

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MARK BAIRD, ET AL.,  
PLAINTIFFS,

VS.

SACRAMENTO, CALIFORNIA  
NO. 2:19-CV-00617  
FRI., NOV. 03, 2023  
11:43 A.M.

ROB BONTA, IN HIS OFFICIAL  
CAPACITY AS ATTORNEY  
GENERAL OF THE STATE OF  
CALIFORNIA,  
DEFENDANT.

\_\_\_\_\_ /

TRANSCRIPT OF HEARING  
BEFORE THE HONORABLE KIMBERLY J. MUELLER, CHIEF JUDGE  
---000---

APPEARANCES:

FOR THE PLAINTIFFS:

THE BELLANTONI LAW FIRM, PLLC  
2 OVERHILL ROAD, SUITE 400  
SCARSDALE, NY 10583  
BY: AMY L. BELLANTONI  
ATTORNEY AT LAW

FOR THE DEFENDANT:

CALIFORNIA DEPARTMENT OF  
JUSTICE  
300 SO. SPRING STREET  
SUITE 1702  
LOS ANGELES, CA 90013  
BY: LARA HADDAD  
ATTORNEY AT LAW

OFFICIAL COURT REPORTER:

KIMBERLY M. BENNETT,  
CSR, RPR, RMR, CRR  
501 I STREET  
SACRAMENTO, CA 95814

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT  
PRODUCED BY COMPUTER-AIDED TRANSCRIPTION

1 (CALL TO ORDER OF THE COURT, 11:43 A.M.)

2 THE CLERK: CALLING CIVIL CASE 19-617, BAIRD, ET AL.  
3 VERSUS BONTA.

4 THIS IS ON CALENDAR FOR DEFENDANT'S MOTION FOR SUMMARY  
5 JUDGMENT.

6 THE COURT: ALL RIGHT. GOOD MORNING.  
7 APPEARANCES, PLEASE, FOR PLAINTIFFS.

8 MS. BELLANTONI: GOOD MORNING. AMY BELLANTONI FOR  
9 THE PLAINTIFFS.

10 THE COURT: GOOD MORNING, MS. BELLANTONI.

11 AND MR. BAIRD IS MONITORING BY TELEPHONE --

12 MS. BELLANTONI: YES.

13 THE COURT: -- WITH THE COURT'S PERMISSION.

14 MS. BELLANTONI: THANK YOU, YOUR HONOR, FOR ALLOWING  
15 HIM TO DO THAT. I APPRECIATE THAT.

16 THE COURT: ALL RIGHT. AND FOR THE DEFENSE.

17 MS. HADDAD: LARA HADDAD FOR THE STATE ATTORNEY  
18 GENERAL.

19 THE COURT: GOOD MORNING, MS. HADDAD.

20 I HAVE SEVERAL QUESTIONS AND THEN I WOULD ALLOW BRIEF  
21 WRAP-UP ARGUMENT IF YOU THINK THERE IS SOMETHING NOT COVERED BY  
22 THE RECORD.

23 ONE QUESTION, MS. HADDAD. JUST SO I'M CLEAR, AT THIS POINT  
24 ARE ALL OF THE LAWS CITED IN THE STATE'S APPENDIX IN THE  
25 RECORD? I KNOW YOU OFFERED TO PROVIDE THEM, BUT HAVE THEY BY

1 NOW GOTTEN INTO THE RECORD?

2 MS. HADDAD: NO, YOUR HONOR. MY APOLOGIES.

3 SO THE ONLY -- THE ONLY -- THE PRINTED VERSIONS OF THE LAWS  
4 THAT WE SUBMITTED WITH OUR REQUEST FOR JUDICIAL NOTICE, WE  
5 HAVEN'T SUPPLEMENTED THOSE. BUT THE TEXT OF MANY OF THE LAWS  
6 ARE IN MR. SPITZER'S EXPERT REPORT AS WELL AND HIS EXHIBITS.  
7 AND I'M HAPPY TO SUBMIT THE REST AS SOON AS -- AS SOON AS WE'RE  
8 ABLE TO.

9 THE COURT: AND THE PLAINTIFFS HAVE RECEIVED THOSE?

10 MS. HADDAD: FOR THE -- EVERYTHING I JUST DESCRIBED,  
11 YES, THE REQUEST FOR JUDICIAL NOTICE. AND THOSE EXHIBITS, THEY  
12 WERE SERVED. BUT WE HAVE NOT SERVED THEM WITH ANY TEXT OF LAWS  
13 THAT WE HAVE NOT PROVIDED TO THIS COURT.

14 THE COURT: WELL I WOULD ACCEPT YOUR OFFER, AS STATED  
15 IN YOUR -- IN ONE OF YOUR FOOTNOTES, TO PROVIDE. I JUST --  
16 TRIAL COURTS LAY FOUNDATIONS. IT FEELS TO ME AS IF -- GIVEN  
17 THAT THERE IS A REFERENCE THAT THE -- THE ENTIRE SET SHOULD BE  
18 IN THE RECORD.

19 SO IS THAT A ZIP FILE?

20 MS. HADDAD: SO WE HAVE NOT FILED IT YET, BUT WE  
21 WILL. AND I WOULD JUST ASK THAT YOU GIVE US A FEW DAYS TO PULL  
22 THAT TOGETHER.

23 THE COURT: ALL RIGHT. SO ANY PROBLEM WITH THAT,  
24 MS. BELLANTONI?

25 MS. BELLANTONI: NO, YOUR HONOR. JUST SO I'M CLEAR,

1 SO THEN WITHIN A FEW DAYS OR SO, EVERY STATUTE OR REGULATION  
2 UPON WHICH THE STATE IS RELYING WILL BE PROVIDED IN ITS FULL  
3 TEXT SO THAT THE COURT CAN REFER TO THE TEXT OF THE STATUTE; IS  
4 THAT CORRECT?

5 THE COURT: CORRECT.

6 MS. BELLANTONI: THANK YOU.

7 THE COURT: YEAH.

8 MS. HADDAD: THAT'S CORRECT. WE'LL SUBMIT A  
9 SUPPLEMENTAL REQUEST FOR JUDICIAL NOTICE. IT WILL FOLLOW THE  
10 SAME FORMAT AS OUR REQUEST FOR JUDICIAL NOTICE.

