
IN THE
SUPREME COURT OF THE UNITED STATES

MARCH TERM 2018

CAUSE NO. 17-1234

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

JEFFREY DELLA ROCCO
COUNSEL FOR PETITIONER

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 PROCEEDING

The caption of the case names all the parties to this proceeding.

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourteenth Circuit and the opinion of the United States District Court for the Eastern District of Columbia are contained within the record of the case (R. at 7, 14).

STATEMENT OF JURISDICTION

The court of appeals entered judgment on July 1, 2017. (R. at 19). Petitioner filed a Petition for Writ of Certiorari in timely fashion. This Court granted the Petition 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.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment to the United States Constitution 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.”

The Fourteenth Amendment to the United States Constitution provides, in pertinent part, that no State shall “deprive any person of life, liberty, or property, without due process of the law[.]”

STATEMENT OF THE CASE

Petitioner Alexandra Hamilton's son was violently beaten and seriously injured during a home invasion in March of 2015. (R. at 3). This incident led to Ms. Hamilton suffering daily from panic attacks, anxiety, and developing a fear of men who resembled her son's attacker; that is, men with tattoos and piercings. (R. at 3, 24). Ms. Hamilton also developed a fear for her own safety while at work, due to the fact that she often works alone. (R. at 3). Ms. Hamilton obtained a permit to carry a concealed weapon to protect herself, and her son, from future potentially violent confrontations. (R. at 7-8). In addition to age restrictions, required safety courses, and criminal background checks, the Columbia Penal Code further limits the availability of concealed carry permits to individuals who demonstrate a "good cause" for carrying. (R. at 21). Ms. Hamilton fulfilled all prerequisite conditions, and cited her son's attack and her resulting fears as good-cause. (R. at 7, 24).

Approximately two months after acquiring her permit, Ms. Hamilton was on her way to accompany her son during one of his rehabilitation treatments late one evening. (R. at 3). An unknown man with tattoos and a facial piercing approached Ms. Hamilton while she walked alone through the parking lot. (R. at 4). Frightened, Ms. Hamilton reflexively drew her pistol, pointed it at the unknown man, but never discharged the weapon. (R. at 4). The approaching stranger was an undercover police officer. He disarmed Ms. Hamilton. (R. at 4). Ms. Hamilton had unintentionally left her wallet with her concealed carry permit at her home that evening. (R. at 4). Consequently, she was ticketed for her inability to produce her permit and was fined \$1,000 in accordance with the Columbia Penal Code. (R. at 4, 22). Burr County then revoked Ms. Hamilton's permit because the county concluded that she no longer met the good cause prerequisite. (R. at 4, 8).

In November of 2015, Ms. Hamilton filed a complaint in the United States District Court for the Eastern District of Columbia that alleged the good-cause prerequisite for a concealed-carry permit violated her Second Amendment right to keep and bear arms. (R. at 8). The district court--looking to this Court's reasoning in *Heller v. District of Columbia* 554 U.S. 570 (2008)--held that the Second Amendment secured a right for individuals to publicly carry firearms. (R. at 8). Additionally, the district court concluded that the restrictive good-cause provision of the Columbia Penal Code levied a substantial burden on the core of the Second Amendment, and that the good-cause requirement was unconstitutional by means of a strict scrutiny analysis. (R. at 10, 11).

The United States Court of Appeals for the Fourteenth Circuit reversed the holding of the District Court. Specifically, the Fourteenth Circuit determined that the right protected by the Second Amendment did not authorize citizens to publicly carry concealed firearms. (R. at 15). The Fourteenth Circuit also concluded that the good-cause requirement was constitutional pursuant to an intermediate scrutiny analysis of constitutionality. (R. at 16). Ms. Hamilton timely filed a petition for certiorari which this Court granted on November 13, 2017. (R. at 20).

SUMMARY OF ARGUMENTS

I.

This Court defined the core of the Second Amendment as an individual right to self-defense in *Heller*. The *Heller* court concluded that the individual right to self-defense was an intended protection of the Second Amendment by conducting an historical analysis of 18th and 19th century case law, dictionaries, and state constitutions. Most fundamentally, this core right stems from the words "to keep and bear" of the text itself. The *Heller* court determined that these

words constituted two separate rights. The right to “keep” arms guarantees the right of the public to possess arms for the purpose of self-defense. The right to “bear” arms encompasses a protected right to carry, or wear arms for the basis of defending oneself from potential confrontation.

