No. 20-843

In the
Supreme Court of the United States

NEW YORK RIFLE & PISTOL ASSOCIATION, INC., ROBERT NASH, BRANDON KOCH,

Petitioners,

v.

KEVIN P. BRUEN, in His Official Capacity as Superintendent of the New York State Police, RICHARD J. MCNALLY, JR., in His Official Capacity as Justice of the New York Supreme Court, Third Judicial District, and Licensing Officer for Rensselaer County,

Respondents.

On Writ of Certiorari to the U.S. Court of Appeals for the Second Circuit

BRIEF FOR PETITIONERS

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[12-15-2021]

QUESTION PRESENTED

Whether the State's denial of petitioners' applications for concealed-carry licenses for self-defense violated the Second Amendment.

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FACTS

New York enacted the Sullivan Act in 1911. The law states that to obtain a handgun permit, the applicant must "demonstrate a special need for self-protection distinguishable from that of the general community or of persons engaged in the same profession."

In September of 2014, Robert Nash and Brendan Koch of New York separately applied for a concealed carry permit, and both were denied.

Robert Nash cited a number of recent robberies in his neighborhood in Rensselaer County and his completion of an advanced firearms safety course as his "special need for self-protection." Despite this, he was granted a permit to carry a concealed gun only for hunting purposes. The licensing official, Richard J. McNally, Jr., wrote to Nash, saying, "I emphasize that the restrictions are intended to prohibit you from carrying concealed in any location typically open to and frequented by the general public." Nash had nonresident concealed-carry permits in four states that effectively permitted him to carry a gun in thirty-three states.

Brendan Koch also lived in Rensselaer County. He cited his experience in safely handling firearms and the completion of various firearms safety courses as his "need for self-protection." Like Nash, he was denied an unrestricted license. He was only granted a permit "to carry concealed for purposes of off road backcountry, outdoor activities similar to hunting, for example fishing, hiking and camping. And you may also carry to and from work" by McNally, the licensing officer.

Koch and Nash are both members of the New York State Rifle and Pistol Association. Upon being denied unrestricted carry permits, the New York State Rifle and Pistol Association, Nash, and Koch brought a suit against the superintendent of the New York State Police, Beach, and his successor Bruen, as well as Justice McNally, the licensing officer. The District Court of the Northern District of New York dismissed the case. The New York State Rifle and Pistol Association, Nash, and Koch then appealed the case to the United States Court of Appeals for the Second Circuit, where the District Court ruling was affirmed.

SUMMARY OF ARGUMENT

The text of the Second Amendment, along with history, tradition, and precedent, protect the right to keep and bear arms outside of the home for self-defense.

District of Columbia v. Heller recognizes that the text of the Second Amendment establishes an individual right to not only "keep" arms but to also "bear" them for "the core lawful purpose of self-defense." Such a right dates back to the English Bill of Rights and The Blackstone Doctrines, which influenced the creation of the United States Constitution. Previous Supreme Court cases such as *United States v. Miller, District of Columbia v. Heller*, *McDonald v. Chicago*, and *Caetano v. Massachusetts* reaffirm the right to self-defense as central to the Second Amendment and conclude that citizens must be allowed to carry arms for "traditionally lawful purposes." Carrying a handgun outside the home for self-defense is well within tradition.

Although *Heller* did not establish a level of scrutiny to evaluate Second Amendment restrictions under, the Court ruled out rational-basis review. However, the Sullivan Act fails under both strict and intermediate scrutiny because the New York government has failed to provide proof that their licensing law is "narrowly tailored" or "substantially related" to achieving their objective of increasing public safety.

Further, the Sullivan Act is both vague and subject to arbitrary enforcement. As a result, both the

Vagueness Doctrine and the Fourteenth Amendment's Equal Protection Clause should cause the law to be revoked. A law that is unequally applied is prima facie an unjust and unenforceable law.

ARGUMENT

I. The Second Amendment protects the right to carry arms outside the home for self-defense

A. The text of the Constitution protects the individual right to carry arms outside the home

The Second Amendment states, "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. II. To interpret the meaning of the text, the Court is guided by the principle that "[t]he Constitution was written to be understood by the voters," and "its words and phrases were used in their normal and ordinary as distinguished from technical meaning." *District of Columbia v. Heller*, 554 U.S. 570 (2008). Thus, we will look at the text of the Constitution through a similar lens.

