Case No. 2018-1234

IN THE
In the Supreme Court of the United States

Alexandra Hamilton,

Petitioner,

v.

County of Burr and Joan Adams,

Respondents.

On Writ of Certiorari
To the United States Court of Appeals
for The Fourteenth Circuit

BRIEF FOR PETITIONER

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QUESTIONS PRESENTED

I. Does the individual right to possess firearms extend beyond the home?

II. If so, is the good cause requirement a permissible limitation on an individual's right to possess a concealed firearm in public?

PARTIES TO THE PROCEEDINGS

Petitioner, Alexandra Hamilton, was the plaintiff before the United States District Court for the Eastern District of Columbia, and the appellee before the United States Court of Appeals for the Fourteenth Circuit.

Respondents, County of Burr and Joan Adams, were the defendants before the United States District Court for the Eastern District of Columbia, and the appellants before the United States Court of Appeals for the Fourteenth Circuit.

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CITATIONS TO THE OPINIONS BELOW

The United States District Court for the Eastern District of Columbia's Opinion and Order Granting Petitioner's Motion for Summary Judgment is unpublished. (R. at 7). The United States Court of Appeals for the Fourteenth Circuit's Opinion and Order reversing the lower court's decision is unpublished. (R. at 14).

STATEMENT OF JURISDICTION

The court of appeals entered judgment on July 1, 2017. (R. at 19). Petitioner timely filed a Petition for Writ of Certiorari which was granted on November 13, 2017. (R. at 20). This Court's jurisdiction rests on 28 U.S.C. § 1254(1) (2012).

STANDARD OF REVIEW

This Court reviews a district court's fact findings for clear error and its legal conclusions de novo.

PROVISIONS INVOLVED

"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.

Columbia Penal Code § 900 (2015).

STATEMENT OF THE CASE

Alexandra Hamilton's ("Hamilton") son was severely beaten and robbed during a violent home invasion in the home they share. (R. at 3). As a result of the attack, Hamilton's son sustained permanent spinal injuries which required extensive rehabilitation treatment. (R. at 3). The attacker was subsequently captured, convicted, and sentenced to five years in prison. (R. at 3). Although she was not present during the incident, Hamilton developed a paralyzing fear of men with tattoos, who reminded her of her son's attacker. (R. at 3). Hamilton, a fifty-six-year-old single mother, regularly works the night shift as a front desk receptionist at the Trenton Motel. (R. at 3). Despite therapy, she continued to fear home invasions and possible attacks, particularly at the motel where she often works alone. (R. at 3).

Emotionally affected by the incident, Hamilton applied for a Permit to Carry a Concealed Weapon ("CCW Permit"). (R. at 24). In order to qualify for a permit, Columbia requires applicants to demonstrate "good cause" before issuing a handgun permit. (R. at 21). After completing the required firearms training course, a thorough background check, and demonstrating that she or a family member was in harm's way, Columbia granted Hamilton's CCW Permit. (R. 25).

One evening, Hamilton accompanied her son to his rehabilitation treatment. (R. at 4). While Hamilton stood alone outside the rehabilitation facility, George Cornwallis, a thirty-three-year-old man with tattoos and facial piercings, approached her seeking directions to the facility's inpatient wing. (R. at 4). Fearful and startled by the man's striking resemblance to her son's attacker, Hamilton retrieved her concealed pistol and pointed it at Cornwallis, but did not fire. (R. at 4). Cornwallis, a trained off-duty police officer, disarmed Hamilton. (R. at 4). Because Hamilton inadvertently left her CCW Permit at home, she was cited for failing to produce proper

identification in violation of CPC § 900.1(C). (R. at 4). Burr County ("the County") subsequently revoked Hamilton's permit. (R. at 4).

