No. 24-328

IN THE

Supreme Court of the United States

FILED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

JOSEPH M. RYWELSKI,
Petitioner

v.

JOSEPH R. BIDEN, JR., PRESIDENT;
U.S. DEPARTMENT OF JUSTICE; MERRICK GARLAND, UNITED STATES ATTORNEY GENERAL;
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES,
Defendants

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether this case will resolve all current and future disputes with respect to governmental regulation of Petitioner's, and all other bona fide U.S. Citizens', *Right to Keep and Bear Arms* at the municipal, state, federal, and international level.

2. Whether all parties to Petitioner's Petition, the lower courts, and this Court, have already unanimously agreed to uphold the laws and authorities Petitioner has cited in proceedings below and what Petitioner is requesting pursuant to those authorities.

3. Whether the District and Federal Circuit, in their opinions, and cited opinions, are diametrically-opposed-to, and in direct conflict with the federal law of the Enabling Act of (among others) New Mexico Territory and Arizona Territory 36 U.S.Stat. 557, 568— 579 pursuant to Equal Footing Doctrine, Article IV, Section 3, Clause 2 of the U.S. Constitution; and diametrically-opposed-to, and in direct conflict with the U.S. Code according to 1 U.S.C. 204(a), pursuant to 2 U.S.C. 285b.

PARTIES TO THE PROCEEDING

Pursuant to Rule 14.1(b), the following list identifies all of the parties appearing here and before the United States Court of Appeals for the Federal Circuit.

The petitioner here and claimant/appellant below is Joseph M. Rywelski.

The respondents here and respondent/appellee below are Joseph R. Biden, Jr., President; U.S. Department Of Justice; Merrick Garland, United States Attorney General; Bureau Of Alcohol, Tobacco, Firearms And Explosives.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Joseph M. Rywelski respectfully petitions for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the Tenth Circuit in No. 23-5099.

OPINIONS BELOW

The United States Court of Appeals for the Tenth Circuit is not reported and is in the Appendix to the Petition ("Pet. App.") at Appendix A. The Order of the District Court is not reported and is at Pet. App. Appendix B.

JURISDICTION

The United States Court of Appeals for the Federal Circuit entered its judgment on May 1, 2024. The United States Court of Appeals for the Federal Circuit denied Petitioner's Petition for Panel Rehearing on June 20, 2024. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves provisions of 28 U.S.C. §1331, regarding district court's original jurisdiction, which provides:

> The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

This case further involves, as an example, provisions of 36 U.S.Stat. 557, 568— 579, Enabling Act of the territories of New Mexico and Arizona which states in part (but repeated in each territory's respective section):

> The constitution [of, and resulting government of New Mexico] shall ... not be repugnant to ... the principles of the Declaration of Independence.

NOTE: Further examples of the same requirement can be found in the enabling (or "Admissions" acts) for the states of: Alaska (72 STAT. Public Law 85-508); Utah 28 U.S. Statutes at Large (1894) 107; North Dakota, South Dakota, Montana, Washington (25 U.S. Statutes at Large, c 180 p 67); Nevada (13 U.S. Statutes at Large (1864), pp. 30-32); Hawaii (73 STAT. Public Law 86-3); et al. The enabling acts that are exceptions to the above do not contain *contrary* language, however and the Court should consider those exceptions to be moot with regard to the above provision, as the *Equal Footing Doctrine* applies here, making all states beholden to each other's enabling act(s).

This case, further involves, provisions of the U.S. Constitution, specifically Article IV, Section 3,

Clause 1, which states, in part "New States may be admitted by the Congress into this Union."a

This case, further involves, provisions of the U.S. Constitution, specifically Article IV, Section 3, Clause 2, the "Equal Footing Doctrine" which states:

> The Congress shall have Power to . . . make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

This case, further involves, provisions of the Second Amendment to the U.S. Constitution, which states, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.".

This case, further involves, provisions of the 9th Amendment to the U.S. Constitution, which states, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.".

This case, further involves, provisions of the U.S. Declaration of Independence, specifically the second paragraph which states, in part:

> We hold these truths to be self-evident ..., that all men are created equal, that they are endowed by their Creator with certain unalienable Rights. . .--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government. . . it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. . .

This case involves provisions of 1 U.S.C. 204(a), which states:

> In all courts, tribunals, and public offices of the United States. . .
>
> (a) United States Code - The matter set forth in the edition of the Code . . . establish prima facie the laws of the United States, general and permanent in their nature. . . .

