

No. 14-55873

IN THE
United States Court of Appeals for the Ninth Circuit

CHARLES NICHOLS

Plaintiff-Appellant,

v.

EDMUND G. BROWN JR., IN HIS OFFICIAL CAPACITY AS
GOVERNOR OF CALIFORNIA, *ET AL.*

Defendants-Appellees.

On Appeal from the United States District Court
for the Central District of California, No. CV 2:11-9916SJO (SS)
The Honorable James Otero, District Judge

**BRADY CENTER TO PREVENT GUN VIOLENCE'S
MOTION FOR LEAVE TO FILE AMICUS BRIEF
IN SUPPORT OF DEFENDANTS-APPELLEES**

Jonathan E. Lowy
Avery Gardiner
Kelly Sampson
BRADY CENTER TO PREVENT
GUN VIOLENCE
LEGAL ACTION PROJECT
840 First Street, N.E. Suite 400
Washington, DC 20002
(202) 370-8104
jlowy@bradymail.org

Megan Dixon
HOGAN LOVELLS US LLP
3 Embarcadero Center, Suite 1500
San Francisco, CA 94111
(415) 374-2300
megan.dixon@hoganlovells.com

Jonathan Diesenhaus
Anna M. Kelly
Evan W. Guimond
Laura N. Ferguson
HOGAN LOVELLS US LLP
555 Thirteenth St. NW
Washington, DC 20037
(202) 637-5600
jonathan.diesenhaus@
hoganlovells.com

Christine E. MacGregor
HOGAN LOVELLS US LLP
1835 Market Street, 29th Floor
Philadelphia, PA 19103
(267) 675-4600
christine.macgregor@
hoganlovells.com

February 24, 2017

Counsel for *Amicus Curiae*

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**BRADY CENTER TO PREVENT GUN VIOLENCE’S
MOTION FOR LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF
DEFENDANTS-APPELLEES**

The Brady Center to Prevent Gun Violence respectfully requests this Court grant leave to file an amicus curiae brief in support of the Defendants-Appellees in this matter.¹ Defendants-Appellees have consented to the filing of this brief; but the Plaintiff-Appellant declined to consent. As set forth below, this Court has broad discretion to grant amicus curiae status to the Brady Center to Prevent Gun Violence, and it is urged to do so in this matter of general public concern.

I. IDENTITY OF AMICUS CURIAE

Amicus Brady Center to Prevent Gun Violence is a national, non-partisan, non-profit organization dedicated to reducing gun violence through education, research, and legal advocacy. Through its Legal Action Project, it has filed numerous amicus curiae briefs in cases involving firearms regulations, including *McDonald v. City of Chicago*, 561 U.S. 742, 870 n.13, 887 n.30, 891 n.34 (2010) (Stevens, J., dissenting) (citing Brady Center brief), *United States v. Hayes*, 555 U.S. 415, 427 (2009) (citing Brady Center brief), *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *Peruta v. Cty. of San Diego*, No. 10-56971, 2016 WL 3194315 (9th Cir. June 9, 2016). Amicus brings a broad and deep perspective to the issues raised here and has a compelling interest in ensuring that the Second

¹ The Brady Center’s proposed brief has been filed in conjunction with this motion.

Amendment does not impede reasonable governmental action to prevent gun violence.

II. SUMMARY OF PROPOSED AMICUS BRIEF

The proposed brief addresses constitutional arguments in favor of California's open carry statutes and identifies and summarizes for the Court up-to-date social science research demonstrating that open carry restrictions further California's important government interest in public safety.

III. ARGUMENT

A. Court Has Broad Discretion to Authorize Amicus Parties

This Court has the discretion to grant this motion and allow the Brady Center to file its brief. *Hoptowit v. Ray*, 682 F.2d 1237 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995). The classic role of amici curiae is three-fold: (1) assist in a case of general public interest; (2) to supplement the efforts of counsel; and (3) to draw the court's attention to law that escaped consideration. *Miller-Wohl Co., Inc. v. Comm'r of Labor and Indus.*, 694 F.2d 203, 204 (9th Cir. 1982). The Court may also exercise its discretion to grant amicus status in order to avail itself of the benefit of thorough legal arguments. *Gerritsen v. de la Madrid Hurtado*, 819 F.2d 1511, 1514 n.3 (9th Cir. 1987). Through its proposed amicus brief, the Brady Center to Prevent Gun Violence would fulfill this role.

B. Brady Center to Prevent Gun Violence's Brief Will Assist the Court

The Brady Center to Prevent Gun Violence has participated in Second Amendment litigation throughout the nation, including the seminal cases of *McDonald v. City of Chicago*, 561 U.S. 742 (2010) and *District of Columbia v. Heller*, 554 U.S. 570 (2008). Recently, the Brady Center participated in *Peruta v. Cty. of San Diego*, No. 10-56971, 2016 WL 3194315 (9th Cir. June 9, 2016).

As in this prior litigation, the Brady Center to Prevent Gun Violence's proposed amicus brief would assist the Court and supplement the work of counsel. The proposed amicus brief would be of particular assistance to the Court given the lack of case law evaluating restrictions on open carry in public spaces. The proposed amicus brief summarizes the most up-to-date social science research, demonstrating the unique risks associated with the open carry of firearms and the role open carry restrictions play in protecting the public, an issue of great urgency and concern. The proposed amicus brief would help to inform the Court as to the immediate consequences that would stem from a decision weakening California's ability to regulate the open carry of firearms.

IV. CONCLUSION

For the reasons explained above, this Court has broad discretion to allow amicus status. The parties have been consulted and, with the exception of the Plaintiff-Appellant, who plainly rejected the Brady Center to Prevent Gun

Violence's request for consent, consented to the filing of an amicus curiae brief in support of Appellees. The Brady Center to Prevent Gun Violence, therefore, respectfully requests this Court grant this motion and grant leave to file the proposed brief.

February 24, 2017

Respectfully submitted,

/s/ Megan Dixon

Megan Dixon
HOGAN LOVELLS US LLP
3 Embarcadero Center, Suite 1500
San Francisco, CA 94111
(415) 374-2300
megan.dixon@hoganlovells.com

Jonathan Diesenhaus
Anna M. Kelly
Evan W. Guimond
Laura Ferguson
HOGAN LOVELLS US LLP
555 Thirteenth Street, N.W.
Washington, DC 20004
(202) 637-5600
jonathan.diesenhaus@hoganlovells.com

Christine E. MacGregor
HOGAN LOVELLS US LLP
1835 Market Street, 29th Floor
Philadelphia, PA 19103
(267) 675 4694
christine.macgregor@hoganlovells.com

Jonathan E. Lowy
Avery Gardiner
Kelly Sampson
BRADY CENTER TO PREVENT GUN
VIOLENCE - LEGAL ACTION PROJECT
840 First Street, N.E. Suite 400
Washington, D.C. 20002
(202) 370-8104
jlowy@bradymail.org

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Charles Nichols
P.O. Box 1302
Redondo Beach, CA 90278
Plaintiff-Appellant

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/s/ Megan Dixon