Hamilton subsequently sued the County in the United States District Court for the Eastern District of Columbia. (R. at 2–6). In her complaint, Hamilton vehemently argued that Columbia's good cause statute violated her Second Amendment right to keep and bear arms. (R. at 4). Agreeing with Hamilton, the district court granted her motion for summary judgment, holding that the good cause requirement is unconstitutional. (R. at 12). The County appealed to the Fourteenth Circuit Court of Appeals. (R. at 14). On appeal, the Fourteenth Circuit reversed the district court's decision. (R. at 14–19). Hamilton filed a petition for writ of certiorari with this Court which was rightfully granted. (R. at 20).

SUMMARY OF THE ARGUMENTS

The right to keep and bear arms for the purposes of self-defense is a fundamental right guaranteed by the Second Amendment. However, this Court has not clarified whether the right to carry firearms extends beyond the home. Nevertheless, the thorough textual, and historical exegesis in *Heller* and recent circuit court decisions, confirms that an individual's right to self-defense is not confined to the home. The plain meaning of the right to "keep and bear arms" simply means to "carry" and "possess" weapons in case of confrontation. As *Heller* noted, the Framers feared the possibility of federal tyranny and demanded on adopting the Bill of Rights before ratifying the Constitution. Including the Second Amendment in the Bill of Rights empowered the people from the possibility of government tyranny. Additionally, self-defense is a "central component" entrenched within the Second Amendment, and any attempt to impede that right violates the Constitution.

Columbia's good cause requirement infringes on core Second Amendment conduct. Statutes and regulations that impermissibly encroach on constitutional protections are subject to different standards of review. However, because Columbia's good cause requirement creates a substantial burden on Second Amendment conduct, it is a complete ban. And complete bans always fail any level of scrutiny. Even if Columbia's good cause requirement is not a ban, it unquestionably infringes on a core component of the Second Amendment and fails strict scrutiny. Furthermore, Hamilton's need to defend her son and herself greatly outweighs any State interest and fails the intermediate scrutiny test. Accordingly, Columbia's good cause requirement impermissibly infringes on Hamilton's Second Amendment right, and is unconstitutional.

ARGUMENTS

The Second Amendment provides that "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. This Court has held that the Second Amendment unquestionably protects an individual right to possess a firearm for self-defense, unrelated to militia service. *District of Columbia v. Heller*, 554 U.S. 570 (2008). Two years later, this Court justly declared that the Second Amendment is a protected fundamental right. *McDonald v. City of Chicago*, 561 U.S. 742, 745 (2010). The question remains whether the right to keep and bear arms for self-defense extends beyond the home. *See Wrenn v. District of Columbia*, 864 F.3d 650, 467 (D.C. Cir. 2017). The Second Amendment inarguably protects an individual right to defend himself in public. *See Wrenn*, 864 F.3d at 657; *Woollard v. Gallagher*, 712 F.3d 865 (4th Cir. 2013); *Kachalsky v. County of Westchester*, 701 F.3d 81 (2d Cir. 2012); *Moore v. Madigan*, 702 F.3d

933 (7th Cir. 2012). Furthermore, the Columbia good cause statute impermissibly limits this individual right.

I. THE INDIVIDUAL RIGHT TO POSSESS FIREARMS EXTENDS BEYOND THE HOME.

This Court has held that the right to possess a firearm is a fundamental right guaranteed by the Second Amendment. *McDonald,* 561 U.S. at 745. It is necessary to protect fundamental rights to ensure the protection of individual liberty, free from "restraint or interference of others." *Terry v. Ohio*, 392 U.S. 1, 9 (1968). Additionally, protecting liberty and individual rights is not confined to the home, but must "extend[] beyond spatial bounds." *Lawrence v. Texas*, 539 U.S. 558, 562 (2003); *see also Terry*, 392 U.S. at 9 (opining that the Fourth Amendment unquestionably protects individuals from unlawful search and seizures inside the home and while "walk[ing] down the street"). Although *Heller* posits that the need for defense of self and property is most acute in the home, text, history and precedent illustrate this right also unequivocally applies where these needs are less acute. *See Heller*, 544 U.S. at 628.

