IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

HIS TABERNACLE FAMILY CHURCH, INC. and MICHEAL SPENCER,

Plaintiffs,

v.

STEVEN A. NIGRELLI, Acting Superintendent of the New York State Police, in his official and individual capacities; WEEDEN A. WETMORE, District Attorney for the County of Chemung, New York, in his official and individual capacities; and MATTHEW VAN HOUTEN, District Attorney for the County of Tompkins, New York, in his official and individual capacities,

Defendants.

Civil Action No.
6:22-cv-06486-JLS

AMICUS BRIEF OF EVERYTOWN FOR GUN SAFETY
IN OPPOSITION TO PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

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CORPORATE DISCLOSURE STATEMENT

Everytown for Gun Safety (formally, Everytown for Gun Safety Action Fund) has no parent corporations. It has no stock; hence, no publicly held company owns 10% or more of its stock.

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INTEREST OF AMICUS CURIAE

Everytown for Gun Safety ("Everytown") is the nation's largest gun-violence-prevention organization. Everytown has filed more than 50 amicus briefs in Second Amendment and other gun cases, including in challenges to the same New York law at issue here. *See, e.g.*, *Hardaway v. Nigrelli*, No. 1:22-cv-00771-JLS (W.D.N.Y. Oct. 29, 2022), Dkt. 47; *Goldstein v. Hochul*, No. 1:22-cv-08300 (S.D.N.Y. Oct. 20, 2022), Dkt. 46; *Antonyuk v. Hochul*, No. 1:22-cv-00986 (N.D.N.Y. Oct. 19, 2022), Dkt. 63.[1]

INTRODUCTION AND SUMMARY OF ARGUMENT

Plaintiffs challenge the restriction on carrying firearms in "places of worship or religious observation" in New York's Concealed Carry Improvement Act. *See* N.Y. Penal Law § 265.01-e(2)(c) (the "Place of Worship Provision"). That restriction is constitutional under the approach to Second Amendment cases set out in *New York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022), for the reasons stated in the State's Memorandum of Law in Opposition to Plaintiffs' Motion for a Preliminary Injunction, Dkt. 43 ("State's Mem."), and accompanying Declaration of Patrick J. Charles, Dkt. 43-1 ("Charles Decl.").[2] Everytown submits this amicus brief to expand on two points. *First*, in applying the historical inquiry of the *Bruen* framework—asking whether the regulation is "consistent with the Nation's historical tradition of firearm regulation," 142 S. Ct. at 2130—the Court should center its analysis on 1868, when the Fourteenth Amendment was ratified, not 1791. Moreover, 1868 is not a cutoff; examining "legal and other sources to determine *the public understanding* of a legal text in the period *after* its enactment or

[1] No party's counsel authored this brief in whole or part and, apart from Everytown, no person contributed money to fund its preparation or submission.

[2] This amicus brief addresses only aspects of Plaintiffs' claims. The Court should decline to issue a preliminary injunction, as to all defendants, for the reasons in the State's opposition.

ratification" is also "a critical tool of constitutional interpretation." *District of Columbia v. Heller*, 554 U.S. 570, 605 (2008) (second emphasis added). *Second,* a small number of laws can be sufficient to establish this nation's tradition of firearm regulation, and although continuity of those laws is not required, it exists here. To the extent this Court concluded otherwise in *Hardaway v. Nigrelli*, No. 1:22-cv-00771-JLS, 2022 WL 16646220 (W.D.N.Y. Nov. 3, 2022), *appeal docketed*, No. 22-2933 (2d Cir. Nov. 15, 2022), and *Christian v. Nigrelli*, No. 1:22-cv-00695-JLS, 2022 WL 17100631 (W.D.N.Y Nov. 22, 2022), *appeal docketed*, No. 22-2987 (2d Cir. Nov. 23, 2022), we respectfully submit that it should reconsider its conclusions.

ARGUMENT

I. The Proper Focus for Analysis of Historical Regulation Is 1868, Not 1791

In analyzing whether the Place of Worship Provision is "consistent with the Nation's historical tradition of firearm regulation," *Bruen*, 142 S. Ct. at 2130, this Court should first conclude that the most relevant time period for that inquiry centers on 1868, when the Fourteenth Amendment was ratified and made the Second Amendment applicable to the states.