11 THE COURT: ALL RIGHT.

12 MS. BELLANTONI: YOUR HONOR, IF I COULD HAVE A FEW  
13 DAYS SUBSEQUENT TO THAT TO TAKE A LOOK AT THE ACTUAL TEXT. AND  
14 IF ANY SUPPLEMENTAL, I GUESS, OBJECTIONS NEED TO BE MADE BY  
15 PLAINTIFFS, OR JUST TO CLARIFY OUR POSITION ON ANYTHING, I  
16 WOULD ASK WE BE ABLE TO DO THAT.

17 THE COURT: ALL RIGHT. SO, SAY BY NEXT WEDNESDAY,  
18 MS. HADDAD, YOU WOULD MAKE YOUR FILING?

19 MS. HADDAD: YES, YOUR HONOR. NEXT WEDNESDAY WOULD  
20 BE FINE.

21 THE COURT: THEN PLAINTIFFS BY END OF THE WEEK?  
22 MS. BELLANTONI, IS THAT SUFFICIENT?

23 MS. BELLANTONI: THAT SHOULD BE FINE, YOUR HONOR.  
24 THANK YOU.

25 THE COURT: ALL RIGHT. VERY GOOD. THAT'S THE

1 COURT'S ORDER.

2 ALL RIGHT. JUST A COUPLE OF QUESTIONS ABOUT THE STATE OF  
3 THE RECORD. MR. BAIRD DID TESTIFY AT DEPOSITION THAT HE HAS  
4 APPLIED FOR MULTIPLE PERMITS, MOST RECENTLY IN 2021, AND HE  
5 SAID HIS MOST RECENT APPLICATION WAS GRANTED. BUT NOW I  
6 UNDERSTAND THERE IS A DECLARATION -- HIS DECLARATION SAYS THAT  
7 HE HAS -- THAT HE DOES NOT HAVE A PERMIT TO CARRY A CONCEALED  
8 FIREARM.

9 IS THERE A FACTUAL DISPUTE THERE?

10 MS. BELLANTONI: HIS CONCEALED CARRY APPLICATION WAS  
11 GRANTED AND HAS SINCE EXPIRED. HE'S NOT REAPPLIED FOR A  
12 CONCEALED CARRY LICENSE.

13 THE COURT: SO IT'S BASED ON -- HE DOESN'T HAVE A  
14 PERMIT NOW ONLY BECAUSE IT EXPIRED?

15 MS. BELLANTONI: CORRECT.

16 THE COURT: ALL RIGHT. AGREE WITH THAT  
17 CHARACTERIZATION, MS. HADDAD?

18 MS. HADDAD: YES, YOUR HONOR.

19 THE COURT: ALL RIGHT. AND THEN MR. GALLARDO -- IS  
20 IT GALLARDO OR GALLARDO?

21 MS. BELLANTONI: GALLARDO.

22 THE COURT: GALLARDO TESTIFIED AT DEPOSITION THAT  
23 HE'S EXEMPTED FROM THE STATE'S LICENSE REQUIREMENT BY VIRTUE OF  
24 A FEDERAL CREDENTIAL, BUT NOW CLAIMS IN HIS DECLARATION THAT HE  
25 CAN'T RELY ON ANY EXEMPTION TO THE STATE'S LICENSING

1 REQUIREMENTS.

2 IS THAT A FACTUAL DISCREPANCY?

3 MS. BELLANTONI: UNDER THE FEDERAL LEOSA STATUTE,  
4 MR. GALLARDO IS ABLE TO CARRY CONCEALED.

5 AS AN ASIDE, YOUR HONOR, THERE ARE CERTAIN LOCAL PROHIBITED  
6 AREAS THAT I DON'T BELIEVE ARE AT ISSUE HERE. BUT THE FEDERAL  
7 STATUTE DOES ONLY ALLOW HIM TO CARRY CONCEALED, IT DOES NOT  
8 ALLOW OPEN CARRY.

9 THE COURT: SO IT'S IN THAT SENSE THAT HE CLAIMS HE  
10 CAN'T RELY ON ANY EXEMPTION?

11 MS. BELLANTONI: YES.

12 THE COURT: UNDERSTOOD, MS. HADDAD?

13 MS. HADDAD: YES, YOUR HONOR.

14 THE COURT: ALL RIGHT. SO, MS. BELLANTONI, WHAT I --  
15 I WANT TO MAKE CERTAIN I UNDERSTAND THE NATURE OF PLAINTIFFS'  
16 CLAIMS BECAUSE IT SEEMS TO ME THERE MIGHT BE VARIOUS BASES.

17 SO ARE PLAINTIFFS CONTENDING THE SECOND AMENDMENT PREVENTS  
18 CALIFORNIA FROM REQUIRING ANYONE TO OBTAIN A LICENSE BEFORE  
19 CARRYING FIREARMS OPENLY IN PUBLIC? IS THAT WHAT PLAINTIFFS  
20 ARE CONTENDING?

21 MS. BELLANTONI: WHAT WE'RE CONTENDING IS THAT THE  
22 TWO STATUTES THAT WE ARE CHALLENGING, 25850 AND 26350, HAVE NO  
23 HISTORICAL ANALOGUE AND VIOLATE THE PLAIN TEXT AND THE HISTORY  
24 IN THIS NATION OF FIREARMS REGULATION.

25 I BELIEVE THE LICENSING ISSUE COMES INTO PLAY WHEN THE

1 STATE ATTEMPTS TO ARGUE THAT NOTWITHSTANDING THESE CRIMINAL  
2 STATUTES THAT THERE IS A -- AN ALTERNATIVE LICENSING REGIME.  
3 BUT -- AND WE'VE ADDRESSED THAT. AND THEIR EXPERTS HAVE SHOWN  
4 THAT LICENSING WAS NOT EVEN AROUND IN CIVIL LATE 1800S AND  
5 EARLY 1900S. SO IN THAT RESPECT, LICENSING ALSO VIOLATES THE  
6 PLAIN TEXT OF THE SECOND AMENDMENT AND HAS NO HISTORICAL  
7 ANALOGUE.

8 BUT WHAT WE ARE ALLEGING --

9 THE COURT: SO THAT -- SO THAT DOES MEAN, AT LEAST IN  
10 PART, THAT FROM YOUR POINT OF VIEW CALIFORNIA CAN'T REQUIRE  
11 ANYONE TO OBTAIN A LICENSE BEFORE ENGAGING IN OPEN CARRY; IS  
12 THAT RIGHT?