Because the right to carry for the purpose of protecting oneself from potential confrontation is protected, and because it is undisputed that confrontation may occur outside the home, it necessarily follows that the right to carry outside of the home is protected. As such, it is evident from the precedent established by *Heller*, and the plain meaning of the word “bear”, that the right to carry arms outside the home is included within the Second Amendment’s protections.

II.

The good cause requirement places an impermissible limitation on the protected right of law-abiding individuals to carry a firearm in public for the purpose of self-defense. Because the right to carry in public for self-defense is a core protection of the Second Amendment, no amount of burden on the right is appropriate. The laws of Burr County prohibit individuals from openly carrying firearms in public. The only means by which individuals can exercise their core protected Second Amendment is by obtaining a Concealed Carry permit. Because the good cause requirement limits the ability to carry a concealed weapon to individuals who “distinguish [themselves] from the mainstream,” most Burr County citizens are unable to exercise their Second Amendment rights. Put another way, the combination of a ban on open carry, and a restrictive good cause requirement effectively bans the carrying of firearms in public for most citizens of Burr County. A limitation which prohibits a majority of citizens from exercising a protected right is unconstitutional.

Burr County's good cause requirement will fail any level of constitutional scrutiny. Assuming *arguendo*, that strict scrutiny is applicable, Burr County must supply sufficient evidence to support a specific compelling public interest, and that the regulation is the least restrictive alternative means of burdening the right. Assuming further that intermediate scrutiny is applicable, Burr County would have to establish sufficient evidence of a substantial link to an important public interest. The county has failed to meet the requirements of either standard of review. More specifically, Burr County fails to show that the good cause requirement is an effective means of improving public safety or decreasing gun violence.

ARGUMENT

I. THE RIGHT TO CARRY A FIREARM OUTSIDE THE HOME IS PROTECTED BY THE SECOND AMENDMENT

Historically, the relationship between American citizens and the possession of firearms is well established. *District of Columbia v. Heller*, 554 U.S. 570, 592 (2008). In *Heller*, this Court delineated the long-standing tradition of Americans protecting the freedom to exercise their Second Amendment rights beginning with the inception of the amendment. *Id.* at 605-619. Through an historical analysis, this Court concluded that the Second Amendment protects an individual right to "possess and carry" firearms in anticipation of confrontation the purpose of self-defense. Before moving into the Second Amendment itself, it is important to illustrate that this Court has recognized that the Second Amendment applies to the States under the Due Process Clause of the Fourteenth Amendment. *McDonald v. City of Chicago*, 561 U.S. 742 (2011); U.S. CONST. amend. XIV § 1. As such, Burr County is subject to the Second Amendment and cannot violate the protections it affords.

The Second Amendment states that the people shall have the right “to keep and bear arms.” U.S. CONST. amend. II. This Court has also conducted thorough analysis on the precise meaning of the key phrase of the Second Amendment. *District of Columbia v. Heller*, 554 U.S. 592 (2008). More specifically, the meaning of the words “keep” and “bear” were scrutinized under their dictionary definitions. *Id.* at 581-592. The unambiguous definition of the word “keep” is simply to possess. *Id.* at 582. Further, the word “bear” was defined as “to carry” at the time of the ratification of the constitution; the same is true of the modern definition of the word “bear.” *Id.* at 584. Importantly, *Heller*, is not the only instance in which this Court has defined “bear” in such a way. Ten years prior to the decision in *Heller*, Justice Ginsburg determined that the phrase “carries a firearm” was suggested by the Second Amendment. *Muscarello v. United States*, 524 U.S. 125, 143 (1998) (Ginsburg, J., dissenting). In fact, Justice Ginsburg stated that a useful interpretation of “carries a firearm” was to “wear, bear, or carry” a firearm on one’s person. *Id.* Justice Ginsburg in *Muscarello*, and this Court in *Heller* each support the conclusion that the text of the Second Amendment guarantees a right to carry. *Id.*, *Heller*, 554 U.S. at 584.