This case involves provisions of 2 U.S.C. 285b, regarding the functions of the Office of the Law Revision and Counsel (OLRC), which states:

> The functions of the Office shall be as follows:

> (1) To prepare, and submit to the Committee on the Judiciary . . . a complete compilation. . . of the general and permanent laws of the United States . . .with a view to the enactment of each title as positive law. . . .

STATEMENT OF THE CASE

The decision of the United States Court of Appeals for the Federal Circuit and the Courts below represents a grave injustice to all bona fide U.S. Citizens, to include all parties to this case, this Supreme Court, members of the Federal Circuit, and Courts below, and the courts' dispositive opinions, and procedural rules, are diametrically-opposed to federal law and negate Petitioner's and other U.S. Citizens' enumerated "unalienable" rights as verbatim-recited in the U.S. Declaration of Independence; that are further prescribed-as-uninfringeable under the Second Amendment; and prescribed-as-protected under the 9th Amendment, to the U.S. Constitution. Such U.S. Citizens, to include all parties to this case, Justices of this Supreme Court, members of the Federal Circuit, and Courts below, have, through our representatives, unanimously-agreed to shackle-ourselves with the provisions of the Declaration of Independence as-law, as, pursuant to the *Equal Footing Doctrine* the Declaration has been *incorporated* into federal law by "proper reference" individually and collectively in various U.S. states' "enabling act(s)", or "admissions act(s)", for each

state's entry to the Union, and there is no carve-out exemption to acknowledgment of that incorporation provided for any court, or other branch of government, or the persons holding offices therein, by any subsequent agreement to date. Despite the position taken by the courts below, no proper protest to such incorporation has arisen from any court or governmental entity or representative. Further, the Declaration of Independence was also *de facto* incorporated into the "general and permanent laws of the United States", by inclusion of the Declaration in the *U.S. Code*, by the Office of the Law Revision and Counsel (OLRC), as it is charged with doing so under 2 U.S.C. §285b, and that the OLRC has included the Declaration in the U.S. Code since the first publication of the code, without acknowledgment and again without any formal protest to such incorporation from any court, governmental entity, or representative. Additionally, Supreme Court Justice Clarence Thomas of this Court, in *30 Howard L.J. 983, 987 (1987),* has also provided his journal article opinion that the Declaration of Independence is incorporated-by-reference in the U.S. Constitution by-and-in the attestation clause by signer President George Washington,

> "First, the Constitution makes explicit reference to the Declaration of Independence in Article VII, stating that the Constitution is presented to the states for ratification by the Convention "the Seventeenth Day of September in the Year of our Lord one-

> thousand seven hundred and eighty-seven of the Independence of the United States of America the Twelfth . . . .'"'

and should thus be considered incorporated into federal law, providing ample grounds for the courts below to have accepted jurisdiction in Petitioner's case under 28 U.S.C. §1331.

Of the enumerated "Rights" recited in the second paragraph of the Declaration, as-law, the fourth enumerated Right is the uniquely-occurring, twice-recited, Right of Petitioner, to remove and Replace (Petitioner's, or) "any Form of" government "whenever" Petitioner deems such government threatens Petitioner's Right(s) to "Life, Liberty, and the Pursuit of Happiness", and the associated "duty" assigned to exercise that Right, being the only duty recited in *any* U.S. founding document. Those Rights are also *de facto* prescribed-as-protected under 9th Amendment to the U.S. Constitution which forswears denial or disparagement of "other enumerated Rights" "retained by the people" the set of which absolutely contains the Rights contained in the Declaration as those rights are recited-verbatim as "unalienable", thereby being immune to counter-claim that the founders assigned the ability to remove such rights because the founders recited-verbatim that they did not believe that such a taking of those rights was possible.

Petitioner was correct, and within Petitioner's rights to claim to the lower courts that Defendants were in violation of Petitioner's Right to remove and replace Petitioner's government by pre-emptively denying Petitioner the means, and by requiring Petitioner to obtain Defendant's permission to obtain the means, to do so. Further, Defendants have additionally violated Petitioner's and other Citizens right to keep and bear arms as recited in the Second Amendment to the Constitution, as claimed by Petitioner and Petitioner's citation of the Second Amendment should have provided the lower court additional grounds to claim jurisdiction in Petitioner's case under . 28 U.S.C. §1331.

While the impact and ramifications of the above statements may appear enormous and stark, they are of the government's own-making. Correction of these matters is within the scale of order of magnitude of the abolition of slavery, dismantling segregation, overturning Prohibition, and overturning of "Roe v. Wade", except the above noted violations to Petitioner's Right and duty have not (with the exception of slavery and segregation) been allowed to occur as long, and should now be stopped, and Petitioner should no longer be compelled to defend Petitioner's Right and duty in any state, or in the United States, as he does not have to do so with his other rights of free speech, or freedom of religion, among other enumerated rights. Further, Petitioner should not be required to remind the courts of Petitioner's cited arguments, nor have to argue what Petitioner

believes should be considered black letter law, and that all court's procedural rules, and opinions, to the contrary should be vacated.