13 MS. BELLANTONI: WELL, IF YOU PUT IT THAT WAY, YES,  
14 YOUR HONOR. THAT -- YES, LICENSING IS CONTRARY TO THE PLAIN  
15 TEXT, PARTICULARLY IN CALIFORNIA WHICH REMAINS AN OUTLIER STATE  
16 IN THAT IT STILL IS A "MAY ISSUE" LICENSING REGIME, AND  
17 PERMISSION -- REQUIRING PERMISSION BEFORE AN INDIVIDUAL  
18 EXERCISES THE NATURAL RIGHT IS REPUGNANT TO THE CONSTITUTION.

19 THE COURT: SO IT'S NOT JUST THAT CALIFORNIA CAN'T  
20 LIMIT OPEN CARRY TO THOSE WHO LIVE OR WORK IN THE SMALLER  
21 COUNTIES, POPULATIONS BELOW 200,000?

22 MS. BELLANTONI: WE'RE CHALLENGING THE ENTIRE -- THE  
23 ENTIRETY OF THE TWO CRIMINAL STATUTES, YOUR HONOR. AND IT --  
24 LICENSING ASIDE, THE STATE MUST COME UP WITH AN HISTORICAL  
25 ANALOGUE FOR -- FOR THEIR TWO CRIMINAL STATUTES. AND THEY

1 CAN'T POINT TO CALIFORNIA'S MODERN LICENSING REGULATIONS AS  
2 THEIR HISTORICAL ANALOGUE. THAT'S -- THEY HAVE TO LOOK BACK TO  
3 THE FOUNDING ERA AND WHETHER THERE WAS A HISTORY OR TRADITION  
4 OF BANNING OPEN CARRY, WHICH WOULD REALLY MAKE NO SENSE AND  
5 RENDER THE PLAIN TEXT MEANINGLESS.

6 THE COURT: SO I'M -- I'LL GET INTO THE HISTORY,  
7 TEXT, TRADITION. BUT JUST ONE FINAL QUESTION. TO THE EXTENT  
8 PLAINTIFFS ARGUE THAT OPEN CARRY LICENSES ARE UNAVAILABLE AS A  
9 PRACTICAL MATTER, DO PLAINTIFFS ACKNOWLEDGE THE COURT HAS  
10 DISMISSED THAT CLAIM, NO AMENDMENT SINCE I DID, AND SO I  
11 CAN'T -- I'M NOT ENTERTAINING ANY CLAIM ALONG THAT LINE,  
12 UNDERSTOOD?

13 MS. BELLANTONI: I UNDERSTAND THAT YOU DISMISSED THE  
14 AS APPLIED CHALLENGES, YES, YOUR HONOR.

15 THE COURT: SO FOR YOU, MS. HADDAD, LOOKING AT WHAT  
16 BRUEN REQUIRES THIS COURT TO DO, IS IT THE ATTORNEY GENERAL'S  
17 POSITION THAT THE SECOND AMENDMENT DOES NOT PROTECT THE RIGHT  
18 TO CARRY HANDGUNS OPENLY IN PUBLIC FOR SELF-DEFENSE?

19 MS. HADDAD: NO, YOUR HONOR. THERE IS A SELF-DEFENSE  
20 EXCEPTION IN THE PENAL CODE, THAT -- IT'S PENAL CODE  
21 SECTION 26045(A), WHICH HAS A CARVEOUT. IT PROVIDES THAT  
22 ANYONE MAY OPENLY CARRY A FIREARM WITHOUT A LICENSE IF THAT  
23 PERSON REASONABLY BELIEVES THAT ANY PERSON OR THE PROPERTY OF  
24 ANY PERSON IS IN IMMEDIATE GRAVE DANGER, AND THAT THE CARRYING  
25 OF THE WEAPON IS NECESSARY FOR THE PRESERVATION OF THAT PERSON

1 OR PROPERTY.

2 WHAT THE ATTORNEY GENERAL -- WHAT THE ATTORNEY GENERAL'S  
3 POSITION IS, HOWEVER, IS THAT THE STATE MAY REGULATE THE MANNER  
4 OF PUBLIC CARRY. CONCEALED CARRY HAS A "SHALL ISSUE" LICENSING  
5 REGIME, AS WE'VE EXPLAINED IN OUR BRIEFING, AND IT MAY LIMIT  
6 PUBLIC CARRY -- THE OPEN CARRY OF WEAPONS WHEN NOT -- WHEN IT  
7 DOESN'T FALL INTO ONE OF THE EXCEPTIONS DETAILED IN OUR BRIEF  
8 OR THIS SELF-DEFENSE EXCEPTION THAT I'VE DETAILED HERE, THE  
9 STATE MAY LAWFULLY LIMIT IT.

10 SO IT'S NOT A BAN ON PUBLIC CARRY, IT IS A RESTRICTION ON  
11 THE OPEN CARRY OF WEAPONS.

12 THE COURT: ALL RIGHT. THEN LOOKING AT WHAT I THINK  
13 YOU PRESENT AS TEXTUAL ARGUMENTS, BUT I WANT TO CLARIFY THAT  
14 WITH YOU, YOU POINT TO BRUEN, AND THE -- MAKE THE POINT THAT  
15 SEVERAL ANTEBELLUM STATE-COURT DECISIONS EVINCE A CONSENSUS  
16 VIEW THAT STATES COULD NOT ALTOGETHER PROHIBIT THE PUBLIC CARRY  
17 OF ARMS PROTECTED BY THE SECOND AMENDMENT OR STATE ANALOGUES.  
18 BUT THAT'S A CONCLUSION BASED ON HISTORICAL RECORD, CORRECT,  
19 NOT ABOUT WHAT THE PLAIN TEXT PROTECTS?

20 MS. HADDAD: YES, YOUR HONOR, THAT'S CORRECT.

21 THE COURT: SO IS IT FAIR TO INTERPRET THE ATTORNEY  
22 GENERAL'S ARGUMENT ABOUT RESTRICTIONS ON OPEN CARRY AS  
23 ARGUMENTS ABOUT HISTORICAL TRADITION?

