

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**R E C E I V E D**  
MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**SEP 23 2019**

VIRGINIA DUNCAN et al.

\*

Plaintiff/Appellees

\*

FILED \_\_\_\_\_  
DOCKETED \_\_\_\_\_  
DATE INITIAL

vs

\*

Civil No: 19-55376

XAVIER BECERRA,  
in his official capacity as  
Attorney General of the State of California,

\*

Defendant/Appellant

\*

**Motion for Leave to File  
BRIEF OF AMICUS CURIAE JOHN CUTONILLI  
IN SUPPORT OF PLAINTIFFS-APPELLEES**

John Cutonilli files this motion for leave to file the accompanied amicus curiae brief in support of plaintiff-appellees in accordance with Federal Rules of Appellate Procedures 29(a) and 29-3. Cutonilli endeavored to obtain consent of all parties through email prior to moving the Court for permission to file the proposed brief. Plaintiffs-appellees were contacted on 5 August 2019 and 16 September 2019. Defendant-appellants were contacted on 13 August 2019. Neither party has responded to the request for permission to file an amicus brief.

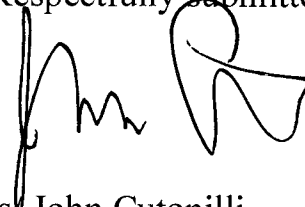
Cutonilli is a resident of Maryland and is subject to similar firearm laws. He is unable to successfully bring a lawsuit against Maryland due to the precedent set in *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017). He seeks to provide additional insight into other aspects of the law that were neither addressed in *Kolbe* nor in the lower court's decision in this case. His intent is to help this court avoid previous errors so that other fellow Americans are not subject to such laws. No counsel for any party authored this brief in whole or in part. Apart from amicus curiae, no person contributed money to fund this brief's preparation and submission.

There are several benefits that this amicus brief brings, which are missing in the parties' briefs. This brief provides historical insight into another case that denied the constitutional rights of law-abiding citizens because of the illicit acts of a few. It provides clarifying textual analysis of *Heller v. DC*, 554 U.S. 570 (2008). It provides additional analysis into public safety, the limits of the government's interest in public safety as well as the role individuals play in providing public safety. It also points out the insubstantial nature of the data used by the Attorney General of California (AGCA) and the logical fallacies inherent in the AGCA's analysis of that data, each of which leads the AGCA to make to unreasonable and unfounded inferences.

It is hoped that at a time in our nation when critical legal issues are so frequently politicized and sensationalized that this court will be prepared to

exercise its authority “to protect all citizens from the petty fears and prejudices that are so easily aroused” *Korematsu v. United States*, 584 F Supp. 1406, 1420 (N. D. Cal. 1984).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John Cutonilli', with a stylized, flowing script.

/s/ John Cutonilli

John Cutonilli

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21 September 2019

### CERTIFICATE OF COMPLIANCE

1. This motion and amicus brief complies with the length limits permitted by Ninth Circuit Rule 32-1 because this motion contains 451 words while the amicus brief contains 4535 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).
2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5), and the type style requirements of Fed. R. App. P. 32(a)(6), because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman type.

Dated: 21 September 2019



/s/ John Cutonilli

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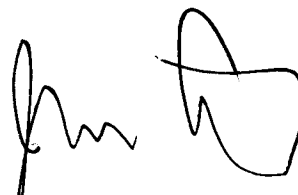
CERTIFICATE OF SERVICE

I hereby certify that on 21 September, 2019, I mailed a copy of this document and the proposed amicus brief via US Mail (postage paid) to the following:

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