This case has had no response from any Defendant and, through the actions of the courts below, all arguments by Plaintiff have previously been turned to discussion of court's jurisdiction, federal law, and the status of the Declaration of Independence as-law and the Declaration as a source of individual right of action against Petitioner's government.

A. Factual Background

Petitioner is the legal owner of certain firearms which are legally-designated, during manufacture by each firearm's manufacturer or assembler, and further categorized by Defendant U.S. Bureau of Alcohol Tobacco Firearms & Explosives (ATF&E) under the Gun Control Act 18 U.S.C., § 921(A)(29), as a "pistol". Petitioner has purchased, and mounted on certain of Petitioner's pistol-firearms, firearm accessories termed by the firearms industry as "pistol brace(s)" or, by Defendant ATF&E, as "stabilizing braces". Such pistol braces were previously approved, by letter distributed by Defendant ATF&E, for purchase, ownership, use, and sale, by Petitioner (and others). However, on January 13, 2023, the ATF&E presented ATF&E's final rule 2021R-08F, "Factoring Criteria for Firearms with Attached 'Stabilizing Braces'" (the "Rule Change") reversing ATF&E's position on the pistol braces and instead

designating purchase, ownership, possession, and use, of each pistol brace a felony, punishable by a $250,000 fine and ten (10) years in jail, unless certain onerous conditions or processes were met. While, during the course of Petitioner's proceedings in the lower courts, Defendant's Rule Change was vacated by the Fifth Circuit in Mock v. Garland, No. 23-10319 (5th Cir. 2023), however, that Fifth Circuit's opinion to vacate relies on the Rule Change being a violation of the Administrative Procedure Act, 5 U.S.C. §§ 551–559. Therefore, Defendants could later enforce the exact same Rule Change if Congress merely later wrote a more-specific law. Further, Defendants Department of Justice ("DOJ") and ATF&E's enforcement of the Rule Change is only one of the most recent of the various Federal firearms regulating actions taken by Defendants against Petitioner's Rights.

B. Proceedings Below

Petitioner, on May 25, 2023, filed a petition *pro se* against the above Defendants in District Court for the Northern District of Oklahoma, requesting injunctive relief against Defendant's full enactment of the Rule Change, and declaratory judgment against Defendant's violation of Petitioner's individual "Right", and "duty" to exercise that Right, to remove and replace Petitioner's government as recited-verbatim in two separate instances in the Declaration of Independence, as-law, citing the Declaration's de facto incorporation into the "general and permanent laws of the United States" by the

Declaration's inclusion in the *U.S. Code*, by the OLRC, tasked with doing so under 2 U.S.C. 285b. Petitioner further cited the Second Amendment to the United States Constitution as additional support of Petitioner's claims. Petitioner's Petition cited Defendant ATF&E's Rule Change as a violation of Petitioner's above recited Right and duty, as the Rule Change among other regulations works to pre-emptively block Petitioner from the exercise of that Right and duty by controlling and denying Petitioner the means and the access to the means to exercise the Right.

The District Court, on July 10, 2023, responded *sua sponte*, denying the District Court's possession of subject-matter jurisdiction in Petitioner's case, citing Image Software, Inc. v. Reynolds & Reynolds Co., 459 F.3d 1044, 1048 (10th Cir. 2006) (quoting Arbaugh v. Y & H Corp., 546 U.S. 500, 501 (2006)); and FED. R. CIV. P. 12(h)(3); and denying the District Court's authority to exercise federal jurisdiction under Merida Delgado v. Gonzales, 428 F.3d 916, 919 (10th Cir. 2005); Penteco Corp. Ltd. Partnership--1985A v. Union Gas System, Inc., 929 F.2d 1519, 1521 (10th Cir. 1991); and that Petitioner had not met the burden of alleging jurisdictional facts demonstrating the presence of federal subject matter jurisdiction, McNutt v. General Motors Acceptance Corp. of Indiana, Inc., 298 U.S. 178, 182 (1936), and Montoya v. Chao, 296 F.3d 952, 955 (10th Cir. 2002). The District Court further denied Petitioner's assertion that the District Court had diversity jurisdiction, and denied Petitioner's

assertions that the Declaration of Independence constituted federal law, or that the Declaration creates a private right of action enforceable against the federal government, citing Swepi, LP v. Mora County, New Mexico, 81 F. Supp. 3d 1075, 1172 (D.N.M. 2015); Tompkins v. Hepp, 2008 WL 2002663, *1 (W.D. Wis. May 6, 2008); Coffey v. United States, 939 F. Supp. 185, 190-91 (E.D.N.Y. 1996).