A. The Second Amendment’s Purpose Establishes the Protected Right to Carry Extends Outside the Home

An examination of the Second Amendment’s purpose sheds light on exactly how the right to carry must extend outside the home. This Court’s precedent firmly establishes that the intended purpose of the Second Amendment was to guarantee a right to keep and carry weapons for the purpose of self-defense. *Heller*, 554 U.S. at 592. As this Court in *Heller* states, the phrase “bear arms” is indicative of this purpose as it particularly pertinent to confrontation. *Id.* at 584. The right to carry a firearm for the purpose of self-defense is therefore protected under the Second Amendment. *Id.* Here, Justice Ginsburg’s analysis from *Muscarello* provides additional insight. Justice Ginsburg declared that one would carry a firearm with a preparatory purpose of

being equipped with a weapon “in case of conflict” with another individual. *Muscarello*, 524 U.S. at 143 (internal quotations omitted).

This Court’s holding in *Heller* demonstrates that the need for the Second Amendment right to keep and bear arms for the purpose of self-defense from confrontation is “most acute” in the home. *Heller*, 554 U.S. at 628. To assume that this implies that the need exists solely in the home is illogical. Confrontations may, and often do, arise outside of the home, and the assertion that the Second Amendment right to self-defense from altercations for law-abiding citizens exists only in the home simply misconstrues the intended purpose of the Second Amendment. *see Id.*; *see also Wrenn v. District of Columbia*, 864 F.3d 650 (D.C. Cir. 2017). Because the right to carry is protected, and the purpose of this right is for self-defense, the argument that the right to carry exists only in the home is unrealistic. The assumption that individuals can only exercise their right to carry for the purpose of self-defense within the confines of their home is borderline flippant. Proponents of such an argument would have to conclude that law-abiding gun owners are carrying their weapons around their homes to exercise their Second Amendment rights which presents an “awkward usage” that effectively separates the Second Amendment from its intended purpose of self-defense. *Moore v. Madigan*, 702 F.3d 933, 936-937 (7th Cir. 2012).

The notion of Second Amendment protections extending to carrying arms for the purpose of self-defense is exemplified in this Court’s holding in *Caetano v. Massachusetts*, 136 S.Ct. 1027 (2016). In *Caetano*, a woman carried a stun gun because she felt the need to protect herself from an abusive ex-boyfriend. *Id* at 1028. *Caetano*’s violent ex-boyfriend attempted to assault her, but she was able to deter him by threatening to use her stun gun. *Id*. This Court determined that a stun gun was considered an “arm” and that it was subject to Second Amendment protections. *Id*. at 1027. Under Massachusetts law, stun guns were not eligible for Second

Amendment protection. *Id.* Justice Alito’s concurring opinion in particular demonstrates how Caetano’s experience is indicative the connection between the Second Amendment and the fundamental “right of individual self-defense.” *Id.* at 1028-1029.

Most importantly, Caetano’s altercation with her ex-boyfriend occurred outside of her home. *Id.* (internal quotations omitted). The Massachusetts statute which prohibited Caetano’s possession of the stun gun, and necessarily her ability to carry it outside her home, was deemed unconstitutional. *Id.* at 1028. This statute restricted Caetano’s ability to exercise her ability to bear arms for the purpose of self-defense. Ultimately, this supports an argument that the right to carry outside the home for the purpose of self-defense is protected by the Second Amendment. Cf. *Id.* at 1028-1029 (Alito, J., concurring) (noting approvingly that the carry of an arm provided protection and prevention of further harm).

B. The Historical Analysis Provided by *Heller* Supports the Purpose and Scope of the Right to Carry Outside the Home

In *Heller*, this Court conducted an historical analysis of the Second Amendment in order support the fact that its purpose was to protect an individual right to keep and bear arms for self-defense. *Heller*, 554 U.S. at 598-628. In fact, this Court reiterated the notion that the Second Amendment merely codified a “pre-existing right.” *Id.* at 592. The widely understood pre-cursor to the Second Amendment is the right of the the people to possess arms codified in the English Bill of Rights in the middle of the 17th Century. *Id.* at 593. Importantly, the purpose of this right was to ensure that citizens had “arms for their defence.” *Id.* This understanding of the right was not singular to pre-ratification England. Individual state constitutions codify identical rights shortly after ratification. *See Id.* at 600-603 (citing the state constitutions and statutes of Pennsylvania, Vermont, North Carolina, Georgia, Massachusetts, and Virginia). Further, state

legislatures, judiciaries, and legal commentary concerning the Second Amendment from immediately post-ratification up to beyond the Civil War are in keeping with the analysis provided by Justice Scalia in *Heller*. *Id.* at 605-629.