Several circuits reached this conclusion in analyzing state and local laws under the Second Amendment at the first, historical step of the framework that applied prior to *Bruen*.[3] *See Gould v. Morgan*, 907 F.3d 659, 669 (1st Cir. 2018) ("Because the challenge here is directed at a state law, the pertinent point in time would be 1868 (when the Fourteenth Amendment was ratified)."); *Ezell v. City of Chicago*, 651 F.3d 684, 702 (7th Cir. 2011) ("*McDonald* [*v. City of Chicago*, 561 U.S.

[3] Between *Heller* and *Bruen*, every federal court of appeals to address the issue concluded that analyzing Second Amendment claims should proceed in two steps: a historical step, in which courts examined whether the challenged law restricted conduct falling within the scope of the Second Amendment, as historically understood; and, if so, a scrutiny step, where courts examined the fit between the government's interest and the challenged law, usually under intermediate scrutiny. *See Bruen*, 142 S. Ct. at 2126-27; *Gould v. Morgan*, 907 F.3d 659, 668 (1st Cir. 2018) (citing cases), *criticized by Bruen*, 142 S. Ct. at 2124, 2126-27.

742 (2010),] confirms that if the claim concerns a state or local law, the 'scope' question asks how the right was publicly understood when the Fourteenth Amendment was proposed and ratified."); *United States v. Greeno*, 679 F.3d 510, 518 (6th Cir. 2012) (following *Ezell*); *see also Drummond v. Robinson Twp.*, 9 F.4th 217, 227 (3d Cir. 2021) ("[T]he question is if the Second *and Fourteenth* Amendments' ratifiers approved [the challenged] regulations …." (emphasis added)).

Bruen does not alter that conclusion. The Supreme Court expressly left open the question "whether courts should primarily rely on the prevailing understanding of an individual right when the Fourteenth Amendment was ratified in 1868"—as opposed to 1791, when the Second Amendment was ratified—"when defining its scope." *Bruen*, 142 S. Ct. at 2138 (explaining that it did not need to resolve issue because public understanding "for all relevant purposes" in case before it was the same in 1791 and 1868). Moreover, *Bruen* concluded that "[s]tep one of the predominant framework [applied in the lower courts] is broadly consistent with *Heller*." *Id.* at 2127. Accordingly, the step-one analyses in the cases just cited remain, as a general matter, good law.

If this Court wishes to settle the issue the Supreme Court left open in this case, it should conclude that 1868 is the correct focus. To begin with, in a case involving a state law, focusing on 1868 is the only way to answer the originalist question: How did the people understand the right at the time of its adoption? There was no right to keep and bear arms constraining the states under the U.S. Constitution until 1868; as *Bruen* observed, a state "is bound to respect the right to keep and bear arms because of the Fourteenth Amendment, not the Second." *Id.* at 2137. Thus, when the people chose to extend the Bill of Rights to the states in 1868, *their* understanding of the scope of each right should control the originalist analysis today. In a case against a state, to elevate a founding-era understanding of the right over the Reconstruction-era understanding would be to

reject what the people understood the right to be at the time they gave it effect.

To be sure, if the public understanding of the Bill of Rights changed between 1791 and 1868, then "[o]riginalists seem," at first glance, to be "forced to either abandon originalism or accept a world in which we have two Bills of Rights, one applicable against the federal government and invested with 1791 meanings and one incorporated against the states and invested with 1868 meanings." Kurt T. Lash, *Respeaking the Bill of Rights: A New Doctrine of Incorporation*, 97 Ind. L.J. 1439, 1441 (2022). But *Bruen* rejected the possibility of different standards for the state and federal governments. *Bruen*, 142 S. Ct. at 2137 ("[W]e have made clear that individual rights enumerated in the Bill of Rights and made applicable against the States through the Fourteenth Amendment have the same scope as against the Federal Government."). Accordingly, originalists must justify applying either the 1868 understanding or the 1791 understanding (where they conflict) to all levels of government.