Petitioner timely filed a Form 12 appeal, *pro se*, with the Tenth Circuit Court on October 23, 2023, indicating the District Court had jurisdiction under 28 U.S.C. §1331, citing the U.S. Code and the OLRC's inclusion of the Declaration in the U.S. Code under 2 U.S.C. 285b. Petitioner cited the Declaration's recited-verbatim "unalienable" rights, as also being prescribed-as-protected under the 9th Amendment to the Constitution, and that Petitioner's "right to keep and bear arms", prescribed as-protected under the Second Amendment to the U.S. Constitution

The Circuit Court conducted a *de novo* review of the dismissal, and affirmed the District Court: did not have subject-matter jurisdiction citing Fed. R. Civ. P. 12(b)(1); did not have diversity jurisdiction under 28 U.S.C. § 1332(a). The District Court further found that Petitioner failed to plead a "colorable claim arising under the Constitution or the laws of the United States" citing Arbaugh v Y&H Corp., 546 U.S. 500, 513 (2006) et al; and further found that the Declaration did not provide a private right of action against the government

citing Schifanelli v. U.S. Gov't, 865 F. 2d 1259 (4th Cir. 1989) and Rhode Island v. Massachusetts, 37, U.S. 657, 680 (1838).

Plaintiff timely filed a Petition for Panel Rehearing on June 10, 2024, incorporating all previous claims and citing what Plaintiff believed to be a dispositive-fact that the Declaration is also, by way of the *Equal Footing Doctrine*, codified-into federal law by incorporation-by-reference, as the Declaration's incorporation "by proper reference" is demanded-verbatim, by and through the Enabling Act for admission to the Union of the territory of New Mexico, Enabling Act June 20, 1910, c. 310, 36 U.S.Stat. 557, 568— 579. Such Enabling Act made into law and joined by President William Howard Taft's Proclamation 1175, which both admits the New Mexico territory as a state and makes New Mexico's Enabling Act a federal law. Petitioner noted that similar incorporation-by-reference requirements were included in the enabling acts of most other states, specifically all states admitted since New Mexico, but that, under the Equal Footing Doctrine, the existence of only one example should be considered sufficient to find that the Declaration is law. Petitioner's Petition for Panel Rehearing also cited what Petitioner believes to be a dispositive-fact that the Enabling Act June 20, 1910, c. 310, 36 U.S.Stat. 557, 568— 579 further precludes the state of New Mexico, its legislature, its courts, and its citizenry, from enacting any future state constitutional amendment that violates the provisions of New Mexico's Enabling Act, to include anything that was "repugnant to the

. . . principals of the Declaration of Independence". Petitioner thus claimed the Declaration is persistent-law, and the Rights and duties recited-verbatim within are held by Petitioner and should be observed and protected by the courts.

The Circuit Court filed an Order on June 20, 2024, denying Petitioner's Petition for Panel Rehearing

Reasons for Granting the Petition

I. Petitioner's requested relief has already been previously agreed-to by all parties to this case, to include members of this Court and the courts below.

Petitioner is requesting the Court uphold the Declaration of Independence as-law, as:

1) the Declaration has been incorporated-by-reference into law by and within the Enabling Act of 1910, Enabling Act June 20, 1910, c. 310, 36 U.S.Stat. 557, 568— 579, which contains the required provisions for admittance, as U.S. states, to the Union for both the territories of New Mexico and Arizona "on an equal footing with the original states". One of those required provisions for each state, provides that New Mexico's, and Arizona's, representatives each draft a state Constitution that:

> ". . .shall not be repugnant to . . . the principals of the Declaration of Independence."

Not only does the Enabling Act of 1910 incorporate-by-reference the Declaration as-law, as stated above, the Enabling Act of 1910 further *demands*, as the Enabling Act of 1910 states "shall", that each respective-state's constitution also incorporate the Declaration "by proper reference" (see citation below). The Enabling Act of 1910 goes on to recite a provision prohibiting each of New Mexico's, and Arizona's, state constitutions from later being reverted to a "repugnant" form; namely, by a later adoption of an amendment that excludes the principals of the Declaration of Independence:

> All of which ordinance described in this section shall by proper reference, be made a part of any constitution that shall be formed hereunder, in such terms as shall positively preclude the making by any future constitutional amendment of any change or abrogation of said ordinance in whole or in part without the consent of Congress.