Some have argued that the Second Amendment's purpose was solely for the protection of the right to keep and bear arms with respect to the militia. However, such an interpretation of the Second Amendment is patently at odds with the precedent of *Heller*. *Id.* at 598. Justice Scalia indicates that although the necessity of the militia was a concern for the Second Amendment, it was not the only reason. *Id.* at 599. Ultimately, the argument for a militia-centric Second Amendment stipulates that self-defense was not a reason for the codification of the right protected by the Second Amendment. *Id.* However, such an argument ignores the fact that *Heller* tells us that self-defense is the "central component" of the Second Amendment. *Id.* The Second Amendment protects the right to "bear", that is, carry arms and the core purpose of the right is for self-defense. *Id.* The need for self-defense does not present itself solely in the home. From these facts, it logically follows that the right to carry recognized by the Second Amendment extends outside the home.

Finally, *Heller* dictates that the right recognized by the Second Amendment is not without limitation. *Heller*, 554 U.S. at 626. Justice Scalia suggests that there are presumptively lawful restrictions that apply to the Second Amendment right. *Id.* More specifically, *Heller* indicates that laws prohibiting the carrying of weapons in places "such as schools and government buildings." *Id.* Examined more closely, these types of restriction actually support the notion that the right to carry extends outside the home. If the right to carry outside the home did not exist, the existence of prohibitions on the places outside the home where individuals could

carry would be illogical. Because of these prohibitions exist, it rationally follows that the right to carry exists outside the home.

II.

THE GOOD-CAUSE RESTRICTION PLACES AN IMPERMISSIBLE BURDEN ON SECOND AMENDMENT PROTECTIONS

The core of the Second Amendment includes the right of law-abiding citizens to possess and carry firearms outside the home for the purpose of self-defense. Good-cause requirements such as the one imposed by Burr County impermissibly infringe on that core right. Because the good-cause requirement effectively bars law-abiding citizens from exercising their rights, the Burr County law amounts to an impermissible burden of a protected Second Amendment right. As such, the Burr County law cannot stand.

A. Burr County's Good-Cause Requirement Amounts to an Effective Ban on the Protected Right to Carry

In *Heller*, this Court declared that a prohibition of handguns in the home was unconstitutional. *Heller*, 554 U.S. at 636. Using this precedent, the United States Court of Appeals for the Seventh Circuit determined that a ban on the carrying of weapons entirely was unconstitutional. *Moore*, 702 F.3d at 934. A key element to holding that the Illinois law banning carry was unconstitutional was the fact that the Seventh Circuit correctly recognized that the right to carry outside the home was protected by the Second Amendment. *Id.* at 936. After establishing the right to carry for self-defense existed outside the home, it was coherent that the ban on carry was impermissible. *Id.* The Seventh Circuit and this Court have each recognized

that bans on protected Second Amendment rights are unconstitutional. *Id.*; see also *Heller*, 554 U.S. at 636.

Five years after the decision in *Moore*, The United States Court of Appeals for the District of Columbia Circuit addressed “good-cause” requirements in *Wrenn v. District of Columbia*, 864 F.3d 650 (D.C. Cir. 2017). In *Wrenn*, the court considered a good-cause provision that required citizens to show a “greater than average” need for self defense. *Id.* 665-666. The court concluded that “good-cause” requirements amounted to a total ban on the protected right to publicly carry a firearm. *Id.* The District of Columbia Circuit reasoned that the good-cause requirement allowed only a select minority of citizens access to their protected Second Amendment right to carry publicly. *Id.* Consequently, the court determined that such a restrictive “good-cause” provision was unconstitutional because it amounted to an effective ban on the right to carry for self-defense for a majority of residents. *Id.*

Like the Seventh Circuit in *Moore*, the D.C. Circuit correctly interpreted *Heller* to conclude that the core of the Second Amendment conventionally protects “carrying in public for self-defense.” *Wrenn*, 864 F.3d at 659. The Seventh Circuit even contends that the rights to keep and to bear are “on equal footing.” *Id.* at 663. Looking to history and the analysis put forth in *Heller*, the District of Columbia Circuit concluded that the government must allow law-abiding citizens “some reasonable means” of exercising both the right to keep and the right to bear. *Id.* Because of this, the good-cause requirement, when combined with an outright ban on open-carry was unconstitutional according to the *Wrenn* court. *Id.*

