc. v. Davenport*, 608 U.S. 174, 183, 188–192 (2026). It captured the point plainly: "[T]he value of a sword of Damocles is that it hangs—not that it drops." *Id.* at 192 (quoting *Arnett v. Kennedy*, 416 U.S. 134, 231 (1974) (Marshall, J., dissenting)).

Petitioners timely presented *First Choice* and showed how their complaint's allegations satisfied that precedent. (App.147a–149a). The Appeals Court acknowledged: "[T]he plaintiffs allege that they would act in various ways currently prohibited by law were it not for those laws." (App.4a). Yet it declared: "Each such allegation is conclusory." *Ibid.* It did so without distinguishing or even acknowledging *First Choice*.

This Court supplied the controlling precedent. Petitioners supplied that decision. The Appeals Court ignored both.

B. The Appeals Court Ignored *Olivier* Even Though Petitioners Alleged Far More Than the Credible Threat it Requires

This Court unanimously reaffirmed that, "[a]ssuming a credible threat of prosecution," a plaintiff may bring a § 1983 action "to challenge a local law as violating the Constitution and to prevent that law's future enforcement." *Olivier v. City of Brandon*, 607 U.S. 552, 560 (2026). Petitioners timely presented *Olivier* and showed that their complaint cleared that threshold by a wide margin: the Attorney General had enforced the challenged laws and publicly threatened continued enforcement. (App.140a–143a, 175a).

The Appeals Court nevertheless affirmed dismissal without distinguishing or even acknowledging *Olivier*. Enforcement had already occurred. More was expressly and publicly threatened. Yet again, this Court's controlling decision was ignored.

C. The Appeals Court Displaced This Court's Governing Decisions on the Federal Constitution with Contrary State Precedent—and Declared That an Argument Petitioners Had Made Did Not Exist

The Supreme Judicial Court stated the controlling hierarchy in *Commonwealth v. Vasquez*: "It is true, of course, that the Supreme Court, and not this court, is the final arbiter of what the Federal Constitution demands." 456 Mass. 350, 356 (2010). Petitioners cited *Vasquez* and showed that this Court's precedent governed their federal constitutional claims. (App.116a–117a).

But the Appeals Court ignored *Vasquez*, applied state precedent, and declared: "We, of course, are bound

to follow the law as set forth by the Supreme Judicial Court." (App.6a). For this notion that state precedent controlled Petitioners' federal claims, it cited its own decision in *Commonwealth v. Colon*, 52 Mass. App. Ct. 725, 730 n.1 (2001).

The Appeals Court put that inverted hierarchy into practice when it rejected Petitioners' federal Equal Protection Clause challenge to unequal firearm-license fees. Petitioners cited this Court's decisions and argued that strict scrutiny applies when a law unequally burdens the exercise of a fundamental right secured by the federal Constitution. Rev. Opening Br. 8–9, 34–35. The Appeals Court addressed none of those decisions. It instead invoked *Commonwealth v. Roman*, 489 Mass. 81, 87 (2022), imposed that state decision's "significant interference" threshold, and applied rational-basis review. (App.6a–7a).

The Appeals Court then falsely asserted that Petitioners made "no argument—nor could they—that the $100 fee significantly interferes with the fundamental right to bear arms." (App.7a). On the contrary, Petitioners had called the fee "anomalous and prohibitive for citizens of modest means" and supplied a comparative table demonstrating its burden. Rev. Opening Br. 32–33. Thus, the argument was not missing.

Massachusetts's highest court used "of course" to recognize this Court's supremacy on questions of federal law. The Appeals Court used "of course" to deny it while citing itself and misrepresenting Petitioners' argument as absent.

D. The Appeals Court Used an Endangered Species Act Case to Displace Decisions Governing Constitutional Challenges to Criminal Laws

Lujan concerned environmental groups challenging a regulation governing federal projects abroad. Their members hoped someday to return to Egypt and Sri Lanka to observe endangered species. No law prohibited that conduct, and no constitutional right was involved. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 558–564 (1992).