Again, the above indented quoted citations are each repeated-verbatim two times in the Enabling Act of 1910; once each in the respective sections for New Mexico and Arizona.

Further, under Article IV, Section 3, Clause 2 of the U.S. Constitution, the *Equal Footing Doctrine*, all states are beholden to each other's "enabling act"; "admissions act"; or, in the case of Washington, D.C., the "Organic Act". Therefore, only one example of such incorporation-by-reference should suffice to have the lower courts, and this Court, consider the Declaration as-law. However, the enabling act of every state admitted to the Union since that of New Mexico, including the last-admitted state of Hawaii (1959), and many of the enabling acts of states admitted prior to New Mexico's admittance, all contained these same provisions. Therefore, under the Equal Footing Doctrine, the Court should consider that Petitioner is correct in stating that all parties to this case, to include members of this Court, and the courts below, have already agreed to ratify the Declaration of Independence as-law.

2) In addition to the previous, the Declaration is also incorporated-into-law by its *de facto* inclusion in the "general and permanent laws of the United States" as found codified in the "Front Matter" of the U.S. Code under the heading "Organic Laws", the same section in the Code one finds the inclusion of the U.S. Constitution, as placed there by the Office of the Law Revision and Counsel (OLRC) under the OLRC's authority to do so in 2 U.S.C. 285b, and the OLRC has included the Declaration in the Code since the Code's first publication (1925). That *de facto* inclusion in the Code is further compounded by

its incorporation-by-reference under 1 U.S.C. 204:

> (a) United States Code.-The matter set forth in the edition of the Code of Laws of the United States current at any time[**which as stated above, includes the Declaration of Independence listed as an "Organic Law" of the United States in the "Front Matter" of the U.S. Code]** shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included: . . .

3) In addition to the previous, U.S. Supreme Court Justice Clarence Thomas, has also written, in "Toward a "Plain Reading" of the Constitution-The Declaration of Independence in Constitutional Interpretation", 30 Howard L.J. 983, 987 (1987), that the Declaration is incorporated-by-reference in the U.S. Constitution by mention of United States' Independence as a benchmark-reference-date in the Constitution's attestation clause, which provides:

> . . .done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the

> Independance of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names, G. Washington Presidt and deputy from Virginia [

Thus, despite all prior actions, opinions, and court rules to the contrary, the Court should find Petitioner was correct in asserting that the lower courts should find that the Declaration of Independence should be considered law. The Court should also find Petitioner was also correct in asserting that the lower courts in responding *sua sponte*, should have found *for* Petitioner in this regard without the need of Petitioner being required to provide the above references, but definitely should have done so after Petitioner having provided the references mentioned.

II. The Declaration, as-law, recites that Petitioner has "unalienable" Rights.

Petitioner is further requesting the Court uphold the Rights enumerated in the Declaration of Independence as codified as-law as noted above, and denied Petitioner by Defendants and the courts below, as:

1) As incorporated-by-reference into-law; one of the principals contained in the Declaration of Independence is that all men have enumerated, "Creator" "endowed", "Rights". Each man has these Rights individually as

the Rights enumerated in the Declaration begin with the Right to "Life", and there is no such thing as a cumulative existence, or cumulative-holding of a right, and there is no distinction made in the Declaration between the Right to Life and any other Right(s) enumerated in the Declaration.

2) The Rights incorporated-into-law are also "unanimously" ratified in the Declaration by our representatives, and recited-verbatim as "unalienable Rights". Therefore, nothing in the Declaration, and no later-writing by those same representatives, without evidence of specific language to the contrary, can legally or logically be construed to mean our country's founders, as our representatives, assigned the authority to take away any of those Rights, as our founding fathers recite-verbatim in the Declaration, that they do not deem themselves, or anyone else, to have the authority to take away the Creator-endowed "unalienable Rights".

3) Compounding this Right-protective-posture of the Declaration is the recited-verbatim principal in the Declaration that the very purpose of forming a "government" is to "secure" the Rights recited in the Declaration, and not to limit, or take those Rights away, "That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,. . .".

It is recited-verbatim in the Declaration that government's "powers" are *derived* from the consent of the governed. The powers of government are not recited in the Declaration as "gifted", "granted", or "assigned", but rather tied-to the condition-precedent "consent" of the governed, and that consent is a permanently on-going consideration as the Declaration immediately thereafter provides that the People have a duty to exercise the Right to take governmental powers away "whenever" the People deem necessary, "That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it".

Thus, the Right and duty do not have an expiration date, and would therefore, without hyperbole, outlive even the *idea* of America.