24 MS. HADDAD: YES, YOUR HONOR, WITH IT -- AND BASED ON  
25 EXISTING CASE LAW THAT HAS INTERPRETED THE SECOND AMENDMENT,

1 THAT HAS OBSERVED THAT WHEN IT COMES TO THE MANNER OF CARRY,  
2 STATES CANNOT RESTRICT PUBLIC CARRY ALTOGETHER, BUT IT  
3 LEAVES -- BUT EXISTING CASE LAW LEAVES OPEN FOR STATES TO  
4 RESTRICT PUBLIC CARRY IN CERTAIN WAYS, PROVIDED THAT THERE IS  
5 A -- THAT THERE IS AN AVENUE FOR LEGITIMATE PUBLIC CARRY, WHICH  
6 WE HAVE HERE.

7 THE COURT: JUST A THRESHOLD QUESTION FOR YOU,  
8 MS. BELLANTONI.

9 I'VE LOOKED AT YOUR BRIEFING WITH RESPECT TO THE SECOND  
10 AMENDMENT AND THE FOURTEENTH AMENDMENT. AND I -- I THINK YOU  
11 SAY THAT BRUEN AT LEAST CLARIFIES THE COURT DOESN'T NEED TO  
12 THINK ABOUT TWO ERAS -- SECOND AMENDMENT FOUNDING ERA,  
13 FOURTEENTH AMENDMENT RECONSTRUCTION ERA, SOME PEOPLE CALL IT  
14 THE SECOND FOUNDING -- BUT YOU'RE SAYING IT DOESN'T -- THERE IS  
15 NO DIFFERENCE IN THE HISTORICAL CONTEXT FOR THE PURPOSES OF --  
16 OF THIS CASE; IS THAT RIGHT?

17 MS. BELLANTONI: SO FOR THE PURPOSES OF INTERPRETING  
18 THE BILL OF RIGHTS THERE HAS BEEN NO SUPREME COURT CASE, NOR  
19 HAS THE STATE CITED ANY, THAT HAS LOOKED TO THE  
20 POST-RATIFICATION ERA AND/OR THE FOURTEENTH AMENDMENT  
21 RATIFICATION AS THE PRIMARY SOURCE OF INTERPRETING WHAT THE  
22 SCOPE OF ANY PARTICULAR RIGHT IS.

23 AS BRUEN MAKES CLEAR, THE SCOPE OF THE SECOND AMENDMENT AND  
24 THE BILL OF RIGHTS IS PEGGED TO THE RATIFICATION AND THE PUBLIC  
25 UNDERSTANDING OF THE RIGHT AT THAT POINT IN TIME. AND WHILE

1 THE SUPREME COURT IN BOTH THE SECOND AMENDMENT AND WITH RESPECT  
2 TO THE FIRST, THE FOURTH, THE FIFTH, THE SIXTH AND THE EIGHTH  
3 AMENDMENTS, WHEN THEY'VE LOOKED TO 1868 OR POST-RATIFICATION  
4 REGULATIONS, IT'S SIMPLY AND ONLY BEEN TO CONFIRM THE ORIGINAL  
5 TEXT AND THE ORIGINAL MEANING AS THE PUBLIC UNDERSTOOD IT AT  
6 THE TIME THAT IT WAS RATIFIED IN 1791. AND FOR ANY OTHER VIEW  
7 TO BE TAKEN WOULD LEAD TO A TWISTED DICHOTOMY OF A TWO-TIERED  
8 SYSTEM WHERE THE FEDERAL GOVERNMENT IS PROHIBITED FROM DOING  
9 CERTAIN THINGS BUT THE STATES ARE PROHIBITED FROM INTERFERING  
10 WITH RIGHTS IN A DIFFERENT WAY. AND THAT'S JUST NOT CONSISTENT  
11 WITH SUPREME COURT PRECEDENCE AND IT REALLY MAKES NO SENSE AT  
12 ALL.

13 THE COURT: JUST CHECKING, MS. HADDAD, ARE YOU  
14 HEARING ANY DEVELOPMENT OF THE PLAINTIFFS' ARGUMENT IN WHAT  
15 MS. BELLANTONI JUST SAID, OR HAVE YOU HAD A CHANCE TO FULLY  
16 ADDRESS THAT IN YOUR REPLY?

17 MS. HADDAD: WE HAVE -- WE'VE ADDRESSED THIS IN THE  
18 OPPOSITION, BUT I JUST WANT TO MAKE CLEAR THAT THERE -- THERE  
19 IS NOTHING TO SUGGEST THAT LAWS THAT WERE ENACTED OR IN EFFECT  
20 AT THE TIME OF THE RATIFICATION OF THE FOURTEENTH AMENDMENT ARE  
21 IRRELEVANT TO THIS COURT'S ANALYSIS. THAT WOULD -- THAT --  
22 UNDER PLAINTIFFS' INTERPRETATION THAT WOULD RENDER MEANINGLESS  
23 LOOKING AT ANY LAWS THAT WERE IN EFFECT IN 1868 EVEN IF THEY  
24 CONFIRM -- EVEN IF THEY COMPORT WITH LAWS FROM 1791. IT JUST  
25 MAKES NO SENSE. AND THAT GOES AGAINST NOT ONLY THE LANGUAGE OF

1 BRUEN BUT ALSO THE LANGUAGE FROM THE MOST RECENT NINTH CIRCUIT  
2 PANEL WHICH INTERPRETED BRUEN.

3 MS. BELLANTONI: WELL, JUST TO CLARIFY, I DID SAY  
4 THAT THE COURT -- THE SUPREME COURT HAS LOOKED TO THE LAWS  
5 AROUND POST-RATIFICATION, INCLUDING LAWS IN 1868, BUT IT'S ONLY  
6 TO CONFIRM THE ORIGINAL PUBLIC UNDERSTANDING OF THE RIGHT AT  
7 THE TIME THAT THE BILL OF RIGHTS WAS RATIFIED IN 1791.

8 AND BRUEN MAKES CLEAR THAT TO THE EXTENT THAT  
9 POST-RATIFICATION OR MODERN LAWS CONTRADICT THE PLAIN TEXT,  
10 THAT THE PLAIN TEXT CONTROLS, AND THAT LAWS PASSED DURING THE  
11 CIVIL WAR ERA ARE NOT A GREAT INDICATOR AND ARE NOT AS RELIABLE  
12 AS THOSE THAT WERE PASSED IN AND AROUND THE RATIFICATION AND  
13 THE PUBLIC UNDERSTANDING AT THAT TIME.

14 THE COURT: ALL RIGHT. I UNDERSTAND YOUR RESPECTIVE  
15 POSITIONS ON THAT. IF YOU WANT TO SAY MORE THAT YOU THINK IS  
16 NOT IN THE BRIEFING, YOU CAN IN WRAP-UP.