Existing doctrine does not resolve this choice between 1791 and 1868: *Bruen* noted prior decisions that had "assumed" that the scope for both state and federal governments "is pegged to the public understanding … in 1791." *Id*. But if the majority believed those decisions controlled the issue, it would have said so. Instead, the Court expressly left open the question whether 1868 or 1791 is the relevant focus, and pointed to "ongoing scholarly debate on whether courts should primarily rely on the prevailing understanding of an individual right when the Fourteenth Amendment was ratified in 1868 when defining its scope (as well as the scope of the right against the Federal Government)." *Id.* at 2138. And the Court then cited two scholars who support the 1868 view, Professors Akhil Amar and Kurt Lash, and none who supports the 1791 view. *See id.* (citing Akhil Reed Amar, *The Bill of Rights: Creation and Reconstruction* xiv, 223, 243 (1998), and Kurt T. Lash, *Re-Speaking the Bill of Rights: A New Doctrine of Incorporation* (Jan. 15, 2021)

(manuscript, at 2), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3766917 (now published at 97 Ind. L.J. 1439)).

On Professor Amar's account, when the Fourteenth Amendment was ratified, then-contemporary understandings of incorporated rights could transform their meaning not only against the states, but also as to the federal government.[4] More recently, Professor Lash wrote—as quoted in *Bruen*—"When the people adopted the Fourteenth Amendment into existence, they readopted the original Bill of Rights, and did so in a manner that invested those original 1791 texts with new 1868 meanings." Lash, manuscript, at 2. On this view, too, 1868 meanings bind both the state and federal governments.

There is good reason for this to be the leading originalist view: insisting that the 1791 understanding should apply against the states does not make sense in light of the Supreme Court's lengthy analysis in *McDonald* of the understanding of the right to keep and bear arms around 1868. *See* 561 U.S. at 770-78 (plurality opinion); *id.* at 826-38 (Thomas, J., concurring in part and concurring in the judgment). It would be extraordinary if the public understanding of the right in 1868 were so central to *whether* the right was incorporated against the states, but irrelevant to *what* right was incorporated. That is presumably why the Seventh Circuit, in an opinion by Judge Sykes, reads *McDonald* to have "confirm[ed] that when state- or local-government action is challenged, the focus of the original-meaning inquiry is carried forward in time; the Second Amendment's

[4] *See* Amar, *The Bill of Rights*, at xiv (account is "attentive to the possibility" that a "particular principle in the Bill of Rights may change its shape in the process of absorption into the Fourteenth Amendment"); *id.* at 223 ("[W]hen we 'apply' the Bill of Rights against the states today, we must first and foremost reflect on the meaning and spirit of the amendment of 1866, not the Bill of 1789. … [I]n the very process of being absorbed into the Fourteenth Amendment, various rights and freedoms of the original Bill may be subtly but importantly transformed[.]"); *id.* at 243 (arguing that "the Fourteenth Amendment has a doctrinal 'feedback effect' against the federal government"); *see also id.* at 283 ("[W]ords inserted into the Constitution in 1791 must be read afresh after 1866.").

scope as a limitation on the States depends on how the right was understood when the Fourteenth Amendment was ratified." *Ezell*, 651 F.3d at 702.

Any claim that the founding era is the only relevant period is also inconsistent with the passage in *Bruen* instructing the lower courts on historical methodology through the example of sensitive places restrictions. There, the Court indicated that restrictions on guns in legislative assemblies, polling places, and courthouses found in "18th- *and 19th-century*" laws are adequate to satisfy its historical analysis, 142 S. Ct. at 2133 (emphasis added)—an incomprehensible statement if it believed that the 18th century was the only relevant period. Notably, in the pages of the article and brief the Court cited for that proposition, all the 19th-century laws restricting guns in any of the three locations the Court listed were from the *late* 19th century.[5]

Finally, further confirmation that 1868 is the correct focus occurred in the *Bruen* oral argument, where the following exchange took place between Justice Thomas and former Solicitor General Paul Clement as counsel for the NRA's New York affiliate:

> JUSTICE THOMAS: [Y]ou mentioned the founding and you mentioned post-Reconstruction. But, if we are to analyze this based upon the history or tradition, should we look at the founding, or should we look at the time of the adoption of the Fourteenth Amendment, which then, of course, applies it to the states?
>
> MR. CLEMENT: So, Justice Thomas, I suppose, if there were a case where there was a contradiction between those two, you know, and the case arose in the states, I would think there would be a decent argument for looking at the history at the time of Reconstruction … and giving preference to that over the founding.