In the operative clause, we focus on the phrase "keep and bear Arms," which protects two different rights: "keep" and "bear." Before we get into the distinction between these two verbs, however, we need to define "Arms." The 1773 edition of Samuel Johnson's dictionary defines "arms" as "weapons of offence, or armour of defence." Samuel Johnson, *Dictionary of the English Language* 161 (4th ed. 1773) (reprinted 1978), *cited in Heller*, 554 U.S. 570 (2008). Such a definition holds true today. Therefore, the category of "Arms" protected by the Second

Amendment naturally contains handguns, the most popular gun owned in America.

Samuel Johnson defined "keep" as "[t]o retain; not to lose," and "[t]o have in custody." Samuel Johnson, *Dictionary of the English Language* 161 (4th ed. 1773) (reprinted 1978), *cited in Heller*, 554 U.S. 570 (2008). *Heller* concludes that "keep arms" was "simply a common way of referring to possessing arms, for militiamen *and everyone else*." 554 U.S. 570 (2008).

Contrastingly, "to bear" means "to carry." Such a definition is consistent with Samuel Johnson's dictionary that defines "[b]ear" as "[to] carry…[s]o we say, to *bear* arms in a coat." Samuel Johnson, *Dictionary of the English Language* 161 (4th ed. 1773) (reprinted 1978), *cited in Heller*, 554 U.S. 570 (2008). Additionally, Noah Webster, in the *American Dictionary of the English Language* (1828), defined "[b]ear" as "[t]o wear…to bear arms in a coat." Justice Ginsburg wrote in *Muscarello v. United States* that the "most familiar meaning" of "bear" is to "wear, bear, or carry…upon the person or in the clothing or in a pocket, for the purpose…of being armed and ready for offensive or defensive action in a case of conflict with another person." 524 U. S. 125 (1998) (Ginsburg, J., dissenting). Combining "bear" with "arms" has "a meaning that refers to carrying for a particular purpose—confrontation." *Heller*, 554 U.S. 570 (2008).

The comparison to a "coat" and citing the purpose of carrying arms to be "confrontation" indicate that the Second Amendment protects the right to carry arms outside the home. A "coat" is typically worn outdoors, and "confrontation" is not limited to within the home.

If "keep" means a right limited to within the home, it would have been redundant for the Framers to include a right to "bear arms" that was also limited to within the home. Therefore, the Second Amendment right to carry arms for self-defense clearly extends beyond the home, and confining the right to within the home would conflict directly with the text.

The prefatory clause of the Second Amendment states, "A well regulated Militia, being necessary to the security of a free State." U.S. Const. amend. II. Although it references the militia, the Second Amendment right is still an individual right that does not "not only exercised through participation in some corporate body." *Heller*, 554 U.S. 570 (2008). Additionally, *Heller* writes that "it is…entirely sensible that the Second Amendment's prefatory clause announces the purpose for which the right was codified: to prevent the elimination of the militia." 554 U.S. 570 (2008).

Thus, considering both the prefatory clause and operative clause, the Second Amendment secures the right to carry arms outside the home for self-defense.

B. History and tradition validate the Second Amendment's right to bear arms

The right to bear arms outside the home has a long history that predates the Constitution. It originates in Article VII of the English Bill of Rights that proclaims, "the subjects which are Protestants may have arms for their defence suitable to their conditions and as allowed by law." *Heller*, 554 U.S. 570 (2008) (quoting 1 W. & M., ch. 2, §7, in 3 Eng. Stat. at

Large 441). The right was strengthened by Sir William Blackstone in his *Commentaries on the Law of England* (1765) who wrote that one of the key rights of subjects was "that of having arms for their defence, suitable to their condition or degree, and such as are allowed law." William Blackstone, *Commentaries on the Laws of England* 139-40 (1765). The right to self-protection was not created during the writing of the American Constitution—it is a right that has been long understood and respected.

The Founding Fathers did not rely solely on British law and philosophy as the underpinnings of the Second Amendment. The colonies had a long history of gun rights to build upon. For example, the 1739 South Carolina Security Act mandated that white planter class males would carry muskets to church on Sundays. While this law was discriminatory in the extreme, the idea that self-defense needs superseded even sacred spaces is important to the understanding of the precedents going into the Second Amendment.