17 SO I WANT TO MAKE CERTAIN I'M -- I'M -- I'VE GOT YOUR  
18 POSITIONS RIGHT -- YOUR FUNDAMENTAL POSITIONS.

19 SO FIRST, FOR YOU, MS. BELLANTONI, IT'S FAIR TO SAY THE  
20 PLAINTIFFS HERE ARGUE THE ATTORNEY GENERAL CANNOT RELY ON LAWS  
21 OR REGULATIONS ABOUT CONCEALED OR CONCEALABLE WEAPONS IN  
22 ATTEMPTING TO MEET ITS BURDEN, CORRECT?

23 I THINK THAT'S WHAT YOU'RE SAYING, INCLUDING ON PAGE 20 OF  
24 YOUR BRIEF.

25 MS. BELLANTONI: YES. SO TO THE EXTENT THEIR EXPERTS

1 RELY ON LAWS THAT AS A GROUPING OUTLAWED DIRKS AND DAGGERS AND  
2 PISTOLS AND CONCEALABLE WEAPONS, PISTOLS ARE, EVEN IN HELLER,  
3 AND BRUEN AGAIN RECOGNIZED, AND MCDONALD RECOGNIZED THAT A  
4 HANDGUN IS A WEAPON IN COMMON USE.

5 SO TO THE EXTENT THERE WAS AN OUTLAWING OF PISTOLS AT SOME  
6 POINT IN TIME, THOSE REGULATIONS CANNOT BE RELIED ON BY THE  
7 COURT BECAUSE PISTOLS ARE WEAPONS IN COMMON USE AND THE MOST  
8 POPULAR WEAPON FOR SELF-DEFENSE BY AMERICANS IN THIS COUNTRY.

9 THE COURT: MS. HADDAD, IN CONTRAST, THE ATTORNEY  
10 GENERAL IS ARGUING CALIFORNIA MAY PLACE RESTRICTIONS ON THE  
11 RIGHT TO BEAR ARMS AS LONG AS IT PRESERVES THE RIGHT TO CARRY  
12 WEAPONS IN PUBLIC FOR SELF-DEFENSE. IS THAT A FAIR  
13 DISTILLATION?

14 MS. HADDAD: YES. AND AS LONG AS IT PRESERVES THE  
15 RIGHT -- IT PRESERVES A "SHALL ISSUE" LICENSING REGIME FOR SOME  
16 MANNER OF CARRY, IN THIS CASE CONCEALED CARRY, WHICH ALLOWS FOR  
17 A MORE REGULAR CARRYING OF WEAPONS OUTSIDE OF THE CIRCUMSTANCES  
18 THAT PENAL CODE SECTION 26045(A) SETS FORTH.

19 THE COURT: SO FOR BOTH OF YOU, BEFORE BRUEN, THE  
20 NINTH CIRCUIT LOOKED AT THE SECOND AMENDMENT AND DISTINGUISHED  
21 THE RIGHT TO CARRY FIREARMS OPENLY FROM THE RIGHT TO CARRY  
22 CONCEALED FIREARMS IN THE PERUTA CASE, 2016, THE EN BANC  
23 DECISION.

24 SHOULD THIS COURT MAKE THAT SAME DISTINCTION HERE NOW,  
25 MS. BELLANTONI, OR HAS BRUEN COMPLETELY REWRITTEN THE -- THE

1 LANDSCAPE?

2 MS. BELLANTONI: SO JUST TO REITERATE, THE ISSUE HERE  
3 IS WHETHER THE TWO CRIMINAL STATUTES AT ISSUE HAVE A -- AN  
4 HISTORICAL ANALOGUE THAT IS CONSISTENT WITH THE PLAIN TEXT.

5 TO THE EXTENT THAT THERE IS DELINEATION IN THE MODALITY OF  
6 PUBLIC CARRY, I WOULD SAY THAT THAT IS AN ARTIFICIAL CONSTRUCT.  
7 AND THAT IF WE LOOK TO HELLER, AND THE DEFINITION THAT THE  
8 SUPREME COURT IN HELLER GAVE WITH REGARD TO BEARING ARMS, THAT  
9 DEFINITION COVERS WEARING A WEAPON ON YOUR PERSON OR CARRYING  
10 IT IN YOUR POCKET, AND THAT ENCOMPASSES OPEN CARRY AND  
11 CONCEALED CARRY.

12 AND WHEN WE LOOK TO THE BRUEN DECISION, NEW YORK STATE IS A  
13 CONCEALED CARRY STATE AND ALSO BANS OPEN CARRY FOR NOW. AND  
14 WHAT THE BRUEN COURT DID IN THEIR DECISION WAS TO SAY THAT  
15 PUBLIC CARRY IS COVERED BY THE PLAIN TEXT OF THE SECOND  
16 AMENDMENT AND IS PRESUMPTIVELY PROTECTED. THEY ALSO MADE NO  
17 DISTINCTION BETWEEN OPEN CARRY AND CONCEALED CARRY.

18 AND TO THE EXTENT THAT THERE WERE ANTEBELLUM -- A HANDFUL  
19 OF ANTEBELLUM STATES THAT MADE THAT DISTINCTION, FOR ONE, THE  
20 SUPREME COURT SPOKE TO THE ANTEBELLUM EXAMPLES BECAUSE THEY HAD  
21 BEEN RAISED BY NEW YORK STATE. TWO, IT WAS NOT A NATIONAL  
22 TRADITION TO MAKE THAT DELINEATION BETWEEN THE MODALITY OF  
23 CARRY. AND TO THE EXTENT THAT THESE STATES DECIDED TO DO THAT,  
24 THAT DELINEATION IS FLAGRANTLY IN CONFLICT WITH THE PLAIN TEXT  
25 OF THE SECOND AMENDMENT BECAUSE THE AMENDMENT ITSELF MAKES NO

1 DISTINCTION BETWEEN OPEN CARRY AND CONCEALED CARRY. AND THE  
2 HELLER COURT PUT THAT TO REST WHEN THEY DEFINED THE SCOPE AS  
3 ENCOMPASSING BOTH WEARING ON THE PERSON, WHICH WOULD BE OPEN  
4 CARRY, AND WEARING IN THE POCKET, WHICH WOULD BE CONCEALED  
5 CARRY.