Tr. of Oral Arg. at 8, *Bruen* (No. 20-843). Mr. Clement's new firm, Clement & Murphy, represents

[5] *See* David B. Kopel & Joseph G.S. Greenlee, *The "Sensitive Places" Doctrine*, 13 Charleston L. Rev. 205, 244-47 (2018) (citing 1870 Louisiana law, 1874 and 1886 Maryland laws, 1873 Texas law, and 1874 decision upholding 1870 Georgia law); Br. for Indep. Inst. as Amicus Curiae at 11-17, *Bruen* (No. 20-843) (disputing relevance of 19th-century laws but (at 16 n.10) citing 1869 Tennessee, 1870 Texas, and 1890 Oklahoma laws that prohibited guns in (among others) polling places).

Plaintiffs in this case.

In sum, any historical inquiry this Court chooses to conduct should focus on the period around 1868, not 1791. Moreover, 1868 is not a cutoff; *Heller* instructs that "examination of a variety of legal and other sources to determine *the public understanding* of a legal text in the period *after* its enactment or ratification" is also "a critical tool of constitutional interpretation." 554 U.S. at 605 (second emphasis added); *see also Bruen*, 142 S. Ct. at 2127-28 (quoting same). *Bruen* clarified that, under this passage in *Heller*, materially later history that *contradicts* the established original meaning of the constitutional text at the relevant point in time would not change that meaning. *See* 142 S. Ct. at 2136-37 & 2154 n.28. But it emphasized that, conversely, "a regular course of practice can liquidate [and] settle the meaning of disputed or indeterminate terms [and] phrases in the Constitution." *Id.* at 2136 (cleaned up) (quoting decision quoting James Madison).

Here, state and local laws from the second half of the 19th century and early 20th century establish the meaning of the right to keep and bear arms at the time of the Fourteenth Amendment's adoption, and demonstrate the constitutionality of New York's law. *See, e.g.*, State's Mem. at 16-22; Charles Decl. ¶¶ 17-21; *infra* pp. 10-12. And even if this Court were to conclude (contrary to the scholars the Supreme Court cited) that the relevant date is 1791, not 1868, it should then consider this later historical evidence and recognize that this evidence "settle[s] the meaning of" the right as one that allows for New York's regulation.

II. The State's Historical Analogues Are Not "Outliers," and Although "Continuity" Is Not Required, It Exists Here

In *Hardaway v. Nigrelli*, this Court held that the State had not sufficiently established a historical tradition, both because the laws it identified were too few, and because it had not proven "continuity." *See* 2022 WL 16646220, at *16; *see also Christian v. Nigrelli*, 2022 WL 17100631, at *8. We respectfully submit that neither basis is consistent with *Bruen* and that the Court should

reach a different conclusion now. In fact, *Bruen*'s discussion of the historical laws justifying sensitive places restrictions demonstrates both that a small number of laws can establish a tradition and that proof of "continuity" is not required; and even if such proof were required, the historical tradition the State established manifestly was a continuous one.

Specifically, *Bruen* repeated *Heller*'s identification of "schools and government buildings" as sensitive places, 142 S. Ct. at 2133 (quoting *Heller*, 554 U.S. at 626), and then recognized that three additional, more specific locations (legislative assemblies, polling places, and courthouses) were also "'sensitive places' where arms carrying could be prohibited consistent with the Second Amendment," *id.* But the sources the Court cited for the historical record justifying restrictions in those three locations identified *only two laws* naming legislative assemblies and *two laws* naming courthouses. *See* Kopel & Greenlee, 13 Charleston L. Rev. at 235, 246; Br. for Indep. Inst. as Amicus Curiae at 11-12, *Bruen* (No. 20-843). Moreover, the two laws both sources cited as prohibiting guns in legislative assemblies in the pages the Court referenced were from a single state, Maryland, and were enacted three years apart, in 1647 and 1650. *See* Kopel & Greenlee, 13 Charleston L. Rev. at 235; Br. for Indep. Inst. as Amicus Curiae at 11-12, *Bruen* (No. 20-843).[6] Under *Bruen*'s sensitive places analysis, therefore, a small number of laws can be sufficient to establish this nation's tradition of firearm regulation, at least so long as there is not overwhelming affirmative evidence of an enduring tradition to the contrary.[7] And nothing in *Bruen*'s sensitive

[6] Notably, one of the Court's sources stated that, "[i]n general, Americans did not seem to mind people coming armed to attend or participate in legislative matters. The United States Congress had no rules against legislative armament, and through the mid-nineteenth century, it was common for Congressmen to be armed." Kopel & Greenlee, 13 Charleston L. Rev. at 235. Accordingly, the Court's reliance on this source further confirms that widespread acceptance of a practice of carrying guns as a matter of policy does not indicate that the practice was constitutionally protected. *See also infra* pp. 9-10 (explaining that to infer constitutional protection from absence of regulation would run against basic principles of federalism).