Petitioners, in contrast, challenge laws and regulations prohibiting their intended exercise of constitutional rights. *First Choice* and *Olivier* therefore governed. Yet the Attorney General urged *Lujan* instead. The Appeals Court followed, quoted *Lujan*'s "'some day' intentions," and ignored both of this Court's controlling decisions. Petitioners specifically brought that and other improper substitutions to the Supreme Judicial Court's attention in their application for further appellate review. (App.115a–116a).

First Choice and *Olivier* governed Petitioners' claims. The Endangered Species Act case did not. Yet the Appeals Court used it anyway.

E. The Appeals Court Acknowledged *Babbitt* and *Steffel* Yet Imposed the Result They Forbid

The Appeals Court acknowledged that a plaintiff facing a nonimaginary threat under an allegedly unconstitutional law need not risk arrest or prosecution before challenging it. (App.4a–5a) (quoting *Babbitt v. United Farm Workers National Union*, 442 U.S. 289, 302 (1979), and *Steffel v. Thompson*, 415 U.S. 452, 459

(1974)). Petitioners' allegations, described above, placed their claims squarely within that doctrine.

"Nonetheless," the Appeals Court affirmed dismissal because Petitioners had not supplied detailed plans to violate the challenged laws. *Ibid.*

Babbitt and *Steffel* entitled Petitioners to adjudication before arrest or prosecution. Yet the Appeals Court quoted both decisions while denying Petitioners the required adjudication of their claims.

F. *Caetano* on Repeat: The Appeals Court Elevated Dicta Over This Court's Controlling Holding

The preceding errors foreclosed every claim except Petitioners' challenges to firearm-license fees. The Massachusetts courts reasoned that Petitioners had standing to bring those claims because they had already paid the license fees. So the courts pivoted to a different but familiar device: the dicta-over-holding error this Court summarily corrected in *Caetano*.

Murdock v. Pennsylvania, 319 U.S. 105, 113 (1943), holds that "[a] State may not impose a charge for the enjoyment of a right granted by the Federal Constitution." Petitioners timely presented *Murdock*. (App.112a, 117a). Yet the Appeals Court ignored it. Instead, the court invoked *Bruen* footnote 9, expressly acknowledged that the language was "dicta," and affirmed dismissal. (App.6a–7a).

By ignoring *Murdock*'s holding and invoking acknowledged dicta, the Appeals Court committed the error this Court corrected in *Caetano*. There, Massachusetts used noncontrolling language from *Heller* to contradict *Heller*'s holdings, and this Court summarily

reversed. 577 U.S. 411, 411–412 (2016) (per curiam). Yet even after summary reversal, the Massachusetts courts repeated that dicta-over-holding error here—more blatantly.

II. The Attorney General and the Appeals Court Also Refused to Follow Statutes Governing Their Conduct

The Massachusetts courts' rejection of controlling authority did not end with this Court's precedents. The statutes governing the Attorney General's duties and Petitioners' lawsuit fared no better. The Attorney General set that pattern. She acted as though the statute governing her civil-rights responsibilities did not exist. She also ignored the statutes Petitioners invoked to enforce their constitutional rights. The Massachusetts courts then followed her example.

A. The Attorney General Never Reconciled Her Statutorily Mandated Civil-Rights Division with Her Office's Record or Her Opposition to Every Claim Here

Massachusetts law mandates: "There shall be in the department of the attorney general a division of civil rights and liberties." G.L. c. 12, § 11A. Yet Petitioners' complaint alleged that, from 2022 through 2024, the Attorney General's office filed no lawsuits against government entities or personnel to defend any citizen's state or federal constitutional rights. (App.174a). Moreover, at every level of this case in the Massachusetts courts, the Attorney General has opposed every civil-rights claim Petitioners brought.

Petitioners raised the conflict between the Attorney General's statutory civil-rights office and her conduct

in both the Superior Court and the Appeals Court. In neither court did she address § 11A, dispute the 2022–2024 allegation, or reconcile her litigation position with the statute.

B. Petitioners invoked 42 U.S.C. § 1983 and G.L. c. 231A. The Attorney General and Appeals Court Acted as Though Neither Statute Existed

Petitioners brought their federal constitutional claims under both 42 U.S.C. § 1983 and G.L. c. 231A, seeking declaratory and injunctive relief under both statutes. Chapter 231A authorizes declarations of right "before or after a breach or violation" occurs and must be "liberally construed and administered" to relieve "uncertainty and insecurity with respect to rights." G.L. c. 231A, §§ 1, 9. Petitioners expressly invoked both statutes in their complaint and on appeal. (App.108a–109a, 177a–178a).