6 THE COURT: SO THIS COURT -- POST-BRUEN FOR SURE,  
7 THIS COURT SHOULD NOT MAKE THAT DISTINCTION?

8 MS. BELLANTONI: I DON'T -- I DON'T NECESSARILY THINK  
9 THAT THAT'S AN ISSUE BEFORE THE COURT JUST AS WE'RE SPEAKING  
10 BECAUSE THE STATUTES THAT WE'RE CHALLENGING CRIMINALIZE PUBLIC  
11 CARRY PERIOD.

12 SO 25850 CRIMINALIZES THE LOADED CARRIAGE OF A HANDGUN IN  
13 PUBLIC. DOESN'T MAKE A DISTINCTION BETWEEN OPEN CARRY AND  
14 CONCEALED CARRY. AND 26350, TO THE EXTENT THAT IT BANS OPEN  
15 CARRY, BUT UNLOADED, YOU KNOW, TO THAT EXTENT I THINK THAT --  
16 THAT MAKING THE DISTINCTION WOULD COME INTO PLAY BECAUSE THAT  
17 CERTAINLY WOULD DELINEATE A MANNER OF CARRY THAT IS NOT  
18 SEPARATED OUT IN THE PLAIN TEXT.

19 THE COURT: ALL RIGHT. MS. HADDAD --

20 MS. HADDAD: YOUR HONOR --

21 THE COURT: -- ANYTHING TO SAY ABOUT WHETHER OR NOT  
22 THE COURT SHOULD THINK ABOUT THAT DISTINCTION AT ALL?

23 MS. HADDAD: WE -- WE CERTAINLY THINK THE COURT  
24 SHOULD THINK ABOUT THE DISTINCTION. IT IS INCORRECT TO SAY  
25 THAT BRUEN CONFLATED ALL MANNERS -- ALL MANNER OF WHETHER OPEN

1 OR CONCEALED CARRY INTO PUBLIC CARRY. THEY -- YOU KNOW, THE  
2 BRUEN COURT ACKNOWLEDGED SEVERAL TIMES THAT -- THAT STATES  
3 COULD RESTRICT OR BAN CONCEALED CARRY ONLY WHEN PUBLIC CARRY --  
4 ONLY WHEN OPEN CARRY WAS PERMITTED BUT THEY COULD NOT PROHIBIT  
5 BOTH. THERE WOULD BE NO POINT IN MAKING THAT DISTINCTION IF  
6 THERE WAS NO DISTINCTION BETWEEN THE DIFFERENT MANNERS OF  
7 CARRY.

8 PLAINTIFFS HERE HAVE THE RIGHT TO PUBLICLY CARRY, THEY JUST  
9 CAN'T DO IT IN EVERY -- IN THE EXACT SAME WAY THAT THEY WANT OR  
10 IN THE EXACT WAY THAT THEY WISH TO. BUT AS A DISTRICT COURT IN  
11 NEW YORK RECENTLY -- RECENTLY OBSERVED, THAT'S NOT  
12 UNCONSTITUTIONAL. THEY HAVE MULTIPLE AVENUES OPEN TO THEM TO  
13 PUBLICLY CARRY. AND CERTAINLY NOTHING IN BRUEN SUGGESTS AN  
14 ANALYSIS OF THE HISTORY OF PROHIBITIONS OR RESTRICTIONS ON THE  
15 OPEN CARRY OF WEAPONS. THAT CASE -- THAT CASE FOCUSED SOLELY  
16 ON THE CONCEALED CARRY OF WEAPONS.

17 THE COURT: SO LET ME ASK -- HOLD THE THOUGHT.

18 JUST LOOKING AT THE -- THE HISTORY THAT YOU CITE TO ME, ARE  
19 YOU POINTING ME TO ANY HISTORICAL REGULATION OR LAW IN EFFECT  
20 IN 1791 THAT REQUIRED PERSONS TO OBTAIN A LICENSE OR SOME  
21 SIMILAR PERMISSION BEFORE CARRYING A WEAPON IN PUBLIC?

22 MS. HADDAD: SO FOR -- REGARDING LICENSING, YOUR  
23 HONOR, NO LICENSING --

24 THE COURT: OR SIMILAR PERMISSION.

25 MS. HADDAD: SO THE -- THE LAWS THAT WERE IN EFFECT

1 AROUND 1791 WERE ACTUALLY FAR STRICTER THAN CALIFORNIA'S  
2 LICENSING REGIME. THEY -- THEY BANNED OR PROHIBITED THE CARRY  
3 OF WEAPONS ALTOGETHER.

4 WE DO POINT TO CERTAIN LICENSING LAWS THAT WERE IN EFFECT  
5 IN 1868, OR AROUND THE PERIOD OF THE RATIFICATION OF THE  
6 FOURTEENTH AMENDMENT. BUT I -- I -- YOU KNOW, WE WANT TO  
7 STRESS -- AND I THINK WE MADE THIS POINT IN OUR BRIEFING --  
8 THAT LICENSING IS A MORE FLEXIBLE APPROACH THAT WAS TAKEN BY  
9 THE STATES. CERTAINLY THERE IS A HISTORY AND TRADITION OF  
10 BANNING OR PROHIBITING OR OTHERWISE RESTRICTING THE PUBLIC  
11 CARRY OF WEAPONS, AND LICENSING WAS INTRODUCED AS -- AS A MORE  
12 SOPHISTICATED WAY FOR STATES TO REGULATE THAT.

13 SO THE FACT THAT THERE ARE NO SPECIFIC LICENSING OR PERMIT  
14 LAWS FROM 1791 DOES NOT INVALIDATE LAWS THAT IMPOSE A LESSER  
15 BURDEN THAN LAWS THAT WERE IN EFFECT AROUND THE TIME OF THE  
16 SECOND OR FOURTEENTH AMENDMENT.

17 THE COURT: MS. BELLANTONI, ASSUME FOR SAKE OF  
18 ARGUMENT THAT THE STATE CORRECTLY CHARACTERIZES THE  
19 CIRCUMSTANCES IN 1791 AS MORE STRICT, DOES THAT MEAN A DIRECT  
20 ANALOGUE IS NOT REQUIRED IF LICENSING IS LESS STRICT THAN WHAT  
21 WAS IN -- THE NORMS IN PLACE IN 1791?

22 MS. BELLANTONI: THERE IS NOT ONE STATUTE THAT HAS  
23 BEEN CITED, LET ALONE A NATIONAL TRADITION, OF BANNING CARRY  
24 ALTOGETHER IN 1791.