We acknowledge that the right to bear arms has always been subject to some limitations. The Statute of Northampton from 1328 is the first example of weapons limitation, stating that nobody "except the King's servants in his presence" will "go nor ride armed by night nor by day" in fairs, markets "nor in no part elsewhere." 1328 Statute of Northampton, 2 Edw. 3 (Eng. 1328). Even the English Bill of Rights limited its ownership of weapons to Protestants. However, over time, the importance of self-defense has overtaken the importance of limitations on who can carry arms. The Second Amendment specifies that the right to bear arms is for "the people," and there is no

limiting commentary on particular "people." In 1866, Senator Jacob Howard called out the importance of "a right appertaining to each and all the people, the right to keep and bear arms" as particularly important. Adam Winkler, "The Secret History of Guns," The Atlantic, (September 2011).

For instance, in 1858, Massachusetts created a weapon law which became a model for seven different states which emphasized legal carrying of a weapon for self-defense. The essential rule stated that "[i]f any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property, he may on complaint of any person having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace" (from Saul Cornell, The Right to Carry Firearms Outside the Home: Separating Historical Myths from Historical Realities, 39 FORDHAM URB. L.J. 1695, 1719-26 (2012)). Carrying a gun for self-defense was acceptable as long as that was the purpose of carrying it. Some states went even further in expanding the right to carry weapons. California allowed all weapons as long as they were being carried openly. A correspondent with the San Francisco Alta California rationalized open carry, stating, "if the people consider it necessary for their safety and protection to carry pistols or bowie knives, or muskets, or even six pound brass field pieces, let them carry them [openly], for the Constitution of the United States guarantees to the people the right to keep and

bear arms" (Concealed Weapons, ALTA CAL. (S.F.), June 1, 1854, at 2.)

While some reasonable limitations remain, courts have steadily struck down overly broad prohibitions. Such reasonable limitations include prohibitions on the carrying of firearms in sensitive places such as courthouses, and carrying firearms while intoxicated. See, e.g., *State v. Reid*, 1 Ala. 612, 619 (1840); *State v. Chandler*, 5 La. Ann. 489, 490 (1850); *State v. Shelby*, 2 S.W. 468, 469 (Mo. 1886); *State v. Kerner*, 107 S.E. 222, 225 (N.C. 1921). The courts have routinely and consistently overturned broad prohibitions against the public carrying of weapons that constitute "arms" within the meaning of the Second Amendment, expanding the fundamental right contained therein. (*Wilson v. State*, 33 Ark. 557, 559–60 (1878); *Nunn*, 1 Ga. at 243; *In re Brickey*, 70 P. 609 (Idaho 1902); *Kerner*, 107 S.E. 222; *Andrews v. State,* 50 Tenn. (3 Heisk.) 165 (1871); *State v. Rosenthal*, 55 A. 610 (Vt. 1903); see *Reid*, 1 Ala. at 619; *Chandler*, 5 La. Ann. at 490.)

C. Precedent confirms the right to carry arms outside the home for self-defense

In *United States v. Miller*, 307 U.S. 174 (1939), this Court ruled that the Second Amendment does not protect the possession of a sawed-off double barrel shotgun. However, *Heller* deemed the ruling in *Miller* as "not only consistent with, but positively suggests" that "the Second Amendment confers an individual right to keep and bear arms" because *Miller* applied the Second Amendment to the "type of weapon at issue." Thus, the Court determined *Miller* to be a

limitation of the Second Amendment on protecting "those weapons not typically possessed by law-abiding citizens for lawful purposes," not a thorough dissemination of the Second Amendment. *Heller*, 554 U.S. 570 (2008).

Heller establishes that the "inherent right of self-defense" as "central to the Second Amendment right" of carrying arms not associated with service in a militia. Further, such an arm could be used for "traditionally lawful purpose." 554 U.S. 570 (2008). *McDonald v. City of Chicago*, 561 U.S. 742 (2010) reaffirms that "individual self-defense is 'the central component' of the Second Amendment right' and that 'citizens must be permitted to 'use handguns for the core lawful purpose of self-defense." As illustrated by history, carrying guns outside the home for self-defense in case of confrontation is well within tradition. While *Heller applies* such a right to within the home, it does not limit the right to *just* the home. A right to self-defense has always applied to outside the home, thus it would only be reasonable to interpret the Second Amendment as applying beyond the home.