Columbia as a whole, bans the open-carrying of weapons. (R. at 23). Pursuant to the Columbia Penal Code, persons may not publicly carry firearms without a Permit to Carry a Concealed Weapon (CCW Permit). Columbia Penal Code § 900.1(A). It necessarily follows

from this, that acquiring a Permit to Carry a Concealed Weapon is the sole means of exercising the right to carry protected by the Second Amendment. *Id.* Among the prerequisites for obtaining this permit is the “good cause” provision. This provision requires a citizen applying for a CCW permit to provide a “good cause” for the ability to exercise their Second Amendment right; that is, publicly carry a firearm. Columbia Penal Code § 900.1(F)(4).

The application for the CCW permit further defines “good cause” as a series of conditions that differentiate the applicant “from the mainstream.” (R. at 24). Merriam-Webster defines “mainstream” as a “prevailing direction of activity.” *Mainstream*, Webster’s Third New International Dictionary of the English Language (3d ed. 1961) Cf. *Heller*, 554 U.S. at 581-585 (consulting 18th Century dictionaries for the definitions of “keep and bear arms”). In order to be outside of the mainstream, one must necessarily be a minority. By definition, the mainstream is the prevailing group--that is, the majority. Additionally, the good-cause restriction allows individuals to exercise their protected right to carry only when the county sees fit; that is, decides an individual is outside the mainstream, or meets the subjective standard established by county officials (R. at 24). Like the good-cause restriction evaluated in *Wrenn*, Burr County’s good-cause requirement denies a majority of its citizens the ability to carry a weapon publicly. *Wrenn*, 864 F.3d at 666. As Justice Scalia indicated in *Heller*, the right of the Second Amendment is not immune to limitation. *Heller*, 554 U.S. at 626. However, the good-cause restriction goes beyond a limitation, and establishes an operative ban on the protected right of individuals to publicly carry a firearm.

B. Burr County’s Good-Cause Requirement is Too Restrictive Under Strict Scrutiny

The two relevant tests used for determining the constitutionality of a regulation, such as the good-cause requirement that imposes on a constitutional right are intermediate scrutiny, and strict scrutiny. *Wrenn*, 864 F.3d at 656. Courts deciding the appropriate level of scrutiny to apply to a good-cause regulation would ask whether the law burdens protected conduct. *Woollard*, 712 F.3d at 875; *see also United States v. Chester*, 628 F.3d 673, 680 (4th Cir. 2010). A strict scrutiny analysis applies to regulations which “substantially impose” on the core of a constitutional right. *Wrenn*, 864 F.3d at 657; *see also United States v. Playboy Entertainment Group, Inc.*, 529 U.S. 803, 814 (2000). This Court in *Heller*, concluded that the core of the Second Amendment right was related to self-defense. *Heller*, 554 U.S. at 592. Any regulation which burdens the core of the right--that is, self-defense--necessarily triggers the application of strict scrutiny. As such, the good-cause requirement substantially imposes on the core of the Second Amendment rights of Burr County citizens. *See Wrenn*, 864 F.3d at 657; *see also Moore* 702 F.3d at 940. Some circuit courts have concluded that good-cause provisions do not substantially impose on the Second Amendment. For example, the Second Circuit and the Third Circuit have each maintained that strict scrutiny was not applicable to good-cause requirements. *Kachalsky*, 701 F.3d at 96; *see also Drake v. Filko*, 724 F.3d 426, 436 (3d Cir. 2013). However, each court misapprehended *Heller*’s teachings on self-defense and the acute need to preserve it outside the home. *Kachalsky*, 701 F.3d at 96; *Drake*, 724 F.3d at 436.

Strict scrutiny requires that regulation which burdens constitutionally protected conduct must be supported by a substantial or compelling state interest. *Woollard v. Gallagher*, 712 F.3d 865, 876 (4th Cir. 2013). Strict scrutiny analysis requires that the regulation be carefully crafted to a “compelling public interest.” *Wrenn*, 864 F.3d at 656. Put another way, the regulation must

fit the compelling interest in the least restrictive way available given the circumstances. *See Kachalsky v. County of Westchester*, 701 F.3d 81, 98 (2d Cir. 2012).