Yet in the text of both Respondents' briefs—in which they asked the Appeals Court to affirm dismissal—those statutes are absent. (App.114a–115a). And again, the Appeals Court obliged. Its memorandum and order affirming dismissal of all claims is devoid of either statute. (App.2a–7a).

III. The Massachusetts Courts Displaced the Authorities Governing These Claims with Contradictory Standing Requirements That They Invented

A. The Superior Court Demanded Injuries No One Else Shared—a Rule That Would Bar This Court and Others from Adjudicating Countless Constitutional Claims

This Court's standing doctrine requires personal injury, not exclusive injury. A governmental burden on a plaintiff's constitutional rights can itself establish injury in fact. *First Choice*, 608 U.S. at 183, 188–189. That injury does not become insufficient because others suffer it too. *FEC v. Akins*, 524 U.S. 11, 24–25 (1998).

Petitioners alleged that the challenged laws burdened their own exercise of constitutional rights. (App.153a–154a, 182a–194a). Yet the Superior Court rejected those injuries because the laws applied to Petitioners "in the same way they apply to every citizen and visitor to the commonwealth." (App.28a–29a).

Under that reasoning, this Court and others lacked authority to decide countless constitutional challenges simply because the challenged laws burdened people beyond the plaintiffs. Neither this Court nor any other court could have struck down a law that burdened anyone besides the plaintiffs. None could even have adjudicated the claims.

Left uncorrected, the Superior Court's rule makes a law harder to challenge as it burdens more people. Laws imposing the broadest constitutional burdens become the most insulated from adjudication.

B. The Superior Court Demanded Personalized Enforcement Threats—a Barrier That Lets the Commonwealth Choose Who May Challenge Its Laws

This Court found the threat sufficient where "[t]he State ha[d] not suggested that the newly enacted law [would] not be enforced." *Virginia v. American Booksellers Ass'n, Inc.*, 484 U.S. 383, 393 (1988). And *Steffel* held that prosecution of another person for the same conduct was "ample demonstration" that the plaintiff's concern with arrest was not "chimerical." 415 U.S. 452, 459 (1974).

As shown above, Petitioners' complaint surpassed both measures. *Supra* § I.B; (App.175a, 182a–194a). Yet the Superior Court declared that "the threat must be personal and not general" and dismissed the claims because "[n]one of the Plaintiffs have alleged any specific government threat of enforcement against them personally." (App.27a).

That reasoning lets Massachusetts burden every law-abiding citizen's constitutional rights while barring adjudication of the resulting claims. Thus, constitutional protection cannot begin until the Commonwealth expressly singles out its next target.

C. Petitioners Presented the Superior Court's Invented Requirements to Both Massachusetts Appellate Courts. Neither Corrected Them

Petitioners identified both of the Superior Court's invented requirements—and many other errors—in their application for direct appellate review. Application for Direct Appellate Review 5–10. But the Supreme

Judicial Court denied direct appellate review. (App. 228a).

Petitioners then challenged both requirements in their Appeals Court brief. Rev. Opening Br. 19–21. The Appeals Court addressed neither. It affirmed dismissal—and added barriers of its own. (App.3a–7a).

D. For Standing, the Appeals Court Demanded That Petitioners Plan Crimes—and do so in Detail

The Appeals Court acknowledged that Petitioners alleged they would act in ways the challenged laws prohibit. (App.4a). But it demanded more: a "plan to act in these ways," identification of "which institutions" Petitioners intended to visit, an explanation of why they wished to visit while armed, and a "specification of when" they would do so. (App.4a–5a).

None of those requirements appears in this Court's governing test. As shown above, Petitioners' complaint satisfied the requirements that do. *Supra* §§ I.A–B, I.D–E.

The Appeals Court's added requirements leave law-abiding citizens two choices: surrender their constitutional rights or tell judges precisely where, when, and why they plan to break the laws burdening them.

