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August 18, 2020

BY CM/ECF

Molly Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
P.O. Box. 193939
San Francisco, CA 94119-3939

Re: *Young v. State of Hawaii, et al.*, No. 12-17808

Dear Ms. Dwyer,

The panel opinion in *Duncan v. Becerra*, No. 19-55376 (9th Cir. Aug. 14, 2020), which struck down California’s “near-categorical ban” on large-capacity magazines, Op. 9, does not support Young’s challenge to Hawaii’s good-cause carry law. If anything, the panel’s reasoning only reinforces the weakness of Young’s claims.

In *Duncan*, the panel held that California’s ban was not “longstanding” because “laws restricting ammunition capacity emerged in 1927,” only “a handful of state legislatures” enacted such restrictions around that time, and “all but one” of these laws “have since been repealed.” Op. 28-29. Good-cause laws, by contrast, “trace[] [their] lineage” to centuries before the Founding, were prevalent decades before the first “prohibitions on possession by the mentally ill or felons,” and remain in force in a number of states. *Id.* at 27-28; *see Hawaii En Banc* Br. 34-36. Young’s suggestion that good-cause laws date only to “the 1930s,” 28(j) Letter at 1, is simply wrong.

Duncan also confirms that good-cause laws do not intrude on the core of the Second Amendment. The panel stated at least five times that the Second Amendment’s “core” is the right of “law-abiding citizens to defend hearth and home.” Op. 32; *see id.* at 9, 19, 31, 45. Hawaii’s good-cause law does not affect a person’s right to possess or use arms “within the home”; it only limits carry in public. *Id.* at 32. At most, then, it is subject to intermediate scrutiny, which it easily satisfies. *See Hawaii En Banc* Br. 37-38. Unlike “a wholesale statewide prohibition on possession,” Hawaii’s good-cause law contains “meaningful exceptions for law-abiding citizens” to carry firearms whenever they show a need “for self-defense,” and is well tailored to its public-safety objective. Op. 46.

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Young recapitulates his argument that the County of Hawaii does not grant enough carry licenses. 28(j) Letter at 1-2. But Young failed to preserve that as-applied claim or support it with any non-conclusory allegations. *See Hawaii En Banc Reply Br.* 13-14. And Young's belated attempt to support that claim with extra-record facts is both improper and unpersuasive on its own terms. *Id.* at 14-16.

Respectfully submitted,

/s/ Neal Kumar Katyal
Neal Kumar Katyal

Counsel for Defendants-Appellees

cc: Counsel of Record (via CM/ECF)

CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on August 18, 2020. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Neal Kumar Katyal
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