25 WHAT WOULD BE THE POINT OF CODIFYING THE SECOND AMENDMENT,

1 WHICH STATES VERY CLEARLY THAT THE RIGHT TO KEEP AND BEAR ARMS  
2 SHALL NOT BE INFRINGED IF BEARING ARMS WAS BANNED ALTOGETHER?  
3 THAT ABSOLUTELY MAKES NO SENSE. AND THERE IS NOT ANY EVIDENCE  
4 IN THE RECORD OF ANYTHING OF THE NATURE THAT THE STATE HAS JUST  
5 REPRESENTED TO THIS COURT EXISTING IN '91. THAT WAS THE ENTIRE  
6 POINT OF CODIFYING THE SECOND AMENDMENT, THE PREEXISTING, FREE,  
7 OPEN, GOD-GIVEN RIGHT TO SELF-DEFENSE, TO HAVE ARMS AND TO  
8 CARRY ARMS FOR SELF-DEFENSE.

9 SO ANY REGULATION THAT IS PLACED ON THAT FREE AND EXISTING  
10 RIGHT MUST BE SCRUTINIZED AND MUST BE LOOKED AT IN THE CONTEXT  
11 OF WHAT DID THAT RIGHT MEAN TO THE FOUNDERS WHO JUST CAME OUT  
12 FROM UNDER A TYRANNICAL REGIME IN ENGLAND THAT ATTEMPTED TO  
13 DISARM THEM. WHAT SENSE DOES IT MAKE THAT THEY WOULD THEN GIVE  
14 THAT POWER AND AUTHORITY BACK TO ANOTHER GOVERNMENT TO DICTATE  
15 WHEN AND HOW AND WHO COULD DEFEND THEMSELVES AND DEFEND THEIR  
16 LIVES. MAKES NO SENSE. AND THE RECORD IS DEVOID OF ANY SUCH  
17 REGULATION IN 1791.

18 THE COURT: JUST THINKING ABOUT THE TEXT, THE SECOND  
19 AMENDMENT DOES NOT SAY THE RIGHT TO KEEP AND BEAR ARMS OPENLY  
20 SHOULD NOT BE INFRINGED.

21 MS. BELLANTONI: RIGHT. SO WE'VE TALKED ABOUT THAT  
22 BECAUSE IN THE HELLER CASE THE TERM BEAR ARMS HAS BEEN DEFINED.

23 AND SPECIFICALLY THEY TOOK IT FROM THE MUSCARELLO CASE, AND  
24 JUSTICE GINSBURG'S DISSENT IN THAT CASE, AS TO WHAT THE  
25 DEFINITION -- AS IT MEANT TO THOSE IN THE FOUNDING ERA, WHAT

1 DID THAT DEFINITION MEAN. AND THAT DEFINITION ENCOMPASSED  
2 WEARING OR CARRYING ON THE PERSON OR CARRYING IN THE POCKET  
3 WHICH COVERS BOTH OPEN CARRY AND CONCEALED CARRY. IT'S AN  
4 OVERARCHING RIGHT TO BEAR ARMS AND NOT FOR THE GOVERNMENT TO  
5 DICTATE THE MODALITY IN WHICH SOMEONE DECIDES THAT THEY'RE  
6 GOING TO -- HOW THEY'RE GOING TO DEFEND THEIR LIFE BY CARRYING  
7 THEIR ARMS. MUCH LIKE THE FIRST AMENDMENT WHERE THE GOVERNMENT  
8 CANNOT DICTATE WHICH RELIGION AN INDIVIDUAL MUST WORSHIP OR  
9 WHICH VERSION OF THE BIBLE THEY MUST READ OR ADHERE TO, IT'S  
10 THE INDIVIDUAL CHOICE. IT'S A VERY PERSONAL CHOICE AND HAS  
11 MANY FACTORS THAT ENTER INTO THAT CHOICE.

12 AND TO BE HONEST, YOUR HONOR, IT WOULD MAKE LITTLE SENSE  
13 FOR AN INDIVIDUAL TO BE CRIMINALLY LIABLE SIMPLY BECAUSE A  
14 PIECE OF -- AN ARTICLE OF CLOTHING WAS IN THE DECIDING FACTOR  
15 BETWEEN BEING A CRIMINAL AND NOT BEING A CRIMINAL AND BEING  
16 LAW-ABIDING.

17 SO, FOR INSTANCE, LET'S SAY OPEN CARRY AS IT IS HERE WAS  
18 BANNED AND AN INDIVIDUAL WAS CARRYING CONCEALED BUT YET THEIR,  
19 YOU KNOW, JACKET WAS OPENED AND ALL OF A SUDDEN NOW THEIR  
20 HANDGUN CAN BE SEEN, WHICH COULD BE, YOU KNOW, THEN INTERPRETED  
21 TO BE OPEN CARRY. IT'S A NUANCE AND IT'S A -- IT'S A  
22 DELINEATION THAT IS A -- IT'S A COMPLETELY FABRICATED  
23 CONSTRUCT. AND THE SECOND AMENDMENT DOESN'T NEED TO SAY OPEN  
24 OR CONCEALED BECAUSE IT COVERS BOTH. IT SAYS BEAR. AND IT  
25 INURES TO THE BENEFIT OF THE PEOPLE FOR THAT TO BE INTERPRETED,

1 AS IT WAS IN HELLER, BROADLY AND NOT NARROWLY IN SCOPE.

2 THE COURT: BUT THE COURT IN HELLER DID SAY THE RIGHT  
3 ISN'T UNLIMITED.

4 MS. BELLANTONI: RIGHT. SO THE RIGHT ISN'T  
5 UNLIMITED.

6 THE COURT: IT DOES NOT PROTECT THE RIGHT OF CITIZENS  
7 TO CARRY ARMS FOR ANY SORT OF CONFRONTATION.

8 MS. BELLANTONI: RIGHT. LIKE BRANDISHING AND AFFRAY  
9 AND TERRORIZING AND SHOOTING GUNS INTO THE AIR. BUT THE  
10 PEACEFUL CARRY -- WHETHER IT'S OPEN OR CONCEALED, THE PEACEFUL  
11 CARRY IS ABSOLUTELY PROTECTED BECAUSE THAT'S THE --