A. The Second Amendment Guarantees a Fundamental Right to Keep and Bear Arms for Purposes of Self-Defense.

Traditionally, the Bill of Rights only applied to the Federal Government. *McDonald*, 561 U.S. at 754. However, constitutional amendments preceding the Civil War dramatically altered our federal system. *Id*. By the nineteenth century, this Court held that the Due Process Clause expressly prohibits States from infringing individual Bill of Rights protections. *Id*. at 759. The new standard was whether any of the Bill of Rights protections were fundamental to our Nation's scheme of "liberty and system of justice." *Id.* at 764. Subsequently, this Court held that almost all of the Bill of Rights met the necessary standard of protection. *Id*.

Surprisingly, the Second Amendment was never declared a fundamental right until *McDonald* was decided. *Id.* at 754. To determine whether the Second Amendment is a fundamental right, this Court considered whether that right was deeply rooted in "our Nation's history and tradition." *Id*. at 764. Using a textual and historical analysis, this Court affirmatively answered this question. *Heller*, 554 U.S. at 576.

1. The plain meaning of the "right to keep and bear arms" ensures an individual right to carry and possess weapons in case of confrontation.

The Constitution was written using words and phrases used normally by voters, which provided easy comprehension without the possibility of secrets or technical meanings. *Id*. at 577. The "right to keep and bear arms" suggests distinction between the words "keep" and "bear." *Id*. at 581. "Arms" is defined as "weapons of offense," which were not designed for military use or employed in any military capacity. *Id*. The word "keep" is most understood as "to hold" or retain "in one's power or possession." *Id*. at 582. Thus, a logical reading of "keep arms" is to "have weapons." *Id*. As *Heller* clarified, "keep arms" simply referred to possessing firearms, "for militiamen and *everyone else*." *Id*. at 583.

The term "bear," as understood at the founding, meant to "carry." Additionally, the word "bear," when used in conjunction with "arms," connotes "carrying with a particular purpose." *Id*. The "particular purpose," recognized in *Heller*, is the purpose of individual self-defense. *Id*. at 590. When taken together, the text of the Second Amendment guarantees an individual right to "carry" and "possess" weapons in case of confrontation. *Id*.

2. The second amendment is deeply rooted in our nation's history.

The right to keep and bear arms is an important part of individual freedom that predates the Constitution. *Heller*, 554 U.S. at 603. Historically, rulers narrowly limited the right of the people to keep and bear arms to prevent resistance. *Id*. at 606. The Framers feared the

possibility that a new government would encroach on their right to keep and bear arms and insisted on adopting the Bill of Rights before ratifying the Constitution. *McDonald*, 561 U.S. at 769. The Second Amendment's ratification proposed to empower the people from the possibility of federal usurpation. 554 U.S. at 609. Although the threat of federal tyranny diminished, the right to keep and bear arms remained an essential value for "purposes of self-defense." *McDonald*, 561 U.S. at 770.

Following the Civil War, Congress debated whether newly free slaves were entitled to constitutional protection, including the Second Amendment. 554 U.S. at 614. Southern States frequently disarmed blacks. *Id*. Their inability to defend themselves resulted in many innocent blacks slaughtered by armed white men. *McDonald*, 561 U.S. at 757. Anti-slavery advocates often challenged these injustices by invoking the right to bear arms for self-defense. 554 U.S. at 608. Congress eventually adopted the "Freedmen's Bureau Act" which secured blacks the right to keep and bear arms for the purposes of self-defense. *Id*. at 615–16. The history of the Second Amendment illustrates that the need for self-protection is deeply rooted in our Nation's tradition. *See McDonald*, 561 U.S. 742; *Heller*, 554 U.S. 570.

