No. 24-598

In the Supreme Court of the United States

B&L PRODUCTIONS, INC.,
D/B/A CROSSROADS OF THE WEST, *et al.*,
Petitioners,

v.

GAVIN NEWSOM, GOVERNOR OF CALIFORNIA, *et al.*,
Respondents.

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

BRIEF IN OPPOSITION FOR THE STATE RESPONDENTS

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QUESTIONS PRESENTED

Petitioners challenge statutes that prohibit state officials from contracting for, authorizing, or allowing "the sale of any firearm, firearm precursor part, or ammunition on state property." Cal. Penal Code § 27573(a); *see id.* § 27575(a); Cal. Food & Agric. Code § 4158(a). Those statutes do not ban gun shows. Nor do they prohibit gun-show participants from advertising or offering the sale of firearms—or engaging in any other protected speech about firearms while at gun shows. *See* Pet. App. 80a, 87a. They only prevent "vendors and gun show attendees from consummating a contract to purchase firearms or ammunition while" on state property. *Id.* at 80a. The questions presented are:

1. Whether the court of appeals correctly held that, because the challenged statutes regulate economic activity and not expressive conduct, they do not warrant heightened scrutiny under the First Amendment or the Equal Protection Clause.

2. Whether the court of appeals correctly held that petitioners failed to state a claim that the laws violate the Second Amendment.

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STATEMENT

1. In California, "district agricultural associations" are formed under state law to "operat[e] recreational and cultural facilities of general public interest." Cal. Food & Agric. Code § 3951(b). They contract with third parties to "hold[] fairs, expositions, and exhibitions," including gun shows, on state property. *Id.* § 3951(a); s*ee* Pet. App. 2a. Relevant here, the 22nd District Agricultural Association covers San Diego County, and the 32nd District Agricultural Association covers Orange County. Cal. Food & Agric. Code § 3102(w), (ah).

Before 2019, California allowed firearms and ammunition sales at gun shows on state property, including fairgrounds. But the Legislature found evidence of firearms-related crimes at gun shows, "including, but not limited to, an official vendor accused of trafficking illegal firearms, sales of firearms to individuals registered in the Department of Justice Bureau of Firearms Armed Prohibited Persons System, and illegal importation of large-capacity magazines." 2019 Cal. Stats. ch. 731, § 1(e); *see also* 2021 Cal. Stats. ch. 684, § 1(e). Over a four-year period, for example, law enforcement officials recorded "14 crimes at the Crossroads of the West Gun Shows" at fairgrounds managed by the 22nd District Agricultural Association. 2019 Cal. Stats. ch. 731, § 1(f).

To address those concerns, the Legislature enacted statutes in 2019 and 2021 prohibiting officers, employees, and licensees of the 22nd and 32nd District Agricultural Associations from "contract[ing] for, authoriz[ing] or allow[ing] the sale of any firearm, ammunition or firearm precursor part" on "property owned, leased, or otherwise occupied" by the associa-

tions. Cal. Food & Agric. Code § 4158(a); *see* Cal. Penal Code § 27575(a). In 2022, the Legislature extended the restriction statewide, prohibiting state officers and licensees from "contract[ing] for, authoriz[ing], or allow[ing]" firearm or ammunition sales on state property. Cal. Penal Code § 27573(a); 2022 Cal. Stats. ch. 145.

None of those statutes prohibits gun shows generally or on state property, or "prohibit[s] gun show vendors from advertising the firearms they are offering for sale." Pet. App. 80a. Participants at gun shows may engage in other protected First Amendment activities as well, such as giving lectures about firearms, holding classes, and discussing gun rights. *See id.* at 87a. The statutes only prohibit "vendors and gun show attendees from consummating a contract to purchase firearms or ammunition while" on state property. *Id.* at 80a. And they do not apply at all to gun shows held at private venues, such as hotel ballrooms or private convention centers.

2. Petitioners promote, attend, and participate in gun shows in San Diego and Orange Counties. Pet. App. 2a, 18a. In 2021 and 2022, they filed separate lawsuits in the Southern and Central Districts of California, which collectively challenged the three state laws at issue here. *See* San Diego Compl. ¶ 5 (citing Cal. Food & Agric. Code § 4158); Orange County Compl. ¶ 5 (citing Cal. Penal Code §§ 27573, 27575).[1]

Each complaint raised constitutional claims and named state and county officials and the relevant district agricultural association as defendants. Pet. App.