E. In Addition to Detailed Criminal Plans, the Appeals Court Demanded an "Actual Need"—and Specified the Imaginary Plaintiff it Preferred

Constitutional adjudication is not a competition between actual plaintiffs and hypothetical ones. Yet the Appeals Court called it "hardly fair" to a hypothetical

future plaintiff with "potentially an actual need" to allow Petitioners' challenge. (App.5a). Its preferred plaintiff was "a municipal employee with a dangerous ex-lover." *Ibid.* Using that imagined litigant, the Appeals Court barred Petitioners' federal and Massachusetts constitutional challenges to the criminal ban on possessing firearms in government buildings, grounds, and parking areas.

Under that reasoning, no citizen's constitutional rights are secure. A court can always imagine a plaintiff it prefers.

F. Petitioners Showed the Supreme Judicial Court That *Wolford* Adjudicated Materially Parallel Claims the Appeals Court Barred

The imaginary plaintiff the Appeals Court preferred never appeared. But *Wolford* did.

Petitioners then asked the Supreme Judicial Court to review and correct the Appeals Court's decision. Their application for further appellate review identified the Appeals Court's demands for detailed criminal plans, particular times and locations, reasons for exercising constitutional rights, and an "actual need," together with its other errors. (App.110a–112a). Three days later, this Court decided *Wolford*. Following procedural guidance from the Supreme Judicial Court Clerk's Office, Petitioners promptly filed an addendum addressing that decision. (App.100a–101a).

The addendum showed the direct parallel. The *Wolford* plaintiffs were licensed to carry firearms, as are most Petitioners. Both groups brought prospective challenges to laws restricting where they may carry firearms. In adjudicating the *Wolford* plaintiffs' claims,

this Court relied on their routine activities and visits. It required no exact future dates, detailed plans to violate the laws, or "actual need." (App.102a–103a).

Respondents then had an opportunity to explain why this Court could adjudicate the *Wolford* plaintiffs' claims while Massachusetts could not adjudicate Petitioners' materially parallel claims.

G. The Attorney General Opposed Further Review with Unsupported Conclusions, Not Argument

The Attorney General responded first, but her response defended none of the Appeals Court's added standing requirements and did not mention *Olivier*, *First Choice*, *Hemani*, or *Wolford*. Instead, it asserted that "straightforward reasons" defeated Petitioners' standing and that "Supreme Court precedent all but categorically forecloses" their licensing-fee claims. Yet it supplied no analysis supporting either conclusion. (App.138a).

For ostensible support, the Attorney General referred the Supreme Judicial Court to her opposition to Petitioners' earlier application for direct appellate review. *Ibid.* Yet that opposition predated all four decisions of this Court and therefore could answer none of them.

In short, the Commonwealth's chief legal officer asked its highest court to preserve every added barrier to constitutional adjudication—and defended none.

H. Massport Called the Appeals Court's Disposition "Thoughtful" Instead of Defending Its Reasoning

Massport called the Appeals Court's unpublished disposition a "thoughtful opinion" and urged the Supreme Judicial Court to deny further review "especially" on that basis. (App.135a–136a). But Massport defended none of the Appeals Court's added requirements or reasoning. Nor did it address *Olivier*, *First Choice*, *Hemani*, or *Wolford*—even though *Wolford* was the closest match to Petitioners' challenge to Massport's own firearm ban.

Massport called the decision thoughtful without defending a single thought in it.

I. The Supreme Judicial Court Left These Barriers Intact, Rendering the Second and Fourth Amendments, the Due Process and Equal Protection Clauses, the Massachusetts Constitution, and Every Decision of This Court Governing Petitioners' Federal Claims Useless

The Supreme Judicial Court then denied further appellate review without explanation. (App.1a).

Under the resulting judgment, the Second Amendment can no longer stop Massachusetts from disarming Petitioners. The Fourth Amendment can no longer prohibit the searches and seizures Petitioners challenge, no matter how unreasonable or disconnected from actual crimes they may be. The Due Process Clause can no longer require fair notice of what conduct criminal laws may be used to punish. The Equal Protection Clause can no longer prohibit unequal burdens on

citizens' fundamental rights. The Massachusetts Constitution can no longer provide such protections, either.

Because the Massachusetts courts refuse to allow merits adjudication, every decision of this Court governing Petitioners' federal claims has been rendered useless.