[7] To be sure, *Bruen* expressed "doubt" that three colonial regulations "could suffice to show

places analysis suggests that a government must establish "continuity" of a location restriction across time before the Supreme Court will assume it "settled" that guns may be prohibited in that location. Indeed, its approval of prohibitions in legislative assemblies on the basis of two laws in a three-year span indicates the opposite.

Concluding that a small number of state laws can demonstrate a "public understanding" of a limitation on the Second Amendment right is also consistent with bedrock federalism principles that entitle a state to effectuate the policy choice of its citizens within constitutional bounds. Local conditions matter. Just as states today may (or may choose not to) "experiment[] with reasonable firearms regulations," *McDonald*, 561 U.S. at 785 (plurality opinion) (cleaned up), states historically may have chosen not to regulate certain weapons, people, or conduct, not because the public understood the right to keep and bear arms to prevent such regulations, but because of democratically supported policy choices. As Judge Easterbrook explained in *Friedman v. City of Highland Park*, 784 F.3d 406 (7th Cir. 2015), "the Constitution establishes a federal republic where local differences are cherished as elements of liberty, rather than eliminated in a search for national uniformity," and "[t]he central role of representative democracy is no less part of the Constitution than is the Second Amendment." *Id.* at 412. And the fact that states have latitude to experiment with regulations that meet their unique needs means that states historically may well have chosen not to regulate to the limits of constitutional permissibility. *Cf., e.g., Davenport v. Wash. Educ. Ass'n*, 551 U.S. 177, 185 (2007) ("The constitutional floor [by which the First Amendment restricts public-sector] unions' collection and spending of agency fees is not also a constitutional ceiling for state-imposed restrictions."). Accordingly, while state laws restricting

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a tradition." 142 S. Ct. at 2142. But that tentative statement should not be given undue weight given the Supreme Court's discussion of sensitive places.

firearms demonstrate that the people of those states understood the right to keep and bear arms to permit such restrictions, the absence of such laws in other states does not warrant any inference that their citizens considered such restrictions unconstitutional.

Furthermore, the primary originalist inquiry asks how the public understood the scope of the right "*when* the people adopted" it, *Heller*, 554 U.S. at 634-35 (emphasis added)—not over some unspecified period of continuous time. Certainly, evidence from before, during, or after 1868 can all help demonstrate how the public understood the right in 1868. *See, e.g.*, *id.* at 605 ("[E]xamination of a variety of legal and other sources to determine *the public understanding* of a legal text in the period after its enactment or ratification … is a critical tool of constitutional interpretation."); *see also supra* pp. 6-7. But nothing in *Heller*, *Bruen*, or originalist principles says that the understanding at the time of adoption must also be a "continu[ous]" one.[8]

Nevertheless, even if the requirement to show consistency with this nation's historical tradition of firearms regulation also demands continuity over time, the historical record and case law establish that. As the State notes, prohibitions on firearms in churches find their roots in centuries-old English laws. *See* State's Mem. at 18; Charles Decl. ¶¶ 13-14. And the U.S. prohibitions the State identified persisted for decades. *See, e.g.*, Act of May 31, 2003, § 1, 2003 Ga. Laws 423 (misdemeanor to carry any firearm "at a public gathering," defined as "includ[ing],

[8] The only passage in *Bruen* that supports examining "continuity" is its recognition that "a *regular course of practice* can liquidate [and] settle the meaning of disputed or indeterminate terms [and] phrases in the Constitution." *Bruen*, 142 S. Ct. at 2136 (cleaned up) (emphasis added). But this only comes into play if evidence from around the period of ratification has left the meaning of the right to keep and bear arms "disputed or indeterminate." Here, evidence from around 1868 demonstrates that the public understood restrictions on guns in churches to be consistent with the right to keep and bear arms. But, as explained, *supra* p. 7, even if the Court believed that 1791 were the correct focus, and believed that the evidence in that period was insufficient, it should consider the laws from the second half of the 19th century and the early 20th century, as well as the evidence set out in the following paragraph, as "settl[ing]" the meaning of the right.