B. Self-Defense is a Central Component Entrenched Within the Second Amendment.

In *Heller*, this Court emphasized that the right to self-defense is a "central component" within the Second Amendment. *Heller*, 554 U.S. 570. Because *Heller* was limited to the home, a continuing issue exists as to whether the Second Amendment right extends beyond the home. *See Wrenn*, 864 F.3d at 657. A majority of circuits believe the Second Amendment is not confined to the home. 864 F.3d at 657; *Moore*, 702 F.3d 933 (reasoning that although this Court has not explicitly identified a right to carry firearms in public, it is possible to imply such a right); *Woollard*, 712 F.3d 865 (concluding that the Second Amendment exists outside the

home); *Kachalsky*, 701 F.3d 81 (expressing that the Second Amendment must have some application to public possession of firearms).

Recently, the D.C. Circuit struck down the District of Columbia's good cause statute. *Wrenn*, 864 F.3d at 655. In *Wrenn*, the court held that carrying weapons for self-defense falls within the "core" of the Second Amendment, therefore any restriction on that right to carry arms violates the Second Amendment. *Id.* at 657. Similar to Columbia's good cause requirement, the District required applicants to demonstrate a special need for carrying a firearm in public. *Id*. at 656. The court opined that self-defense is not confined to a person's home, but necessary outside the home as well. *Id*. The *Wrenn* Court concluded that the right to keep and bear arms stand equally, giving law-abiding citizens means to exercise each. *Id*. at 663. Similarly, the Seventh Circuit struck down Illinois's version of the good cause requirement. *Moore*, 702 F.3d at 934. In *Moore*, the court addressed the issue of whether the Illinois good cause requirement violated the Second Amendment right to bear arms for self-defense outside the home. *Id.* The court reasoned that the right to keep and bear arms cannot possibly be limited to one's home because confrontations may arise outside the home. *Id*. at 936. Moreover, strictly applying "bearing" arms to one's home would be "awkward usage." *Id*. The court concluded that the right to bear arms insinuates a right to carry a gun outside the home. *Id*.

Hamilton's unfortunate situation exemplifies an individual's need to protect themselves outside their home. *See id*. Hamilton frequently accompanies her son to physical therapy, and she often works the night shift at a motel. (R. at 4); *see Wrenn*, 864 F.3d at 657. Late-night shifts make her vulnerable to unwanted confrontation and the possibility of being attacked. (R. at 4); *see Wrenn*, 864 F.3d at 657; *Moore*, 702 F.3d at 934;. Unfortunately, the County arbitrarily stripped Hamilton's right to defend herself by revoking her CCW Permit. *See id*.

Columbia's good cause requirement demands that applicants foresee the possibility of a future threat, which is inconsistent with the purpose of the Second Amendment. *See Heller*, 554 U.S. 570. Hamilton has a guaranteed right to protect herself with a firearm *before* an attack – not after. *See Wrenn*, 864 F.3d at 663.

II. COLUMBIA'S GOOD CAUSE REQUIREMENT INFRINGES ON AN INDIVIDUAL'S FUNDAMENTAL RIGHT, IS A TOTAL BAN, OR AT LEAST FAILS THE STRICT SCRUTINY TEST.

Regulations challenged under constitutional law are subject to different standards of review depending on the individual right. *Wrenn*, 864 F.3d. at 656. Strict scrutiny, the highest standard, is applied when a law impedes on a specific right enumerated in the Bill of Rights. *United States v. Chester*, 628 F.3d 673, 682 (4th Cir. 2010). The more lenient standard of intermediate scrutiny merely requires courts to consider a substantial link to important governmental interest. *Id*

Although *Heller* did not provide an appropriate standard of review, it left little doubt that courts must evaluate firearm bans and regulations based on "text, history, and tradition," not balancing tests such as "strict or intermediate scrutiny." *Heller v. District of Columbia*, 670 F.3d 1244, 1271 (D.C. Cir. 2011) (Kavanaugh, J., dissenting). Because Columbia's good cause requirement impermissibly bans Hamilton's fundamental right to keep and bear arms for self-defense, no level of scrutiny is warranted. *See id.*

