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June 30, 2020

Molly Dwyer
Clerk of the Court
Ninth Circuit Court of Appeals
95 7th Street
San Francisco, CA 94103

RE: *Virginia Duncan, et al. v. Xavier Becerra*
United States Court of Appeals for the Ninth Circuit, Case No. 19-55376

Dear Ms. Dwyer:

Defendant-Appellant Xavier Becerra respectfully submits this citation of supplemental authority pursuant to Federal Rule of Appellate Procedure 28(j) and Circuit Rule 28-6 to apprise the Court of two relevant decisions issued after the submission of this matter.

First, in *Rocky Mountain Gun Owners v. Polis*, No. 18SC817 (Colo. June 29, 2020), the Colorado Supreme Court upheld in a unanimous opinion the state's 15-round limit on magazine capacity under the Colorado Constitution, Colo. Const. art. II, § 13. The court applied a "reasonable exercise" test under the state constitution, requiring a "'reasonable' fit between purpose and means" and "not just a conceivable legitimate purpose but an actual one." Ex. 1 at 33 ¶¶ 55, 56. Under this test, a challenged regulation may "burden the right to bear arms" so long as it "leave[s] open ample means to exercise the core of that right" and is not "so arbitrary or onerous as to amount to a denial of the right." *Id.* at 33 ¶ 56. The court held that "limiting magazine capacity to fifteen rounds does not significantly interfere with the core of [the state] right to bear arms in self-defense." *Id.* at 43 ¶ 76. While not a Second Amendment case, the opinion examines issues similar to those raised in this appeal. *See* Opening Br. at 31-52 (arguing that a 10-round magazine limit does not severely burden the core self-defense right and exhibits a reasonable fit to important government interests); Reply Br. at 12-20 (same).

Second, in *Maryland Shall Issue v. Hogan*, No. 18-2474 (4th Cir. June 29, 2020), the Fourth Circuit held that a statute banning "rapid fire trigger activators" does not violate the Takings Clause of the United States Constitution. Ex. 2 at 13-18. Judge Richardson dissented on this issue. Ex. 2 at 25-40. The parties cited the *Maryland Shall Issue* district court decision in the briefing of this appeal. *See* Opening Br. at 56; Answering Br. at 44 (noting that the *Maryland Shall Issue* order had "yet to be considered on appeal"); Reply Br. at 24-25.

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Sincerely,

s/ John D. Echeverria
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