[1] Citations to "San Diego Compl." are to No. 21-1718 Dkt. 36 (S.D. Cal. Aug. 31, 2022). Citations to "Orange County Compl." are to No. 22-1518 Dkt. 19 (C.D. Cal. Nov. 14, 2022).

81a-82a. As to the First Amendment, petitioners alleged that the challenged statutes are "direct ban[s] on speech" and "ha[ve] the effect of banning gun shows [and] all the educational, ideological, and commercial speech that takes place at such events." San Diego Compl. ¶¶ 144, 152; *see* Orange County Compl. ¶¶ 185, 187 (similar). As to the Second Amendment, they alleged that the statutes violate "their right to buy and sell firearms and the ammunition necessary to the effective operation of those firearms." San Diego Compl. ¶ 243; *see* Orange County Compl. ¶¶ 236-237 (similar). Petitioners also alleged that the statutes violate "their fundamental rights under the Equal Protection Clause" of the Fourteenth Amendment by "[s]ingling out speakers because of the content of their speech." San Diego Compl. ¶ 44; *see* Orange County Compl. ¶ 41.

a. The district courts reached divergent results. In the San Diego case, the district court held that petitioners failed to state any constitutional claim. Pet. App. 6a-13a. It noted that the challenged statute "cover[ed] no more than the simple exchange of money for a gun or ammunition," and therefore did not infringe speech for purposes of the First Amendment. *Id.* at 7a. Petitioners' equal protection claim failed because it was also "predicated on their First Amendment claims." *Id.* at 12a. And petitioners had not made "the necessary allegations to support a Second Amendment claim." *Id.* at 11a.

The district court granted petitioners leave to amend their Second Amendment claim. Pet. App. 11a. But petitioners declined to file an amended complaint. *Id.* at 16a. Thereafter, the court entered judgment dismissing the complaint. *Id.*

b. In the Orange County case, the district court held that petitioners were likely to succeed on the merits and granted their motion for a preliminary injunction. Pet. App. 18a, 29a-59a. In the court's view, the challenged statutes "implicate commercial speech by restricting the sale of otherwise legal firearms" and are unlikely to survive the intermediate scrutiny that applies to commercial speech. *Id.* at 35a, *see id.* at 37a-40a. The court also reasoned that petitioners are likely to prevail on their equal protection claim "for differential treatment that trenched upon" their First Amendment rights. *Id.* at 59a. And it concluded that the statutes "sufficiently implicate individual rights under the Second Amendment," *id.* at 53a, and are not adequately justified by historical tradition, *id.* at 53a-58a. The court preliminarily enjoined respondents from enforcing California Penal Code Section 27575 (which addresses the 32nd District Agricultural Association) and Section 27573 (which covers state employees and licensees of state property generally). *Id.* at 63a.

3. The court of appeals affirmed the dismissal of petitioners' complaint in the San Diego case and vacated the grant of a preliminary injunction in the Orange County case. Pet. App. 76a-98a.

a. The court of appeals held that the challenged statutes were not subject to heightened judicial scrutiny under the First Amendment because they "do not directly or inevitably restrict any expressive activity." Pet. App. 84a. The court emphasized that the challenged laws do not prohibit "gun show vendors from advertising the firearms they are offering for sale," *id.* at 80a, or making "offers to sell firearms," *id.* at 85a. Nor do they restrict any of the other forms of speech

that may occur at gun shows, such as when "[o]rganizations share information, speakers give lectures, trainers hold classes, and patrons discuss gun rights." *Id.* at 87a. The laws "simply prohibit 'contracting [for] . . . the sale of any firearm or ammunition' on state property." *Id.* at 85a. "On its face, that language solely regulates the moment at which a binding contract is formally consummated," meaning the acceptance of "an offer to sell firearms or ammunition on state property." *Id.* But "consummating a business transaction is nonexpressive conduct unprotected by the First Amendment." *Id.* at 86a.