A. Good Cause Requirements Substantially Burden the Second Amendment.

To determine whether a regulation imposes a substantial burden on the Second Amendment, some courts take a two-part approach. *See Woollard*, 712 F.3d 865; *Chester*, 628 F.3d at 680. Courts first consider whether the good cause requirement imposes a burden on conduct falling "within the scope" of the Second Amendment's guarantee. *Chester*, 628 F.3d at

680. If the conduct was understood to be "within the scope" of the right when it was ratified, courts then apply an appropriate form of means-end scrutiny. *Id.*

Columbia residents face significant hurdles when applying for a CCW Permit. CPC § 900. The Second Amendment does not guarantee some *possibility* of self-defense, it secures a right for lawful carrying given the needs of law-abiding citizens. *McDonald*, 561 U.S. 742. This is a right that Hamilton, and other Columbia citizens can never exercise, by the law's very design. *See id*. The right to bear arms is on equal footing with other fundamental rights, and the law must leave responsible, law-abiding gun owners reasonable means to exercise this right. *Id.* at 663. The good cause requirement burdens the rights of typical law-abiding citizens because it leaves no ample alternative for self-protection. *Wrenn*, 864 U.S. at 662.

B. Columbia's Good Cause Requirement Infringes on Core Second Amendment Conduct and Is a Complete Ban.

As previously stated, this Court held that the Second Amendment fully applies to the States under the Fourteenth Amendment. *McDonald*, 561 U.S. at 742.. In *McDonald*, this Court considered whether a Chicago law violated the Second Amendment by prohibiting individuals from possessing a firearm without a registration certificate. *Id*. at 750. Additionally, the Chicago law prohibited registration of most handguns, which effectively banned handgun possession by nearly all Chicago citizens. *Id.* This Court reasoned that the Framers considered the right to bear arms among those fundamental rights necessary to our system of government. *Id*. at 778. Moreover, the Second Amendment is not a "second-class right" subject to rules different from the others in the Bill of Rights. *Id.* at 780.

1. Self-defense is a fundamental right.

Self-defense is an inherent right the County cannot suppress. *Heller*, 554 U.S. at 599. As *Heller* clarified, self-defense is deeply rooted in our Nation's history and long-standing

traditions. *Id*. at 627. In *Heller*, this Court explored the origins of self-defense in English law during colonial times, and when the Bill of Rights was ratified. *Id*. at 601. Many legal systems recognized the right to self-defense as the "central component" of the Second Amendment. *Id*. In fact, many colonial regulations mandated individuals to bear arms for "public-safety reasons." *Id*. *Heller* drew powerful evidence that self-defense is a fundamental right. *Id*. at 603.

Moreover, individuals must be able to protect themselves because police officers are not legally obligated to protect citizens from private assaults. *See Deshaney v. Winnebago Cty. Dep't of Soc. Servs.*, 489 U.S. 189 (1989) (holding that States have no legal duty to protect an individual's life, liberty, or property from private violence.); *see also Town of Castle Rock v. Gonzales*, 545 U.S. 748 (2005) (holding that individuals have no constitutionally protected property interest in having police enforce restraining orders).

In *Gonzales*, an estranged husband violated his restraining order by taking his three children while they played outside their home. *Id*. at 752. Gonzales, the children's mother, contacted the police department but was told there was "nothing they could do." *Id.* Gonzales repeatedly begged the police officers to enforce the restraining order but they ignored her pleas. *Id*. Hours later Gonzales's husband arrived at the police station and opened fire. *Id*. Officers returned fire and killed him. *Id*. Tragically, the three girls were found dead in the cab of her husband's pickup truck. *Id*. Gonzales sued the town of Castlerock for failing to properly respond to her repeated reports that her estranged husband violated the terms of his restraining order. *Id*. at 751. This Court ultimately held that the police officers have no duty to enforce restraining orders. *Id*.