In this way, the Massachusetts courts disabled this Court's precedents without expressly rejecting the constitutional protections they enforce. They made those protections unreachable, and the Supreme Judicial Court repeatedly chose to leave them that way.

IV. The Massachusetts Courts Denied Adjudication Despite Warnings That the Challenged Laws Endanger Citizens Far Beyond Petitioners

A. Massachusetts Firearms Dealers, Instructors, and Club Leaders Warned That the Judgment Forces Citizens to Surrender Rights or Risk Punishment

Appearing as amici curiae, Massachusetts firearms dealers, safety instructors, and sportsmen's-club leaders warned the Supreme Judicial Court that the decision "affects more than the eight plaintiffs." (App.129a–130a). It makes constitutional challenges difficult before "arrest, prosecution, loss of a license, or other serious consequences." *Ibid.*

They warned that citizens should not have to choose between "giving up a right and risking punishment" before asking whether a law is constitutional. *Ibid.*

The Supreme Judicial Court nevertheless left that Catch-22 in place.

B. Massachusetts Women Warned That the Challenged Laws Endanger Vulnerable Citizens. The Supreme Judicial Court Again Declined Review

In their separate filing as amici curiae, Massachusetts women who teach, train, or advocate for lawful self-defense warned the Supreme Judicial Court: "These bans are not merely theoretical." (App.125a–127a). Women, older people, disabled people, and others unable to rely on physical dominance "may especially need items to protect themselves and others from assault." *Ibid.*

They warned that Massachusetts should not ban ordinary means of lawful self-defense and then permit only prosecuted citizens with court-approved special needs to challenge those bans. *Ibid.*

Those women placed that danger squarely before the Supreme Judicial Court. Yet it denied review and left vulnerable citizens exposed to it.

C. Jaime Caetano Survived an Assault Because she Possessed the Arm Massachusetts Forbade. Citizens Who Obey the Broader Array of Bans Challenged Here May Not Survive

Jaime Caetano possessed a stun gun because she feared a violent former boyfriend who had hospitalized her. When he assaulted her after work, she displayed it and he retreated. Massachusetts later prosecuted and convicted her for possessing the arm that protected her. *Caetano v. Massachusetts*, 577 U.S. 411, 413–414 (2016) (Alito, J., concurring in the judgment).

Justice Alito observed that Massachusetts appeared "more concerned about disarming the people than about keeping them safe." *Id.* at 422. Ten years later, his opinion for the Court in *Wolford* returned to Caetano's experience and explained that even a short period of disarmament during ordinary daily activities "can be deadly." *Wolford v. Lopez*, 609 U.S. 185, 204 (2026).

By denying adjudication to citizens who obey the challenged laws, the Massachusetts courts created a potentially lethal inversion. A citizen who violates an arms ban may retain the means to survive an assault and obtain constitutional adjudication through prosecution. But a citizen who obeys faces an assailant without the prohibited means of defense—and may never live to challenge the law.

D. After *Caetano*, Massachusetts Expanded Its Bans on Common, Ordinary Arms While Its Courts Withhold Constitutional Adjudication

Heller held that the Second Amendment extends to modern bearable arms and arms commonly possessed for lawful purposes. 554 U.S. 570, 582, 624–625 (2008). *Caetano* applied those holdings directly to Massachusetts. 577 U.S. 411, 411–412 (2016) (per curiam).

Massachusetts has since multiplied its bans on common, modern, and safety-enhanced arms—including firearms and other tools of self-defense. Several challenged bans came from a bill exceeding 100 pages that was made public one day before passage and later placed into immediate effect through an emergency preamble despite no related emergency having been identified. (App.154a–155a). Other challenged bans

were imposed by executive-branch entities that restrict which handguns citizens may acquire statewide or categorically prohibit firearm carry in designated public places. (App.186a–188a, 209a–210a).

Petitioners invoked this Court's Second Amendment precedents. Yet the Massachusetts courts treated Petitioners' claims as though none of those precedents governed. And again, the Supreme Judicial Court chose to leave it that way.