4) The 9th Amendment to the U.S. Constitution, later drafted by the same parties who drafted the Declaration to form the above government that was "instituted" to protect Petitioner's Rights, further provides, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.".

   As the 9th Amendment was part of the original 10 ratified Amendments ratified in the "Bill of Rights" amendments to the U.S. Constitution, it would be illogical to claim that the founding father's writing of the 9th

Amendment was referring to the other 9 rights recited in the Bill of Rights. As the Constitution, offered contemporaneously with the Bill of Rights to facilitate ratification of the Constitution, only uses the word "right" one time in Article 1 Section 8 with respect to patents, it is illogical to claim that the Founders intended the 9th Amendment to reference the already-protected singular right recited in the Constitution. As the intervening "Articles of Confederation" were supplanted by the U.S. Constitution, and only use the word "right" 5 times, all in connection with the authorities or actions of government rather than those of the people, it is illogical to claim that the Founders intended the 9th Amendment as a look-back to the Articles of Confederation. It is logical, however, and without U.S. founding document citation to-the-contrary, for Petitioner to assert, and for the Court to hold, that the set of Rights not to be denied or disparaged would absolutely contain the recited-verbatim unalienable Rights enumerated in the Declaration. And the holding of this Court and courts below, with regard to *which* Rights are prescribed-as-protected under the 9th Amendment, per the principles of Declaration as-law, should be that these rights are not to be protected, or doled-out, piecemeal. The Court should find that Petitioner was correct in Petitioner's assertions that Petitioner's Rights enumerated in the Declaration and prescribed-as-protected under the 9th

Amendment have been denied and disparaged, both by Defendants and by the proceedings in the courts below.

5) As a further support of the above arguments, Article IV Section 4 of the Constitution states "The United States shall guarantee to every State in this Union a Republican Form of Government". Petitioner is correct in claiming that this Article, just as with all rights recited in the Bill of Rights, is a freedom *from* government. The Bill of Rights, and Article IV Section 4 of the Constitution, are therefore ultimately enforced by a sufficiently armed Citizenry.

6) The cases cited by the courts below, dismissive of the Declaration as-law, are held up by those courts below as though the *primary holding* of each of those cases was that the courts found the Declaration was not to be considered law, and deference to that opinion is demanded in the same way Chevron U.S.A., Inc. v. NRDC, 467 U.S. 837 (1984) required deference to interpretation of ambiguous legislative statements as long as the interpretation was "reasonable". The courts below, however, have no "Chevron" case(s) here, and, the authorities cited by Petitioner in Petitioner's pleadings to the lower courts, and in this Petition, show that there is no ambiguity in the meaning of the text as-written in our founding documents, in the compounded meaning of the principals

therein, or in the protections demanded of-them. Nor are those documents and principals, adopted, engrossed, stored, or *held* any differently than any other U.S. law, except in the dispositive, and in some instances off-handed, statements contained in the cases cited by courts below. Those cases, and the discretionary holdings of the courts therein, should therefore receive the same treatment this Court provided in Loper Bright V. Raimondo, Secretary Of Commerce, et al., U.S. 22-451, with the noted exception of acknowledging that the lower courts' holding, in spite of the aforementioned lack of ambiguity in the text as-written in our founding documents, threatens the abolition of the courts' underlying authority as such abolition is demanded, in the twice repeated-verbatim, and duty-demanded, recitations in the Declaration as-law.

III. One of the Unalienable Rights Recited in the Declaration Of Independence is the Twice Recited Right to Remove and Replace "any Government" that Threatens Petitioner's Other Rights.

Of Petitioner's Creator-endowed unalienable-Rights, recited-verbatim in the second paragraph of the Declaration, is the uniquely-occurring twice-repeated, and prescribed-as-protected under the 9th Amendment, Right of Petitioner to remove and replace "any government"

"whenever" Petitioner, or other Citizen, deems it necessary:

First Recitation:

> That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

Second Recitation:

> But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.

The second recitation of that Right also includes the only "duty" assigned to exercise a Right, of any kind, found in any U.S. founding document:

> it is their duty, to throw off such Government, and to provide new Guards for their future security.

Therefore, Petitioner is correct in asserting that the courts should find that Petitioner, among other citizens, is denied that Right if, like a violation of the "Free Exercise Clause" (Abington School District v. Schempp, 374 U.S. 203, 222–23 (1963), except with regard to arms instead of religion), the government regulates the means; pre-emptively denies Petitioner access to or possession of the means; or withholds from Petitioner permission to obtain the means, to exercise that Right.