Next, the court rejected petitioners' argument that the statutes violated the First Amendment because they were purportedly motivated by "anti-gun animus." Pet. App. 90a. It noted that this Court has "disclaimed the idea that 'legislative motive is a proper basis for declaring a statute unconstitutional' in the absence of a direct impact on protected speech." *Id.* (quoting *United States v. O'Brien*, 391 U.S. 367, 383-384 (1968)). So there was no need for the court of appeals to "inquire into the motives of individual legislators." *Id.* at 93a. In any event, the statements cited by petitioners "suggest[ed] that the authors of the Challenged Statutes were primarily concerned with commerce, rather than speech." *Id.*

In a footnote, the court of appeals acknowledged that petitioners had "alleged violations of the Equal Protection Clause." Pet. App. 83a n.6. Those claims depended on petitioners' "assertion that the Challenged Statutes target pro-gun speech." *Id.* Because petitioners conceded that their equal protection "claims essentially duplicate" their First Amendment claims, the court saw no need to "separately address" them. *Id.*

b. Turning to petitioners' Second Amendment claim, the court of appeals began its analysis with this Court's decision in *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022). Pet. App. 92a. Under *Bruen*, "a litigant invoking the Second Amendment must first establish that 'the Second Amendment's plain text covers an individual's conduct.'" *Id.* (quoting *Bruen*, 597 U.S. at 24). That text "directly protects . . . the right to 'keep and bear arms.'" *Id.* at 93a. And courts have "consistently held that the Second Amendment also 'protects ancillary rights necessary to the realization of the core right to possess a firearm for self-defense.'" *Id.* (quoting *Teixeira v. Cnty. of Alameda*, 873 F.3d 670, 677 (9th Cir. 2017) (en banc), *cert. denied*, 584 U.S. 977 (2018)). Those rights include a "right to acquire firearms," without which "the right to keep and bear firearms would be meaningless." *Id.* at 94a.

Before *Bruen*, the court of appeals had addressed challenges to regulations affecting commerce in firearms by asking whether the regulation "'meaningfully constrain[ed]' the right to keep and bear arms for the purpose of self-defense." Pet. App. 96a (quoting *Teixeira*, 873 F.3d at 680). Under that approach, "a ban on all sales of a certain type of gun . . . generally implicates the Second Amendment, as such a ban meaningfully constrains the right to keep and bear that firearm." *Id.* (citing *Jackson v. City & Cnty. of San Francisco*, 746 F.3d 953, 968 (9th Cir. 2014), *cert. denied*, 576 U.S. 1013 (2015)). By contrast, "a minor constraint on the precise locations within a geographic area where one can acquire firearms does not." *Id.*

In this case, the court of appeals determined that the same approach "remains appropriate" after *Bruen*, because it "faithfully tracks the Second Amendment's

plain text." Pet. App. 96a. Evaluating whether a restriction on commerce in firearms constrains the right to keep and bear arms does not "involve[] the type of 'interest-balancing inquiry' that *Bruen* proscribes"; to the contrary, it is "fully consistent with *Bruen*." *Id.* at 94a. It is also consistent with *Heller*'s recognition that "laws imposing conditions and qualifications on the commercial sale of arms" are "*presumptively lawful* regulatory measures." *Id.* at 95a (quoting *District of Columbia v. Heller*, 554 U.S. 570, 626-627 & n.26 (2008)); *see id.* at 95a-96a.

Applying that precedent to the facts before it, the court of appeals held that petitioners failed to establish that the Second Amendment "covers [their] proposed conduct—namely, contracting for the sale of firearms and ammunition *on state property*." Pet. App. 92a (emphasis added). Petitioners had "essentially conced[ed] that the Challenged Statutes do not 'meaningfully constrain' the right to keep and bear arms." *Id.* at 96a. They advanced "no allegation that a ban on sales on state property would impair a single individual from keeping and bearing firearms, even after having an opportunity to amend [their] complaint to add one." *Id.* And nothing in the record suggested that any "individual's access to firearms would be limited." *Id.*

To the contrary, as the court of appeals observed, "attendees of gun shows in California can peruse" offers for firearms and related products at a gun show, "leave the premises, and immediately order their desired goods from the vendor." Pet. App. 97a. In Orange County, for example, record evidence showed that "there are six licensed firearm dealers in the same zip code as the Orange County Fairgrounds." *Id.*

at 96a-97a. And "[m]erely eliminating one environment where individuals may purchase guns does not constitute a meaningful constraint on Second Amendment rights, when they can acquire the same firearms down the street." *Id.* at 97a.[2]

c. The court of appeals denied petitioners' request for rehearing en banc, Pet. App. 101a, and later denied petitioners' request for a stay of the mandate pending the resolution of this petition for certiorari, *id.* at 104a. Petitioners then filed an application in this Court to recall and stay the mandate, which Justice Kagan denied. No. 24A315 (Oct. 4, 2024 order).