E. Citizens Never Charged with a Crime Face Potentially Deadly Seizures of Every Firearm Before Any Court Decides Whether the Constitution Permits Such Abrupt, Forced Disarmament

The challenged extreme risk protection order law—also known as a red flag law—permits Massachusetts to revoke a citizen's firearms licenses and seize every firearm and round of ammunition without any criminal charge or conviction. (App.192a–193a, 199a). An order may last up to one year and may be renewed without limit. (App.199a). Petitioners challenged that disarmament under the Second Amendment. (App.192a–193a).

The law permits that deprivation when a citizen "poses a risk of causing bodily injury to self or others" by possessing firearms or ammunition. Yet it does not say what conduct demonstrates that risk. Ordinary expressions of frustration, sadness, anxiety, disagreement, or enthusiasm for shooting guns could be treated as enough. (App.201a–202a). Citizens cannot know what lawful conduct will trigger an order, when one will arrive, or whether the resulting disarmament

will ever end. Petitioners challenged that vagueness under the Due Process Clause. (App.199a–202a).

The law even reaches beyond forced disarmament: it authorizes disclosure of a person's otherwise protected health information without that person's consent. G.L. c. 140, § 131X(d)–(e).

The law's dangers extend further still. Research cited in Petitioners' complaint found no significant effect on murder, suicide, mass-public-shooting deaths, robbery, aggravated assault, or burglary—and some evidence that rape rates rise. Other cited research found the rate at which police kill subjects of these orders substantial compared with the murder rate. (App.192a).

Those potentially deadly enforcement encounters also present the Fourth Amendment question Justice Alito anticipated. After specifically citing Massachusetts's law, he observed: "Provisions of red flag laws may be challenged under the Fourth Amendment, and those cases may come before us." *Caniglia v. Strom*, 593 U.S. 194, 202 (2021) (Alito, J., concurring). Petitioners did exactly that by challenging the law's searches and seizures under the Fourth Amendment. (App.196a).

Yet the Massachusetts courts adjudicated none of these claims.

This law may disarm law-abiding citizens through potentially deadly police encounters without reducing the violent crimes invoked to justify it. Under the judgment below, a citizen may have to survive such an encounter before a court will decide whether the Constitution permits these unpredictable invasions and forced disarmament.

V. Courts Elsewhere are Also Denying Adjudication of Federal Constitutional Rights by Adding Requirements This Court Does Not Impose and Elevating Dicta Over Its Holdings

The barriers imposed here are particularly acute, but Massachusetts is not alone. Recent federal and state appellate decisions show the same methods recurring nationwide—dividing federal courts, placing state courts at odds with this Court, and sometimes remaining hidden in unpublished dispositions.

A. Some Courts Recognize That a But-for Allegation is Enough. Others Demand Detailed Plans to Violate the Challenged Law

The First Circuit's recent decisions applied different demands in different procedural settings. In *O'Neil v. Canton Police Department*, after charges arising from the plaintiffs' earlier protest were dismissed for lack of probable cause, the court dismissed their interlocutory appeal as moot because their generalized statements of future intent did not specify their future speech, its context or circumstances, or a credible threat of renewed prosecution. 116 F.4th 25, 35–37 (1st Cir. 2024). Months later, *Capen v. Campbell* held that a plaintiff's allegation that he would acquire prohibited arms but for the challenged law and its threatened enforcement was sufficient: "That is enough." 134 F.4th 660, 673 (1st Cir. 2025).

Mirroring the Appeals Court in this case, the Ninth Circuit recently demanded still more. In *Yergler v. City of Eugene*, it affirmed summary judgment against pre-enforcement First Amendment claims because the plaintiffs had not specified "when, to whom, where, or

under what circumstances" they intended to speak. No. 25-953, mem. at 2–6 (9th Cir. May 11, 2026).

Yergler also shows how these demands can appear in unpublished dispositions. Its disposition was unpublished and nonprecedential, as was the Appeals Court's disposition here. Although *Yergler* permitted the plaintiffs to amend, it affirmed summary judgment for lack of standing under that heightened specificity requirement. Publication status makes such requirements harder to detect—even when they have already defeated the claims as pleaded.

The result is a moving target. A plaintiff may satisfy this Court's standing requirements yet be turned away because a panel demands facts this Court never required.