but not limited to, … churches or church functions"); *Byrdsong v. State*, 265 S.E.2d 15, 16 (Ga. 1980) (setting out statutory language, including as to churches, in case concerning firearm in bar); Ga. Code § 26-5102 (adopted 1933, effective 1935) (similar statutory language to original 1870 prohibition); *Sockwell v. State*, 109 S.E. 531 (Ga. Ct. App. 1921) (affirming conviction for carrying pistol at place of public worship); *Veasy v. State*, 62 S.E. 561, 562 (Ga. Ct. App. 1908) (same); *see also, e.g.*, 1925 Tex. Crim. Stat. 101 (similar to 1870 original); Mo. Rev. Stat. § 564.610 (1959) (similar to 1874 original); Act of Mar. 30, 1960, ch. 358, 1960 Va. Acts 458 (similar to 1877 original); Okla. Stat., ch. 15, art. 90, § 2589 (1931) (state law, similar to 1890 territorial original); Ariz. Rev. Stat., Penal Code § 429 (1913) (state law, similar to 1889 territorial original).[9]

Caselaw also demonstrates a continuity of understanding that the right to keep and bear arms does not prevent states from prohibiting guns in places of worship. In the 1870s, the Supreme Courts of both Tennessee and Georgia thought it self-evident that a legislature could constitutionally enact such a prohibition. *See Andrews v. State*, 50 Tenn. 165, 181-82 (1871) (rejecting government's argument that, if the court held it could not prohibit carry entirely, it would mean that "the citizen may carry [arms] at all times and under all circumstances," and illustrating government's continued power to regulate with example that "a man may well be prohibited from carrying his arms to church");[10] *Hill v. State*, 53 Ga. 472, 475 (1874) ("The practice of carrying arms at courts, elections and places of worship, etc., is a thing so improper in itself, so shocking to all sense of propriety, so wholly useless and full of evil, that it would be strange if the framers of

[9] In *Hardaway*, this Court wrote that Georgia and Missouri law "apparently evolved … to allow church leaders to decide the issue for their own churches." 2022 WL 16646220, at *16 n.19. But the article this Court cited for that proposition was discussing Georgia and Missouri provisions that date back only until 2010 and 2003, respectively. *See* Act of June 4, 2010, 2010 Ga. Laws 963, 966-67; Act of Sept. 11, 2003, 2004 Mo. Laws 9, 19.

[10] The Supreme Court discussed *Andrews* with approval in both *Heller*, 554 U.S. at 608, 614, 629, and *Bruen*, 142 S. Ct. at 2147, 2155.

the constitution have used words broad enough to give it a constitutional guarantee."). Thirty-seven years after the Georgia decision, the same court found that principle just as self-evident. *See Strickland v. State*, 72 S.E. 260, 264 (Ga. 1911) ("Surely no one will contend that children have a constitutional right to go to school with revolvers strapped around them, or that men and women have a right to go to church, or sit in the courtrooms, or crowd around election precincts, armed like desparadoes, and that this is beyond the power of the Legislature to prevent."); *see also, e.g.*, *Walter v. State*, 13 Ohio N.P. (n.s.) (Ct. C.P. 1905) ("[T]he state legislatures … have provided many limitations [on arms]. For example, it has been provided that … no one shall carry weapons either concealed or unconcealed, into a court of justice, or into a church, or into a voting place or within a mile thereof, and all these have been held to be valid restrictions upon the manner in which arms may be used."), *aff'd*, 25 Ohio Cir. Dec. 567 (Cir. Ct. 1905) ("Th[e] right [to bear arms] is not infringed by reasonab[l]e police regulations designed to promote the peace and well-being of society, such for example as those that prohibit carrying fire arms into churches, courthouses, theaters and polling places.").[11]

[11] Notably, *Hill*, *Strickland*, and *Walter* all coupled churches with places in which the Supreme Court has already specifically observed that firearms may be prohibited: courthouses, polling places, and schools.

CONCLUSION

The Court should deny Plaintiffs' motion for a preliminary injunction.

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Respectfully submitted,

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