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## Press Release

### **Americans Against Gun Violence Files Amicus Brief Calling on Supreme Court to Overturn Rogue Second Amendment Decision**

**Sacramento California, September 22, 2021:** Americans Against Gun Violence filed an *amicus curiae* (friend of the court) brief in the case of the *New York State Rifle and Pistol Association v. Bruen* on Tuesday, September 21, in which the organization called on the Supreme Court to overturn its rogue 2008 *Heller* decision.

In the *NYSRPA v. Bruen* case, the gun lobby claims that New York State's laws restricting the carrying of concealed handguns violates the Second Amendment. The gun lobby's argument is based almost entirely upon the Supreme Court's 2008 *Heller* decision in which a narrow five to four majority of the Court ruled for the first time in U.S. history that the Second Amendment conferred any kind of individual right to own a gun unrelated to service in a well regulated militia. The Supreme Court had ruled in four previous cases that the Second Amendment, which begins with the phrase, "A well regulated militia, being necessary to the security of a free state," did not confer an individual right to own guns for private use.<sup>1</sup>

The *Heller* decision has been described by respected authorities as "gun rights propaganda passing as scholarship"<sup>2</sup> and as "evidence of the ability of well-staffed courts to produce snow jobs."<sup>3</sup> In his autobiography, the late Supreme Court Justice John Paul Stevens described the *Heller* decision as "unquestionably the most clearly incorrect decision that the Court announced during my [35 year] tenure on the bench."<sup>4</sup> Stevens also noted that the *Heller* majority endorsed an interpretation of the Second Amendment that the late Supreme Court Chief Justice Warren Burger had called "one of the greatest pieces of fraud - I repeat the word 'fraud' - on the American public by special interest groups that I have ever seen in my lifetime."<sup>5</sup>

As Americans Against Gun Violence points out in its *amicus* brief, though, the *Heller* decision is worse than even these harsh criticisms might indicate. In creating a constitutional obstacle, where none previously existed, to the adoption of stringent gun control laws in the United States comparable to the laws in the other high income countries of the world - countries in which the rate of gun related deaths is, on average, one tenth the rate in our country<sup>6</sup> - *Heller* is literally a death sentence for tens of thousands of American annually. Americans Against Gun Violence calls on the Supreme Court to overturn the rogue 2008 *Heller* decision and to rule in the current case that New York State's handgun laws do not violate the Second Amendment.

A total of 32 *amicus* briefs in support of New York State's handgun laws were filed on behalf of 84 organizations, 606 individuals (including 152 members of Congress), 13 cities, and 18 states in the *NYSRPA v. Bruen* case as of the September 21 filing deadline, but Americans Against Gun Violence was the only organization to file a brief that openly states that the *Heller* decision was wrongly decided and should be overturned. We invite other organizations and individuals to join us in calling on the Supreme Court to overturn *Heller* and in calling for Congress to adopt stringent gun control laws comparable to the laws in other high income democratic countries, including a complete ban on civilian ownership of all handguns and all automatic and semi-automatic long guns.

## References

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<sup>1</sup> United States v. Cruikshank, 92 US 542 (Supreme Court 1876); Presser v. Illinois, 116 US (Supreme Court 1886); U.S. v. Miller, 307 U.S. 174 (1939) (n.d.); Lewis v. United States, No. 55 (U.S. 1980).

<sup>2</sup> Saul Cornell, "Originalism on Trial: The Use and Abuse of History in District of Columbia v. Heller," *Ohio State Law Journal* 69 (2008): 629.

<sup>3</sup> Richard Posner, "In Defense of Looseness," *The New Republic* 239, no. 3 (August 27, 2008): 35.

<sup>4</sup> John Paul Stevens, *The Making of a Justice: Reflections on My First 94 Years* (New York: Little, Brown, 2019), 482.

<sup>5</sup> Stevens, 483; Warren Burger, PBS News Hour, December 16, 1991.

<sup>6</sup> Erin Grinshteyn and David Hemenway, "Violent Death Rates: The US Compared with Other High-Income OECD Countries, 2010," *The American Journal of Medicine* 129, no. 3 (March 1, 2016): 266–73, <https://doi.org/10.1016/j.amjmed.2015.10.025>.