Further, the argument that the *Heller* opinion should not "cast doubt on longstanding prohibitions…or laws forbidding the carrying of firearms in sensitive places" would not have made sense under the starting assumption that there is no right to carry arms outside the home. 554 U.S. 570 (2008). Similarly, *Caetano v. Massachusetts,* 577 U.S. 411 (2016) regarded Caetano's use of her stun gun "outside" on her abusive ex-boyfriend. By carrying the stun gun, Caetano was "able to protect against a physical threat that restraining orders had proved

useless to prevent." If the right to carry arms outside the home was not protected by the Second Amendment, it would not have been sensible for the Court to reverse the Massachusetts Supreme Judicial Court's decision.

Thus, the Second Amendment confers a right not only to "keep arms" at home, but also to "bear arms" outside the home for the core purpose of self-defense.

II. New York's regulations on concealed carry violate the Second Amendment

New York's licensing law does not satisfy means-end scrutiny. The Second Amendment should not be argued under rational-basis review, as *Heller* explicitly eliminated rational-basis review when looking at the Second Amendment. This Court stated that if "all that was required to overcome the right to keep and bear arms was a rational basis, the Second Amendment would…have no effect." Therefore, the New York licensing law should not be examined under such a level of scrutiny.

Heller also declined "to establish a level of scrutiny for evaluating Second Amendment restrictions." 554 U.S. 570 (2008). However, under both intermediate and strict scrutiny, the New York law would fail. We acknowledge that *Heller* states that the opinion should not "cast doubt on longstanding prohibitions…or laws forbidding the carrying of firearms in sensitive places." 554 U.S. 570 (2008). However, the way strict scrutiny treats laws as presumptively invalid does not clash with the Court's

recognition of "longstanding prohibitions." Similarly, the First Amendment, which is most often reviewed under strict scrutiny, still faces regulations. Per the definition of strict scrutiny, these regulations must demonstrate a "compelling state interest" and that it is "narrowly tailored" to the government's goal. In the same way, evaluating the Second Amendment under strict scrutiny would still allow prohibitions as long as they meet the standard, which balances the importance of the fundamental constitutional right with governmental goals. Under strict scrutiny, it is clear that the New York law is not "narrowly tailored," and thus it would fail.

The New York law would even fail under intermediate scrutiny, which is less demanding than strict scrutiny. While we acknowledge a legitimate government interest in public safety, the government has failed to prove that New York's licensing law is "substantially related" to achieving their objective. In both intermediate and strict scrutiny, it is the government's burden to prove this, and they have failed to do so.

There is a wealth of data regarding regulations on keeping and bearing arms and their effect on public safety. John R. Lott gathered and analyzed data from 1977 to 1992, releasing "More Guns, Less Crime" in 2010 that included data through 2005. He wrote of "large drops in overall violent crime, murder, rape, and aggravated assault that begin right after the right-to-carry laws have gone into effect." Further, the "murder rate for these right-to-carry states fell consistently every year relative to non-right-to-carry states,"

starting at 6.3 per 100,000 people and declining to 5.2 after 9 to 10 years after the law.

Concealed-carry permit holders in America are not the ones accounting for a majority of the crime in America. The Violence Policy Center's data demonstrated that "America's 18 million concealed-carry permit holders accounted for 801 firearm-related homicides over a 15-year span…roughly 0.7% of all firearm-related homicides during that time." Additional data indicates that permit holders are most often law-abiding, usually having to pass checks to be issued the license and having lower rates of crime compared to those without licenses. The "proper cause" requirement that decreases the number of licenses therefore does not limit the violence attending handgun misuse. Instead, it inhibits carrying handguns for lawful self-defense by law-abiding citizens.