B. The Error *Caetano* Rejected Persists: Courts are Using Dicta to Override This Court's Holdings and Essential Reasoning, Defeating Federal Constitutional Rights Claims Nationwide

This Court has drawn a simple line between what in its opinions binds lower courts and what does not.[1] A holding and its essential reasoning—the *ratio decidendi*—bind. Dicta may inform a court's analysis, but it may not displace either. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 419 (2024) (Gorsuch, J.,

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[1] That line has endured for more than two centuries. *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264, 399–400 (1821) ("[G]eneral expressions, in every opinion, are to be taken in connection with the case in which those expressions are used. If they go beyond the case, they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision.").

concurring); also *Bucklew v. Precythe*, 587 U.S. 119, 136 (2019) ("[J]ust as binding as [a] holding is the reasoning underlying it").

Yet the First Circuit has blurred that line. It says federal appellate courts are "bound by the Supreme Court's considered dicta almost as firmly as by the Court's outright holdings." *United Nurses & Allied Professionals v. NLRB*, 975 F.3d 34, 40 (1st Cir. 2020). It recently carried that formulation into Second Amendment cases, describing *Heller*'s discussion as "dicta that we are not free to disregard." *United States v. Vizcaíno-Peguero*, 175 F.4th 34, 40–41 (1st Cir. 2026). And in the § 1983 action *Beckwith v. Frey*, the court used *Bruen* footnote 9 to remove a waiting-period law from *Bruen*'s governing historical inquiry. 171 F.4th 560, 564, 570–574 (1st Cir. 2026).

The Fourth Circuit also crossed the same line openly. It acknowledged that *Bruen* footnote 9 was dicta, declared itself "not free to ignore" it, and used that dicta to presume a licensing law constitutional without requiring the government to satisfy *Bruen*'s historical test. *Maryland Shall Issue, Inc. v. Moore*, 116 F.4th 211, 219–229 (4th Cir. 2024) (en banc).

In September 2026, the *Bruen* footnote 9 conflict became unmistakable. In *Elite Precision Customs L.L.C. v. ATF*, the Fifth Circuit held that once an acquisition restriction burdens conduct covered by the Second Amendment, the law is presumptively unconstitutional, and the government must satisfy the historical test required by *Bruen* and *Wolford*: "There is no middle ground." No. 25-11206, slip op. 6–10 (5th Cir. Sept. 18, 2026). The court refused to let non-holding language concerning commercial conditions exempt a purchase ban from this Court's governing framework.

Yet four days later, the en banc Ninth Circuit treated *Bruen* footnote 9 as an "apparent carve-out," presumed Hawaii's acquisition and inspection requirements constitutional, and required the plaintiffs to prove that those requirements had been put toward "abusive ends." *Yukutake v. Lopez*, No. 21-16756, slip op. 13–21 (9th Cir. Sept. 22, 2026) (en banc). Although the challenged laws differed in degree, the courts' methods cannot be reconciled. *Elite Precision* applied this Court's holdings and placed the historical burden on the government. *Yukutake* used a footnote to bypass that inquiry and placed a new burden on the plaintiffs.

The *Yukutake* majority expressly invited this Court to "make clear which analysis it thinks is correct." *Id.* at 21. Its dissent identified the error: "We err when we cast aside *Bruen*'s holdings for a few clarifying statements in one of its thirty-two footnotes." *Id.* at 26 (R. Nelson, J., dissenting).

The same dicta-over-holding dispute now defeats § 1983 claims outside the Second Amendment. In *Wilson v. Midland County*, the en banc Fifth Circuit barred a noncustodial plaintiff's § 1983 Due Process claim because she had not first overturned her conviction. 116 F.4th 384, 387–394 (5th Cir. 2024) (en banc). Six dissenting judges explained that extending *Heck v. Humphrey*, 512 U.S. 477 (1994), to such a plaintiff rested on footnote 10—"the very quintessence of dicta"—although this Court had never "settle[d] the issue." *Id.* at 407–408 (Willett, J., dissenting).

The question is not whether courts may consider this Court's dicta, but whether they may use it to override this Court's holdings and their *ratio decidendi*. *Elite Precision* refused that substitution. Yet *Yukutake*, *Maryland Shall Issue*, and *Beckwith* employed it, and

six dissenting judges concluded that *Wilson* did too. The Appeals Court also expressly relied on dicta, using *Bruen* footnote 9 to bypass *Murdock*'s holding. *Supra* § I.F. That is the *Caetano*-on-repeat error—still defeating federal constitutional rights claims across the country.