Because the state has no legal duty to protect Hamilton or her son, they cannot deprive her the right to protect herself. *See id*. By requiring Hamilton to demonstrate good cause, the

County is preventing her from doing the very thing the regulation is intended to do – allow law abiding citizens to obtain a CCW Permit for self-defense. CPC § 900. As *Gonzales* illustrates, unwanted confrontations are not limited to the home. *See Gonzales*, 545 U.S. at 751. If there is no guarantee that a police officer will protect Hamilton from a violent attack, the County must allow her to carry a firearm for her own personal defense. *See id*.

2. Columbia's good cause requirement effectively bans law abiding citizens from carrying firearms for self-defense.

Columbia Penal Code § 900.1(E) requires residents to submit their applications to the Commissioner of the Department of Public Safety in the "county where the applicant resides." CPC § 900.1(E). Additionally, the statute provides that the Department of Public Safety "may," at its discretion, further define good cause provisions under CPC § 900.1(F)(4). CPC § 900.1(E). The good cause requirement seeks to control a fundamental right by giving each county the discretion to determine what constitutes "good cause." *See Lawrence*, 539 U.S. at 567. The liberty protected by the Constitution permits individuals to exercise their right to defend themselves. *See id*. The County cannot arbitrarily decide whether individuals can exercise their right to self-defense. *See id*.

The County's justification for limiting law-abiding citizens from exercising their Second Amendment right is indefensible. CPC § 900. The point of the Second Amendment is to ensure that firearms are available to responsible, law-abiding citizens for self-defense. *Wrenn*, 864 F.3d. at 666. Yet, Columbia's good cause requirement bars citizens from ever exercising this right at all. *See id*. The plain language of CPC § 900 evinces a legislative intent to create a system to issue CCW Permits to "prevent criminals from obtaining a permit to carry a firearm, and allow law abiding residents to obtain a CCW Permit." CPC § 900. However, by requiring citizens to establish good cause prior to issuing a permit, Columbia effectively bans law-abiding

citizens — not criminals — from carrying firearms. *See McDonald*, 561 U.S. at 750. And total bans are struck down without applying any level of scrutiny because no analysis could sanction eradication of a fundamental right. *Wrenn*, 864 F.3d. at 665.

Under *Heller*, absolute prohibitions on Second Amendment rights are always invalid. *Heller*, at 570 U.S. 629. Hamilton chose to arm herself with the most popular weapon for self-defense among Americans – a handgun. *See id.* As *Heller* noted, Americans consider the handgun a "quintessential" weapon for self-defense. *Id.* Handgun preference stems from a number of reasons such as: it is easier to store, it is easier to use than long guns, and can be aimed at a burglar with one hand while contacting the police with the other. *Id*. Again, self-defense is at the core of the Second Amendment. *Id*. Yet the good cause requirement prohibits individuals from ever exercising this protected right without first establishing some particularized need. *See id*. Accordingly, the good cause requirement is a ban, and no level of scrutiny is necessary. *See Wrenn*, 864 F.3d. at 665; *Heller*, 554 U.S. at 628–29.

C. Even if the Good Cause Requirement is Not a Complete Ban, the Regulation Burdens the Core of the Second Amendment, and Fails Strict Scrutiny.

Historically, this Court has determined that legislation or government actions which discriminate on the basis of race, national origin, religion, and alienage are subject to strict scrutiny. *See Korematsu v. United States*, 323 U.S. 214 (1944) (holding that courts must subject legal restrictions which curtail civil rights of a single racial group to the most rigid scrutiny). Additionally, strict scrutiny is applied where a "fundamental right" is threatened by law. *See e.g.*, *Loving v. Virginia*, 388 U.S. 1, 11 (1976) (reasoning that the fundamental right to marriage should be subjected to the "most rigid scrutiny").