Therefore, too, the Court should find that Petitioner was also correct in Petitioner's assertion that the Second Amendment to the U.S. Constitution, which reads:

> A well regulated Militia, being necessary to the security of a free State,
>
> . . .
>
> **[a free State being the entity devised and "instituted" by the People for the recited-verbatim sole-purpose of securing the unalienable Rights of the People, one of those Rights being the twice-recited, and duty-to-exercise-attributed, Right to remove and replace such government "whenever" the People believe the government threatens their Rights, as recited in the Declaration]**

> . . .the right of the people to keep and bear Arms, shall not be infringed.;

is the Constitution's acknowledgment, by way of Constitutional amendment, of the Declaration's imposition of an agreed-to governmental "hands-off" policy with respect to Petitioner's "arms", in the same manner as the 1st Amendment creates an "Establishment Clause" hands-off policy with respect to a Citizen's free-exercise of the Citizen's religion.

Therefore, too, the Court should find that Petitioner was also correct in Petitioner's assertion that the above Right and duty do-absolutely, as recited-verbatim in the Declaration, provide for a "private right of action against the government".

As further evidence of the previous, should Petitioner, or other U.S. Citizen, deem it necessary to exercise the above referenced Right and duty, such an exercise would be legally defined as an "insurrection". Article 1 Section 8 of the U.S. Constitution provides that the United States Congress is the *sole* governmental entity that is authorized to respond to such an "insurrection".

> The Congress shall have Power . . .
>
> To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

The "Militia" referred to in Article 1 Section 8 of the U.S. Constitution, was a paramilitary body drawn from the of-age males of the U.S. general populace later codified under the Militia Act of 1792; and, as that Act only sanctioned a duration of authority of 2 years, the Militia Act of 1795. It should be noted here that those Acts also required members of the Militia to provide their-own *minimum*, with no maximum, arms and martial-accoutrements.

By its Militia Act of 1795, Congress delegated the authority, to *call forth* the Militia to the President of the United States. However, the authority to call forth the Militia under a Militia Act does not change what that Militia is authorized by Congress, to do under Article 1 Section 8 of the U.S. Constitution. Nor does it expand what Congress was authorized to authorize the President to do under the Militia Act(s). Therefore, despite further expansions of the Militia Act(s) that later created the U.S. National Guard (Militia Act of 1903, 32 Stat. 775), under Article 1 Section 8 of the U.S. Constitution, the only act Congress, and by Congress'-enacted-law the President, is authorized to take in response to an insurrection, is to ask the remaining U.S. populace, i.e., those who are not-involved in the insurrection, to act as a Militia, to "suppress" the insurrection. Therefore, if the People decided to remove and replace their government, and Congress or the President could not muster sufficient force from

the remaining populace to suppress the insurrection, Congress, the President, and the U.S. government might be removed and replaced. This was born-out in-actuality, in 1794, with President George Washington's response to the events constituting the *Whiskey Rebellion*, which conflict could tactically be considered to have been fought to a "draw". Petitioner notes here too that, despite the violent use of arms, and despite the actions of certain Citizens who interrupted the collection of federal taxes during that rebellion, the outcome of that insurrection did not result in any "gun control" legislation by the federal government, or by the affected states.

Further, per the prohibitions against government either: establishing a religion (read-also interfering with a place of worship as a public meeting place in the above mentioned Free Exercise Clause); "or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances", under the 1st Amendment to the Constitution, government is even prohibited from taking an action that might *influence* a Citizen in the Citizen's choosing-of a particular side in an insurrection.

Perhaps somewhat tangential to the above, but Petitioner here respectfully reminds the Court that Article V of the Constitution limits, with particular specificity, "government's" authority to amend its own authority by-or-

through the amending of the U.S. Constitution (which, Petitioner respectfully reminds the Court, did not occur with, despite, in-relation to, or subsequent-to, the passage of later Militia acts), requiring a concurrence of a minimum of "two thirds of both Houses" to "call a Convention for proposing Amendments". Further pursuant to Article V, those amendments passing out of a Convention are not considered "valid to all Intents and Purposes, as Part of this Constitution", until ". . . ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress...". However, no such restrictions of minimum plurality, or minimum specificity-as-to-cause, whatsoever, is required of a Citizen in determining that a government is in need of replacing before exercise of such Right and duty to replace that government under the Declaration. Petitioner notes that, while the Declaration's second paragraph recites "Prudence" "dictate[s]" not doing so for "light and transient causes", the document itself, does not.

IV. The "text", "history", and "tradition" cited by this Court in New York State Rifle & Pistol Association, Inc. V. Bruen, 597 U.S. 1 (2022), Support Petitioner's Claims.

