

No. 14-1945

**In the United States Court of Appeals
for the Fourth Circuit**

STEPHEN V. KOLBE, *et al.*,
Plaintiffs-Appellants,

v.

LAWRENCE J. HOGAN, JR., GOVERNOR, *et al.*,
Defendants-Appellees.

On En Banc Review of Appeal from the United States District
Court for the District of Maryland

**UNOPPOSED MOTION BY EVERYTOWN FOR GUN SAFETY
FOR LEAVE TO FILE SUPPLEMENTAL *AMICUS CURIAE* BRIEF
IN SUPPORT OF APPELLEES AND AFFIRMANCE**

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April 18, 2016

Everytown for Gun Safety seeks leave under Federal Rule of Appellate Procedure 29 to file the attached supplemental *amicus curiae* brief. All parties consent to the brief's filing, and no counsel for any party authored it in whole or part. Apart from *amicus curiae*, no person contributed money intended to fund its preparation and submission.

This case involves a challenge to a Maryland law regulating large-capacity magazines and semiautomatic long guns with certain military-style features, an issue of exceptional importance. Three other circuits have heard challenges to similar laws, and all three upheld the laws as constitutional under the Supreme Court's decision in *District of Columbia v. Heller*, 554 U.S. 570 (2008). The panel's conflicting decision, if adopted by the full Court, would gravely imperil legislators' ability to enact laws they deem necessary to protect their constituents.

Everytown is the nation's largest gun-violence-prevention organization, with over three million supporters, including mayors of cities across the country and a network of more than 1,000 survivors of gun violence who are leaders in campaigns to support common-sense gun laws in their communities. Everytown has a large number of supporters who live and work in the states that make up the Fourth Circuit, and who believe in common-sense gun laws. The mayors of Baltimore, Charlotte, Raleigh, Norfolk, Richmond, and Virginia Beach are all members of Everytown's Mayors Against Illegal Guns coalition.

Everytown has drawn on its expertise to file briefs in several Second Amendment cases, offering historical and doctrinal analysis that might otherwise be overlooked. *See, e.g., Peruta v. San Diego*, No. 10-56971 (9th Cir.) (en banc); *Wrenn v. District of Columbia*, No. 15-7057 (D.C. Cir.); *Peña v. Lindley*, No. 15-15449 (9th Cir.); *Silvester v. Harris*, No. 14-16840 (9th Cir.); *Grace v. District of Columbia*, No. 15-2234 (D.D.C.). It seeks to do the same here.

This brief expands significantly on the short, seven-and-a-half page brief that Everytown filed in support of the petition for rehearing in this case. (Everytown did not file a brief at the panel stage.) Specifically, the brief includes additional analysis of the unprecedented “common use” test applied by the panel, as well as an entirely new discussion of the panel’s failure to hold the plaintiffs to their burden of proving that Maryland’s law substantially restricts their self-defense right, and that adequate alternatives for self-defense are unavailable. The brief also provides substantial additional information about the historical relationship between the Second Amendment and access to assault weapons and large-capacity magazines—information that no other *amicus*, and no party, has provided.

In short, Everytown seeks leave to file this brief to assist this Court by highlighting several key errors in the panel’s analysis, by providing relevant, previously overlooked history, and by explaining why Maryland’s law comports with the Second Amendment.

Dated: April 18, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on April 18, 2016, the foregoing motion was served on all parties or their counsel of record through the CM/ECF system.

/s/ Deepak Gupta
Deepak Gupta

April 18, 2016