



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Kwame Raoul
Attorney General

August 10, 2023

Mr. Christopher G. Conway
Clerk of the Court
United States Court of Appeals for the Seventh Circuit
219 South Dearborn St., 27th Floor
Chicago, Illinois 60604

Re: *Barnett, et al. v. Raoul, et al.*, No. 23-1825
Herrera v. Raoul, et al., No. 23-1793

Dear Mr. Conway:

Plaintiffs cite *Teter v. Lopez*, No. 20-15948 (9th Cir.), as supplemental authority. *Teter* addressed a ban on butterfly knives, which the Ninth Circuit said resemble ordinary pocketknives Americans have used “since the early 18th century.” Slip Op. 5. That decision provides no support for plaintiffs’ position that restrictions on assault weapons and large-capacity magazines—modern instruments used to perpetrate mass shootings—violate the Second Amendment.

The plain-text inquiry in *Teter* focused on a narrow question that has no bearing on this case: whether the Second Amendment’s protections extend to “bladed weapons.” *Id.* at 19. Here, the plain-text analysis must focus on whether accessories (large-capacity magazines) are “arms” and whether specific types of firearms (assault weapons) fall within the plain text. *Barnett* State Br. 16-17. *Teter* sheds no light on either question.

The historical analysis in *Teter* is similarly irrelevant. There, the analysis was “straightforward,” Slip Op. 29, because the record did not show that butterfly knives have “uniquely dangerous propensities” compared to other pocketknives, *id.* at 21, and because the problem of “easily concealable, foldable knives being used in crimes” has existed since the 18th century, *id.* at 30. Because Hawaii identified no comparable historical restrictions on such knives, *id.* at 30-31, it could not satisfy its burden under *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111

(2022). Here, however, the challenged restrictions do not address a problem that was even conceivable in the 18th century. Instead, they were enacted in response to unprecedented societal concerns about deadly mass shootings enabled by dramatic technological changes in weapons technology. *Barnett State Br. 33; Herrera City Br. 36-38*. As *Bruen* instructs, these circumstances call for a “more nuanced” approach to analogical reasoning. 142 S. Ct. at 2132. And under this approach, the restrictions are consistent with the historical tradition of regulating firearms because they impose, at most, a minimal burden on individual self-defense and are justified by the need to protect the public from the unique harms caused by the proliferation of a specific type of weapon. *Barnett State Br. 38-39; Herrera City Br. 33-36*.

Very best regards,

/s/ Sarah A. Hunger

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CERTIFICATE OF COMPLIANCE

This letter complies with Federal Rule of Appellate Procedure 28(j) because its body contains 349 words.

/s/ Sarah A. Hunger

SARAH A. HUNGER

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on August 10, 2023, I electronically filed the foregoing Letter with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Sarah A. Hunger

SARAH A. HUNGER