C. The Hierarchy Error Extends Beyond Massachusetts: State Appellate Courts are Applying Contrary State Precedent Instead of This Court's Governing Precedents to Defeat Federal Constitutional Claims

In *Bearden v. Wisconsin Department of Agriculture, Trade & Consumer Protection*, landlords brought federal Due Process Clause challenges to regulations carrying criminal penalties. No. 2024AP1176, ¶¶ 5, 7 (Wis. Ct. App. July 2, 2025) (per curiam). They invoked *Johnson v. United States*, 576 U.S. 591, 602 (2015), which held that a vague provision does not become constitutional merely because "there is some conduct that clearly falls within [its] grasp."

Petitioners invoked the same decision and the same constitutional doctrine. Their operative amended complaint relied on *Johnson* to challenge Massachusetts's extreme-risk-protection-order law for failing to provide fair notice and inviting arbitrary enforcement. (App.199a–202a); *supra* § IV.E.

In *Bearden*, the Wisconsin Court of Appeals nevertheless declared: "Even if we agreed with Appellants' reading of *Johnson*, we would still be bound to follow state precedent." *Bearden*, ¶ 10. It then applied that state precedent and rejected the federal claims. *Ibid.*

Bearden thereby exposes the same hierarchy error committed here. Both appellate courts used state precedent to displace this Court's governing precedents and defeat the plaintiffs' federal constitutional claims.

VI. This Case Presents the Full Array of Barriers in a Clean Posture; Delay Leaves Law-Abiding Citizens Exposed to Potentially Deadly Harms

The issue could scarcely arrive in a cleaner posture. This case was dismissed on the pleadings, when a judge "must accept as true all of the factual allegations contained in the complaint." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam). The federal issue presented here was preserved at every stage, and the judgment is final. Nothing remains to be discovered, tried, or resolved before this Court answers the question presented.

The case also reveals the full reach of the problem. The Superior Court and Appeals Court used the extensive barriers they invented to dismiss claims under four federal constitutional guarantees and block parallel claims even under Massachusetts's more liberal standing requirements. If those barriers stand, nearly any constitutional right enforced through § 1983 can be placed beyond adjudication.

Justice Thomas, joined by Justice Alito on this point, recently identified that kind of consequential lower-court error as warranting this Court's intervention: "This Court routinely declines to provide relief to law-abiding Americans when it would actually matter, even after lower courts conspicuously flout this Court's precedents in ruling against them." *Whitton*

v. Dixon, 608 U.S. 493, 507–508 (2026) (Thomas, J., dissenting).

Relief matters here because the invasive and hazardous laws remain in force. Their dangers to law-abiding citizens are ongoing. Waiting for another vehicle means leaving those citizens exposed to potentially deadly harms.

This Court need not await a series of future cases to correct these barriers piecemeal. This case presents them together, shows their reach, and enables this Court to reject them nationwide in a single decision.

CONCLUSION

May law-abiding citizens challenge laws burdening their federal constitutional rights? This Court says the answer is yes, nationwide. Yet 250 years after our Nation's founding, the Massachusetts courts insist the answer must be no—and treat that end as justifying their means.

Petitioners therefore respectfully ask this Court to grant the petition and summarily reverse in a per curiam opinion reaffirming the principle enforced in *Caetano* and making four points clear with respect to federal constitutional claims brought under § 1983:

1. Courts must apply this Court's governing holdings and the reasoning essential to them. They may not displace them with dicta, contrary state-court precedent, or other noncontrolling authority.

2. Courts may not foreclose such claims by adding requirements or applying inapposite decisions.

3. In pre-enforcement cases, an injury need not be unique to the plaintiffs, and a credible threat of enforcement need not be express or directed personally to each plaintiff.

4. In pre-enforcement cases, courts may not require plaintiffs to plead particular future dates, locations, reasons, or needs for exercising their constitutional rights.

The judgment should be reversed with costs as provided by Rule 43, and the case remanded for merits adjudication of Petitioners' § 1983 claims under the governing authorities.

Respectfully submitted,

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October 15, 2026 *Petitioners Pro Se*