ARGUMENT

Petitioners contend that a State may not prohibit consummating a contract for the sale of firearms on its own property without violating the First, Second, and Fourteenth Amendments. The court of appeals correctly rejected that theory, and petitioners identify no persuasive reason for further review in this Court. The main doctrinal question that petitioners ask this Court to review was not addressed below. Petitioners do not contend that the decision below implicates any inter-circuit conflict. And the challenged laws do not prohibit petitioners (or anyone else) from obtaining firearms or ammunition or communicating freely about firearms.

1. Petitioners primarily urge this Court to "grant certiorari to either overrule the commercial speech doctrine" or to substantially narrow it. Pet. 17-18; *see*

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[2] As the court of appeals recognized, petitioners "do[] not challenge" other statutes that prohibit "taking immediate possession of firearms" by requiring firearms to be transferred at a licensed dealer's premises after a ten-day waiting period. Pet. App. 80a (internal quotation marks omitted).

id. at i-ii, 13-18. But this case would be an exceptionally poor vehicle for the Court to reassess the commercial speech doctrine because the court of appeals did not apply it. The court of appeals held that it "need not address the distinction between commercial and pure speech" since the challenged statutes do not, on their face, "regulate any speech cognizable under the First Amendment." Pet. App. 83a. And that holding does not warrant further review.

a. This Court distinguishes between "restrictions on protected expression" and "restrictions on economic activity." *Sorrell v. IMS Health, Inc.*, 564 U.S. 552, 567 (2011). While the former is subject to heightened scrutiny, the First Amendment "does not prevent restrictions directed at commerce or conduct from imposing incidental burdens on speech." *Id.* For example, the First Amendment allows governments to enforce antitrust laws prohibiting agreements in restraint of trade. *Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 495 (1949). Similarly, while regulation of the content of a lawyer's unsolicited advice or advertisements would implicate protected speech, a rule "proscrib[ing] the acceptance of employment resulting from such advice" is "only marginally affected with First Amendment concerns." *Ohralik v. Ohio State Bar Ass'n*, 436 U.S. 447, 458-459 (1978).

Here, the court of appeals correctly held that the challenged statutes are directed at economic activity rather than expressive conduct because they prohibit only "accepting an offer to sell firearms or ammunition on state property"—that is, the consummation of a sale on state property. Pet. App. 85a. While an acceptance may be communicated through speech, "it has never been deemed an abridgment of freedom of speech" to prohibit conduct "merely because" it can be

"carried out by means of language, either spoken, written, or printed." *Giboney*, 336 U.S. at 502. And the statutes do not prohibit any of the forms of commercial speech that receive First Amendment protection, such as advertising or offers that "propos[e] a commercial transaction." *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of N.Y.*, 447 U.S. 557, 562 (1980).

b. Petitioners suggest (Pet. 15-16) that review is warranted because the court of appeals' holding conflicts with its prior decision in *Nordyke v. Santa Clara County*, 110 F.3d 707 (9th Cir. 1997). But even if there were such a conflict, this Court "usually allow[s] the courts of appeals to clean up intra-circuit divisions on their own." *Joseph v. United States*, 574 U.S. 1038, 1038 (2014) (Kagan, J., respecting the denial of certiorari). Here, petitioners filed a petition for rehearing en banc based on the purported conflict, *see* No. 23-3793 C.A. Dkt. 45.1 at 12-15, and the court of appeals denied that petition without any judge requesting a vote, Pet. App. 101a.

As that history suggests, there is no conflict. The plaintiffs in *Nordyke* challenged a lease agreement for a county fairground that prohibited vendors from both selling *and* offering to sell firearms and ammunition. 110 F.3d at 708-709. The court separately analyzed the provisions. It held that the sales prohibition did not implicate the First Amendment because "the act of exchanging money for a gun is not 'speech' within the meaning of the First Amendment." *Id.* at 710. By contrast, the court applied intermediate scrutiny to the prohibition on offers to sell, reasoning that "a proposal to engage in such a transaction is protected as commercial speech under the First Amendment." *Id.* at 711. The court ultimately concluded that the prohibition on offers violated the First Amendment because

it did not advance a substantial government interest. *Id.* at 712-713. *Nordyke*'s distinction between prohibitions of sales and prohibitions of offers to sell is consistent with the decision below. *See* Pet. App. 84a-85a.