Importantly, the good-cause requirement put forth by Burr County does fail to meet the “least restrictive” means requirement of strict scrutiny for a number of reasons. First, assuming *arguendo* that the good-cause requirement does not institute a total ban, it nevertheless restricts the ability of citizens that can carry to a minority. A restriction that eliminates a majority of citizens is by no means “least restrictive.” Second, this Court in *Heller* stated that the handgun is the “quintessential,” and “most popular” self-defense weapon of United States citizens. *Heller*, 554 U.S. at 629. The Burr County good-cause provision obstructs access to the “quintessential” weapon utilized for the exercise of the protected right to self-defense recognized by *Heller*. *Id.* at 592. The County could undoubtedly utilize less restrictive ways of firearm regulation than a restriction which denies a majority of law-abiding citizens access to their constitutional rights. For instance, Burr County could try additional “sensitive area” prohibitions recognized by this Court in *Heller*. *Heller*, 554 U.S. at 626. Burr County could also attempt to identify individuals who pose a threat of crime or other dangerous activity. *See e.g., United States v. Skoien*, 614 F.3d 638 (7th Cir. 2010) (expanding limitations on firearm possession to violent misdemeanants)

Finally, the good-cause requirement fails under the reasonable fit analysis of strict scrutiny. Justice Silverman’s dissenting opinion in *Peruta*, argues that a reasonable fit is impossible in circumstances where the good-cause standard is arbitrarily applied from county to county. *Peruta v. County of San Diego*, 824 F.3d 919, 958 (9th Cir. 2016) (*en banc*), *cert. denied*, 137 S. Ct. 1995 (2017)(Silverman, J. dissenting). According to the application for a CCW in Burr County, the county is given the discretion to define good-cause. Here, the Burr County definition is arbitrarily applied by the county. As such, the good-cause requirement

should fail to meet the reasonable fit element of a strict scrutiny analysis. *Peruta*, 824 F.3d at 958.

C. Burr County's Good-Cause Restriction Fails Under Intermediate Scrutiny

With respect to Burr County's good-cause requirement, intermediate scrutiny is not applicable for three specific reasons. First, intermediate scrutiny is appropriate for regulations which do not burden the core of a constitutional right. Second, Burr County has not provided sufficient "substantial" evidence to support a reasonable fit between the good-cause requirement and the government interest of public safety. Third, Circuit Court precedent establishes that restrictions banning violent criminals from possessing firearms are subject to intermediate scrutiny. *United States v. Skoien*, 614 F.3d 638 (7th Cir. 2010); *United States v. Booker*, F.3d 12 (1st Cir. 2011). The fact that the federal government applies intermediate scrutiny to regulations that restrict the Second Amendment rights of violent criminals indicates that a higher level of scrutiny is appropriate for law-abiding citizens.

Assuming that intermediate scrutiny would be appropriate, the good-cause restriction still fails to meet the requirements set by this Court's precedent. Under intermediate scrutiny, Burr County is required to show that the good-cause requirement must be supported by a substantial or compelling state interest and have a reasonable fit with respect to accomplishing said interest. *Woollard*, 712 F.3d at 876. There is no doubt that Burr County has a compelling interest in public safety or decreasing gun violence. However, the fact that Burr County has a compelling interest in public safety does not condone the implementation of a restriction as acute as the good-cause requirement. (R. at 12). As previously mentioned, Burr County's good-cause restriction is subjectively applied, and cannot possibly be a "reasonable fit" with respect to the

county's interest. *Peruta*, 824 F.3d at 958. Further, the Seventh Circuit addressed the fact that recent studies have shown that bans on the carrying of weapons do not lead to an increase in gun ownership, or an increase in homicide rates. *Moore*, 702 F.3d at 938-940. Ultimately, Burr County has failed to meet the burden required by intermediate scrutiny because there is not a reasonable fit between the restriction and the compelling interest.

CONCLUSION

For the foregoing reasons, the judgment of the court of appeals should be reversed.

Respectfully submitted.

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CERTIFICATE OF SERVICE

I certify that, on March 9, 2018, I served a copy of this Brief of counsel for the Petitioner via electronic mail.

By: /s/ Jeffrey Della Rocco

Jeffrey Della Rocco

Attorney for Petitioner