1. Columbia's good cause requirement fails the strict scrutiny test.

To survive strict scrutiny, a government must prove there is a compelling state interest behind the challenged policy, and that the law or regulation is narrowly tailored to achieve its result. *Wrenn*, 864 F.3d at 656. The *Wrenn* Court properly held that carrying weapons for self-defense falls within the "core" of the Second Amendment, therefore *any* restriction on the right to carry arms violates the Second Amendment. *Id* at 657. In their analysis, the court considered nineteenth-century cases which assumed the importance of "carrying" and "possessing." *Id*. at 658. They concluded that the right to keep and bear arms stand equally, giving law-abiding citizens means to exercise each. *Id*. at 663. Any regulation that intrudes on the "core" of a constitutional right must be subject to strict scrutiny. *See id*. Assuming *arguendo*, that the individual right to bear arms does extend beyond the home, the good cause requirement burdens the core of the Second Amendment and fails strict scrutiny. *See id*.

Columbia aims to prevent criminals from obtaining a permit to carry a firearm, and allow law-abiding residents to obtain a CCW Permit. CPC § 900. But the good cause requirement interferes with law-abiding citizens' right to protect themselves against violent criminals. CPC § 900.1 (F)(4). Under this statute, applicants must demonstrate good cause exists before the County will issue a CCW Permit. *Id*. Good cause is demonstrated when an applicant, or a member of the applicant's family, is in harm's way. CPC § 900.1(F)(4). Again, Hamilton satisfied § 900.1(F)(4) because her son was brutally attacked during a home invasion. (R. at 3); CPC § 900.1(F)(4). Although the County contends that Columbia has a compelling interest in promoting public safety and preventing crime, Hamilton also has a compelling interest in protecting herself and her family from further home invasions. (R. at 23); *See Wrenn*, 864 F.3d at 665. According to the statute, a home invasion does not qualify as a sufficient threat to satisfy

the good cause requirement. CPC § 900.1(F)(4). Good cause applies to the individual applicant, and here, there is no evidence that the threat to Hamilton, or her son's safety has ended. CPC § 900.1(F)(4).

2. Intermediate scrutiny does not apply.

The County incorrectly argues that intermediate scrutiny applies to Second Amendment challenges. *See Woollard*, 712 F.3d 865. Intermediate scrutiny is less demanding than strict scrutiny. *See id*. To pass intermediate scrutiny, the state must demonstrate that the challenged statute is reasonably adapted to a substantial governmental interest. *Id*. Even with minimal guidance as to whether the Second Amendment extends beyond the home, some circuits have nonetheless wrongfully upheld good cause requirements by applying an intermediate scrutiny standard. *See Woollard*, 712 F.3d 865; *Kachalsky*, 701 F.3d 81.

In *Woollard*, the Fourth Circuit assumed that the Second Amendment does apply to self-defense beyond the home. *Woollard*, 712 F.3d 865. The court held that Maryland's good cause statute passed intermediate scrutiny because it served a substantial governmental interest to protect public safety and prevent harm. *Id*. at 880. Comparably, the Second Circuit also held the intermediate scrutiny standard as the appropriate standard of judicial review to Second Amendment challenges. *Kachalsky,* 701 F.3d 81. In their analysis, the court assumed that the Second Amendment "must have some application" in the context of carrying firearms in public. *Id*. at 96–97.

Under intermediate scrutiny, the government has the burden of justifying the constitutional validity of the regulation. *Chester*, 628 F.3d at 680. As the district court recognized, Columbia may have a compelling general interest in promoting public safety and preventing crime. (R. at 12); *Wrenn*, 864 F.3d at 665. However, this does not permit the state to

restrict law-abiding citizens from exercising their right to possess a firearm outside the home for purposes of self-defense. (R. at 12); *Wrenn*, 864 F.3d at 665. Accordingly, Columbia's good cause requirement fails any standard of review and is unconstitutional. *See id*.

CONCLUSION

For the foregoing reasons, Hamilton prays that this Court reverse the Fourteenth Circuit's order, and affirm the District Court's judgment finding Columbia's good cause statute unconstitutional.

Respectfully submitted.

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CERTIFICATE OF SERVICE

Undersigned counsel for Petitioner certifies that this brief has been prepared and served upon all opposing counsel in compliance with the Rules of the Supreme Court of the United States by certified mail on the 9th day of March 2017 to:

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