Petitioners also contend that it is "far from clear" what expressive activity is permissible under the challenged statutes, which "effectively sweep all manner of speech at gun shows into the dustbin of censorship." Pet. 17. Those concerns are unfounded. The statutes detail the prohibited conduct and the State has recently instructed law enforcement agencies that "[g]un shows may lawfully occur on state property, as long as no firearms, firearm precursor parts, or ammunition are sold." *See* Cal. Bureau of Firearms, Notice Regarding Prohibition of Gun Sales on State Property (Oct. 31, 2024), https://tinyurl.com/yc5dd95b (last visited on Mar. 20, 2025). The State has also emphasized that the challenged statutes do not "prohibit offers for sales or advertising." *Id.*

c. Petitioners' equal protection claim (Pet. ii, 28-30) does not present any independent basis for review because it is premised on their failed First Amendment claim. Their equal protection theory is that the challenged statutes "single[d] out [petitioners] based on the content of their speech and the viewpoints they espouse," which "violates not only their rights to free speech . . . [but] *also* violates their rights under the Equal Protection Clause." No. 23-55431 C.A. Dkt. 12 at 37; *see also* No. 23-3793 C.A. Dkt. 18.1 at 47 ("[I]f California cannot justify its censorship . . . for purposes of the First Amendment, then it cannot justify it under the Equal Protection Clause either."). Each of the three courts below correctly determined that petitioners' "Equal Protection claims essentially duplicate [their] First Amendment claims." Pet. App. 83a n.6;

see id. at 12a, 59a. And petitioners have "concede[d]" the same. *Id.* at 83a n.6.

2. Nor do petitioners identify any persuasive reason for this Court to review the court of appeals' Second Amendment holding. *See* Pet. 18-28.

a. The Second Amendment protects "the right of the people to keep and bear Arms." In *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), the Court announced a methodology for evaluating Second Amendment claims "centered on constitutional text and history." *Id.* at 22. That methodology first asks whether "the Second Amendment's plain text covers an individual's conduct," considering the text in light of its "normal and ordinary meaning" and "historical background." *Id.* at 17, 20 (internal quotation marks omitted). If the text covers the conduct at issue, "the Constitution presumptively protects that conduct," and "[t]he government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." *Id.* at 24.

Some laws restricting the sale of firearms squarely implicate the right to keep and bear arms, requiring the government to identify a justification in history and tradition. *See* Pet. App. 96a. For instance, "a ban on all sales of a certain type of gun or ammunition in a region generally implicates the Second Amendment." *Id.* But the conduct proscribed here is limited to consummating the sale of a firearm or ammunition while on state property. And petitioners failed to show that they satisfied *Bruen*'s threshold inquiry with respect to that proscription. In the Orange County case, the record reflected that firearms and ammunition were available for purchase at 150 licensed firearm

dealers throughout the county, including several located close to the fairgrounds. *See supra* p. 7; No. 23-3793 C.A. Dkt. 14.3 at 163. And in the San Diego case, petitioners declined to amend their complaint to allege that the challenged statutes prevented anyone from keeping or bearing arms for lawful self-defense. *See supra* p. 3. At oral argument below, petitioners argued that *any* law that complicates or delays a purchase of a firearm is sufficient to meet their burden at *Bruen*'s threshold inquiry. *See* C.A. Oral Arg. 24:39-25:17, https://tinyurl.com/mpetrafx/. But they identify no support for that view—which would mean that any number of taxing, zoning, or other "laws of general applicability that restrict all forms of commerce in a given area could be subjected to" exacting historical inquiry under *Bruen*. Pet. App. 95a n.19.

Petitioners assert that the court of appeals "defied" *Bruen* by applying a "judicial interest-balancing test" to their Second Amendment claim. Pet. 25. It did no such thing. The decision below correctly recognized that "*Bruen* proscribes" courts from conducting any "interest-balancing inquiry." Pet. App. 94a. Petitioners take issue (Pet. 24-26) with the lower court's statement that the "plain text of the Second Amendment only prohibits meaningful constraints on the right to acquire firearms." Pet. App. 94a. But that statement must be read in context. The court was applying *Bruen*'s threshold step.[3] It assessed whether a law