There is also evidence that indicates that shall-issue regimes lead to an increase in victim safety. In 2015, the Crime Prevention Research Center reported that the number of concealed handgun permits grew from "4.6 million in 2007 to over 12.8 million" in 2015. Between 2007 and 2014, murder rates were reported to have "fallen from 5.6 to 4.2 (preliminary estimates) per 100,000," about a 25 percent drop. The murder rate in 2014 was reported by the FBI to be 4.5 per 100,000, and while that was higher than estimated by the study, it is still around a 25 percent drop. In particular, Arizona had a licensed concealed carry regime in 1994. The same year, the state had 10.5 murders per 100,000 people, as reported by the Uniform Crime Reports from the FBI. In 2016, 6 years after Arizona

implemented a right-to-carry regime for all law-abiding citizens, even without a license, the murder rate was at 5.5 per 100,000. Numerous studies have demonstrated that carrying a firearm improves the outcome for victims. In *Priorities for Research to Reduce the Threat of Firearm-Related Violence*, the National Research Council concluded that "found consistently lower injury rates among gun-using crime victims compared with victims who used other self-protective strategies." Such a conclusion is logical, and additionally, surveys indicate that a majority "of defensive gun uses take place outside the home." Specifically, in the 2021 National Firearms Survey, the number was 74.8 percent.

While we are aware of the existence of opposing data, we are not utilizing the data we presented to conclude that shall-issue regimes definitively lead to increased victim safety or that the regimes are the sole factor of decreased crime. The purpose of the included data is also not to demonstrate that there is no correlation between gun regulations and public safety or to claim that data supporting the respondents is invalid. Instead, the data demonstrates that there has been no proven causation or even correlation between may-issue regimes with a "proper cause" requirement and greater public safety.

The National Research Council and Community Preventative Services Task Force (established by the U.S. Department of Health and Human Services) conducted reviews of the scientific literature on the effects of gun policy. These two reviews reached nearly identical conclusions: the evidence was insufficient, and none of the different arguments were convincing.

The 2004 National Research Council pointed to "sensitivity of the empirical results to seemingly minor changes in model specification" and "statistical imprecision" as reasons why there was no adequate indication of "either the sign or a magnitude of a casual link between the passage of right-to-carry laws and crime rates." They pointed to flaws still prevalent today: an inadequate sample size of only 50 states, numerous unaccounted variables, and insufficiently strong research.

Such studies and reviews have revealed that the data is inconclusive, thus the New York government is unable to prove that their licensing regime is "substantially related," much less "narrowly tailored," to their goal of greater public safety.

Additionally, New York's "proper cause" law is not akin to the time, place, and manner regulations of expression that the Court has deemed constitutional under intermediate scrutiny. Under *Ward v. Rock Against Racism*, 491 U.S. 781 (1989), this Court outlined a three-pronged test for these restrictions: the regulation must be "content-neutral," it must be "narrowly tailored" to serve a significant governmental interest, it must leave open ample alternative channels for communicating the speaker's message. The "proper cause" law is not "narrowly tailored," and, unlike these restrictions that are evaluated and implemented under objective standards, the New York law requires an atypical need to practice a fundamental right.

As stated in *Kachalsky v. City of Westchester*, 701 F.3d 81 (2d Cir. 2012), the law requires a very high

standard that someone must "demonstrate a special need for self-protection distinguishable from that of the general community or of persons engaged in the same profession." For New York residents, a "generalized desire to carry a concealed weapon to protect one's person and property does not constitute 'proper cause.'" *Kachalsky*, 701 F.3d 81 (2d Cir. 2012). Someone must distinguish themselves as more deserving than the rest of their fellow law-abiding citizens in order to carry arms outside their home. Contrastingly, the Second Amendment protects a right to keep and bear arms for "the People," which leads to a "strong presumption that the Second Amendment right is exercised individually and belongs to all Americans." *Heller*, 554 U.S. 570 (2008). According to New York Attorney General Letitia James, only around 65% of the applicants for an unrestricted permit in New York receive one. The Second Amendment right is a baseline assumption, not an exception that requires the subjective judgement of a government official. Requiring a demonstration of an atypical reason to be entitled to a fundamental, constitutional right excludes "typical" New York residents, violating the Second Amendment.