The text of the Declaration, again, recites two (2) times that Petitioner has an "unalienable Right"

to remove and replace "any government" "whenever" Petitioner deems that government threatens Petitioner's other rights. No other right or other authority recited in any founding document is repeated two times. The text also assigns the sole duty, found in any U.S. founding document, to exercise that Right.

The history of the Declaration comes during the U.S. Revolutionary War when the Citizenry of the U.S. was removing and replacing its "world-class" government of England, as a ratification of the acts already-occurred. The beginning of that War was the "shot heard round the world" occurring in Lexington and Concord Massachusetts (1775) by colonial civilians protecting personal stores of gun powder from British Army regulars sent to confiscate those stores.

The tradition of upholding American Citizens "right to keep and bear arms" holds through all events occurring from U.S. Independence through the Reconstruction after the U.S. Civil War, and is only assaulted by attempts at federal regulation within what is essentially a forty-year window in the 1900s.

V. The Second Amendment, as cited by Petitioner, is considered federal law and should not have been ignored by the circuit court and courts below in their determination that they lacked jurisdiction.

The "Second Amendment" was made a part of the U.S. Constitution, and U.S. law, as "Article the fourth" to the "1789 Joint Resolution of Congress Proposing 12 Amendments to the U.S. Constitution" on September 25, 1789, and ratified as Amendment II within the Bill of Rights on December 15, 1791. The Second Amendment is-law and this Supreme Court held, in *District of Columbia v. Heller*, that the "Second Amendment provides for protection of an "individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home." Petitioner's District Court Petition cited Defendant's violation of Petitioner's Second Amendment Right (Pg. 12 Section 23). Despite the foregoing, specifically that Petitioner's cause of action arose under federal law, the District Court did not acknowledge Petitioner's citation of the Second Amendment in their determination that the District Court did not have jurisdiction in Petitioner's case.

***

Petitioner is now, and heretofore, a "complier" with all previously enacted governmental infringements, and usurpations, of Petitioner's rights with respect to Petitioner's arms. Petitioner has been subjected by Petitioner's government to onerous and dangerous limitations on Petitioner's ability to exercise Petitioner's right to keep and bear arms, and subjected to onerous

taxations on those arms, with those taxes being used to fund expanding legislation, and whole governmental entities, created in order to quash not only Petitioner's right to keep and bear arms but to quash Petitioner's, and others, belief that Petitioner has such a right, and this Court, and courts below have historically been complicit in such actions against Petitioner, Defendant's Rule Change being only a more recent example, and those actions are currently trending more-frequent.

Stated plainly, Petitioner's fellow citizens, acting as governmental employees and representatives, have previously agreed with Petitioner, and others, to institute a government amongst ourselves with the solely-recited and "unanimously" agreed-upon condition-precedent-purpose of that government being to uphold Petitioner's rights, and specifically Petitioner's Right to remove and replace that government when it threatens Petitioner's rights. Petitioner's fellow citizens, to include the Defendants, members of this Court, and members of the courts below, have further agreed to impose regulations protecting Petitioner's Right and duty, on all current and future U.S. States' governing authorities and jurisdictions, and to permanently hold those State's governing authorities and jurisdictions to those regulations as condition-precedent to those states remaining U.S. states. Notwithstanding the previous, Petitioner, among others, has had Petitioner's rights violated by his fellow citizens, acting as governmental employees and representatives, who have, as condition-precedent

to accepting those positions as representatives, swore an oath to uphold Petitioner's rights by supporting the laws that codify them. Petitioner adequately delineated the above in Petitioner's pleadings to the courts below.

The Court should find, therefore, that Petitioner was correct when asserting the above arguments and authorities supporting Petitioner's Right and duty, and that such authorities are written in plain English and *inexorably* woven into the founding and current governing documents of the United States, and that we all have already agreed to them and have housed those documents on public display in our National Archives Museum, 701 Constitution Avenue NW, Washington DC, DC 20408-0001. The Court should further find that, when Petitioner's arguments and authorities are juxtaposed with the justifications for, and explanations of, Defendant's "Rule Change", among other infringements on Petitioner's Right and duty and Petitioner's Right to keep and bear arms, that Defendants actions are found far-afield and outside of agreed-upon authorized governmental authority, and that such overreach is precisely what Petitioner's Right and duty was agreed-upon to protect Petitioner against, and that Petitioner's government did not uphold its charter by acting to secure that specific Right and duty of Petitioner. The Court should uphold Petitioner's unalienable Right, and the duty to exercise that right, by overturning the rulings of the courts below and finding for Petitioner

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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