[3] In *Yukutake v. Lopez*, No. 21-16756, slip op. at 28 (9th Cir. Mar. 14, 2025), the court of appeals confirmed that *B&L* (the decision below in this case) addressed "the threshold scope of the Second Amendment." It also explained that "*B&L* . . . recognized that particular discrete commercial restrictions do not stand on the same footing as an across-the-board regulation of the acquisition of handguns," *id.* at 29, and emphasized this "explicit limitation on the scope of the issues considered in *B&L*," *id.* at 29 n.6.

that only marginally affects the "ancillary right . . . to acquire firearms" (Pet. App. 95a), by prohibiting the consummation of a sale on state property, implicates "the Second Amendment's plain text." *Bruen*, 597 U.S. at 17. The court reasonably concluded on the record before it that petitioners failed to connect the regulated conduct to their right to keep and bear arms, as *Bruen* requires. Pet. App. 96a-97a.[4]

c. Petitioners do not allege that the decision below creates or implicates any conflict of authority. To the contrary, other federal circuits have rejected similar Second Amendment claims when plaintiffs failed to establish that the challenged regulation constrained their right to keep and bear arms.

For instance, in *Oakland Tactical Supply, LLC v. Howell Township, Michigan*, 103 F.4th 1186 (6th Cir. 2024), *cert. denied*, 145 S. Ct. 603 (2024), the Sixth Circuit upheld a zoning ordinance that prevented plaintiffs from "constructing and operating a commercial shooting range offering long-distance target practice." *Id.* at 1189. Although firearms "training is protected . . . [as] a necessary corollary to the right defined in *Heller*," *id.* at 1192, the plaintiffs had not established that either "commercial training in a particular location" or "long-distance commercial training" were "necessary to effectuate their Second Amendment right to keep and bear arms." *Id.* at 1198. Similarly, in *Gazzola v. Hochul*, 88 F.4th 186 (2d. Cir. 2023), *cert. denied*, 144 S. Ct. 2659 (2024), the Second Circuit con-

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[4] Petitioners' suggestion that the court of appeals "imposed a special additional standing requirement" (Pet. 25) is puzzling. The decision below contains no discussion of standing, as petitioners elsewhere acknowledge. *See id.* at 11 ("The panel did not expressly rule against Petitioners on standing grounds.").

sidered a challenge to a law requiring firearms vendors to adopt certain security measures. *Id.* at 192. It held that the claim was unlikely to succeed because the plaintiffs had not shown that the law would actually "threaten[] a citizen's right to acquire firearms." *Id.* at 196; *see id.* at 194-198.[5]

Nor is there any need to grant certiorari "to establish that the Second Amendment protects the right to acquire firearms." NRA Br. 3. Every circuit that has addressed that question—including the court of appeals below—agrees that regulations addressing the acquisition of firearms may implicate the Second Amendment. *See, e.g.*, Pet. App. 93a-94a, 96a; *Yukutake*, slip op. at 29; *Gazzola*, 88 F.4th at 196-197; *McRorey*, 99 F.4th at 838 & n.38; *Rocky Mountain Gun Owners v. Polis*, 121 F.4th 96, 122, 124 (10th Cir. 2024) (holding that "conditions . . . on the sale or purchase of firearms" that are "arbitrary or improper" implicate the Second Amendment).

3. Finally, petitioners suggest (Pet. 3) that this Court should hold this petition pending its decision in *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, No. 23-1141 (argued Mar. 4, 2024). But that case does not feature any First or Second Amendment claim. It presents the distinct question whether the Protection of Lawful Commerce in Arms Act bars a

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[5] *See also McRorey v. Garland*, 99 F.4th 831, 838 & n.18 (5th Cir. 2024) ("regulations on purchase" that are not "*de facto* prohibitions on acquisition" or "functional prohibitions on keeping" firearms are not subject to "*Bruen*'s rigorous historical requirement"); *Maryland Shall Issue Inc. v. Moore*, 116 F.4th 211, 223 (4th Cir. 2024), *cert. denied*, No. 24-373 (Jan. 13, 2025) (licensing scheme that did not "effectively den[y]" the right to keep and bear arms was not subject to historical scrutiny).

suit filed by Mexico alleging that U.S. firearms manufacturers aided and abetted unlawful firearm sales to traffickers for Mexican cartels. *See* Pet. for a Writ of Certiorari at i, *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, No. 23-1141 (Apr. 18, 2024). That issue has no bearing on the constitutional questions presented here.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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