We agree with *Heller*'s conclusion that nothing in the 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." 554 U.S. 570 (2008). However, restrictions imposed on the Second Amendment should satisfy means-end scrutiny and an additional unique vulnerability standard, which is not at odds with what was

determined in *Heller*. Although we have no interest in litigating the exact specifics of what constitutes a "sensitive place," we can propose a rough standard of unique vulnerability. Unique vulnerability means a uniquely vulnerable population, places where guns present a unique danger, or places where a gun poses a unique threat. The burden of proof on the validity of these regulations, however, would still fall on the government.

III. New York's licensing procedure is unconstitutionally vague

The Fourteenth Amendment guarantees that "no person shall be "deprived of life, liberty, or property without due process of law." U.S. Const. amend. XIV. Thus, every individual has a right to due process. The vagueness doctrine refers to the Court's recognition that due process is violated when the statute at hand is written so vaguely it would lead to arbitrary prosecutions. This precedent has been established in cases such as *FCC v. Fox Television Stations, Inc*, 556 U.S. 502 (2009), where the Court ruled that since the FCC had a policy of allowing "fleeting" instances of indecency, Fox had no way of knowing that two uses of swear words during live broadcasts would count as more than "fleeting" and result in fines. "Fleeting" was too vague a term and thus deprived Fox of its due process rights.

In regards to the New York law, the question is what exactly would constitute "proper cause." New York defines the term as demonstrating a "special need for self-protection distinguishable from that of

the general community." However, such a definition leaves many unanswered questions about what determines a "special need." While past reasons for citizen's receiving and not receiving licenses provide some context, the phrase is never clearly defined.

The vagueness around what constitutes "special need" has resulted in judges within the same county ruling differently on similar cases regarding who should have unrestricted licenses. Online forums are a hotbed of discussion for potential gun owners moving to New York. Many of their conversations focus on discussing which specific judges are known to be more lenient compared to others. Although forums are not a scientific method of evaluating which county is actually more lenient (an impossible task as the state of New York has not released gun ownership statistics), we can see from the internet that there is a strong perception of disparity in attaining a permit that is dependent on the judge. Thus, while these forums do not provide concrete evidence of unequal application, they do demonstrate that the New York law is too vague for consistent application.

New York courts have attempted to bring some clarity to the issue, but they have failed to bring clarification to the law. For example, living or being employed in a "high crime area." *In re O'Connor*, 585 N.Y.S.2d 1000, 1003 (N.Y. Cty. Ct. 1992), and *Martinek v. Kerik*, 743 N.Y.S.2d 80, 81 (N.Y. App. Div. 2002) does not merit a need for protection. People whose jobs require them to "carry large amounts of cash in areas 'noted for criminal activity.'" *Bernstein v. Police Dep't of City of New York*, 85 A.D.2d 574, 574 (N.Y. App. Div. 1981); see also, e.g., *Theurer v. Safir,*

254 A.D.2d 89, 90 (N.Y. App. Div. 1998) also do not merit protection. Thus, the question remains of what circumstances constitute a "special need." The law also does not answer the question of what constitutes the "general community" from which someone's need must be distinguished. Thus, given how unclear the language of the New York statute is, it is patently in violation of the vagueness doctrine and cannot be considered valid.

There is a particular danger to unequal application made possible by vagueness in gun laws. Historically, this lack of equal protection allowed for extreme inequality in gun rights, particularly regarding the racism that trumped impartiality and unconstitutionally, preventing people's ability to practice their Second Amendment right. In *Waters v. State in Maryland*, *Cooper v. Mayor of Savannah*, and a host of other cases and laws predating the Civil War (*State v. Newsom* 1844, Maryland Dec. 1831 Act, Florida Jan. 1831 Act, Georgia Dec. 23, 1833 Act, Mississippi March 15, 1852 Act), restrictions on ownership of guns by "free persons of color" were common as the white population feared rebellion. These laws were followed by the Reconstruction Black Codes such as the 1865 Mississippi Act to Regulate the Relation of Master and Apprentice Relative to Freedmen (Certain Offenses of Freedmen, 1865 Miss. Laws p. 165, § 1), which prohibited Black people from owning firearms, ammunition, dirks, or bowie knives. These laws were eventually and correctly overturned. However, the history of these laws points to the necessity of clarified laws that ensure equal protection and due process.

CONCLUSION

For the foregoing reasons, this Court should reverse.

Respectfully submitted,

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