12 THE COURT: BUT HELLER ALSO -- BUT HELLER ALSO WENT  
13 ON TO SAY GOVERNMENTS COULD PROHIBIT CONCEALED WEAPONS, COULD  
14 KEEP WEAPONS FROM THOSE WHO SUFFER FROM MENTAL ILLNESS OR ARE  
15 CONVICTED OF A FELONY, COULD PROHIBIT WEAPONS IN SCHOOLS AND  
16 GOVERNMENT BUILDINGS --

17 MS. BELLANTONI: THAT'S --

18 THE COURT: -- COULD IMPOSE CONDITIONS AND  
19 QUALIFICATIONS ON COMMERCIAL SALE. RIGHT? THAT'S ALL IN  
20 HELLER.

21 MS. BELLANTONI: SO COMMERCIAL SALE IS NOT AT ISSUE.  
22 WE'RE TALKING ABOUT THE INDIVIDUAL RIGHT HERE. AND NEITHER ARE  
23 THE PROHIBITORS. AND THE PROHIBITORS ARE ALL LAID OUT --  
24 OBJECTIVE PROHIBITORS -- THEY'RE ALL LAID OUT IN 18 USC 922 (G).  
25 AND MY CLIENTS HAVE NONE OF THOSE PROHIBITORS. THEY'RE NOT

1 DISQUALIFIED. SO --

2 THE COURT: SO HERE IS THE QUESTION EXTENDING THE  
3 REASONING OF HELLER. IF A STATE CAN IMPOSE THE RESTRICTIONS  
4 THAT HELLER ACKNOWLEDGES ARE POSSIBLE, WHY IS IT NOT REASONABLE  
5 THAT A STATE COULD IMPOSE RESTRICTIONS THROUGH A LICENSING  
6 SYSTEM?

7 MS. BELLANTONI: THE STATE CAN ONLY IMPOSE THOSE  
8 RESTRICTIONS THAT ARE JUSTIFIED BY LOOKING BACK TO THE FOUNDING  
9 ERA. AND IF THOSE RESTRICTIONS EXISTED THEN, THEN THERE IS AN  
10 HISTORICAL ANALOGUE. AND IF THEY DID NOT THEN THE STATE CANNOT  
11 IMPOSE THOSE RESTRICTIONS.

12 THE COURT: AND IT'S NOT -- THE PLAINTIFFS AREN'T  
13 SAYING -- MAKING CERTAIN I UNDERSTAND YOUR POSITION, PLAINTIFFS  
14 ARE NOT SAYING THAT CALIFORNIA DOESN'T ALLOW PEOPLE TO CARRY  
15 FIREARMS IN PUBLIC FOR SELF-DEFENSE, RIGHT?

16 MS. BELLANTONI: OH, I'M SAYING THAT THEY DON'T ALLOW  
17 IT. THERE ARE TWO CRIMINAL STATUTES THAT -- THAT BAN THAT  
18 RIGHT. THE FACT THAT THERE IS NOW A LICENSING SCHEME -- WHICH  
19 I WILL AGAIN SAY, IF YOU LOOK AT THE PLAIN TEXT OF THE  
20 LICENSING STATUTES, 26150 AND 26155 STILL SAY "MAY." SO THEY  
21 CAN SAY "SHALL ISSUE" 'TIL THE COWS COME HOME, BUT THE LANGUAGE  
22 OF THE STATUTE IS "MAY." IT'S A "MAY ISSUE" LICENSING SCHEME.  
23 SO DISCRETION IS STILL THERE. IT'S STILL ASKING PERMISSION  
24 FROM THE GOVERNMENT.

25 THE COURT: THE ATTORNEY GENERAL HAS -- HAS MADE A

1 DETERMINATION NOT TO ENFORCE AND LANGUAGE IS CHANGING IN  
2 JANUARY. IS THAT RIGHT?

3 MS. HADDAD: THAT'S CORRECT, YOUR HONOR.

4 THE COURT: DO YOU ACKNOWLEDGE THAT, THE ATTORNEY  
5 GENERAL'S EXPRESS DIRECTION NOT TO ENFORCE AND THE MODIFIED  
6 LANGUAGE COMING ONLINE?

7 MS. BELLANTONI: I -- AS I SIT HERE TODAY, I DON'T.  
8 IT'S NOT THERE YET. IT'S STILL PART OF THE STATUTE.

9 BUT EVEN IF THEY DO TRANSITION TO A "SHALL ISSUE," THE  
10 BRUEN COURT DID NOT ANALYZE LICENSING REQUIREMENTS UNDER THE  
11 TEXT, HISTORY, AND TRADITION ANALYSIS. THEY SIMPLY COMMENTED  
12 THAT SIX OF THE STATES, INCLUDING NEW YORK, IS -- ARE STILL  
13 OUTLIERS IN THAT THEY STILL ARE DISCRETIONARY.

14 SO TO THAT EXTENT, TO AVOID CONFUSION ACROSS THE COUNTRY,  
15 THEY INDICATED THAT THE "SHALL ISSUE" REGIMES WOULD STAY IN  
16 PLACE AND THAT THEY WOULD STAY IF THERE WERE OBJECTIONABLE  
17 FACTORS -- OBJECTIONABLE FACTORS -- I'M SORRY -- OBJECTIVE  
18 FACTORS WOULD STAY IN PLACE. BUT EVEN OBJECTIVE FACTORS ARE  
19 SUBJECT TO THE TEXT, HISTORY, AND TRADITION ANALYSIS --

20 THE COURT: BUT JUST SO I'M CLEAR --

21 MS. BELLANTONI: -- IN LICENSING -- YES.

22 THE COURT: -- DO YOU GIVE NO WEIGHT TO THE ATTORNEY  
23 GENERAL'S POSITION THAT THE LAWS AS WRITTEN CURRENTLY WILL NOT  
24 BE ENFORCED?

25 MS. BELLANTONI: NO.

1 THE COURT: ALL RIGHT. SO THE COURT -- JUSTICE  
2 KAVANAUGH AND THE CHIEF JUSTICE OPINED THAT 43 STATES WITH  
3 OBJECTIVE LICENSING SYSTEMS COULD CONTINUE TO ENFORCE THOSE  
4 LICENSING SYSTEMS. THREE DISSENTERS WOULD HAVE UPHELD THE NEW  
5 YORK LICENSING LAW. BUT LOOKING AT THE WAY THE VOTES ALIGNED  
6 IN THE DECISION, DON'T I APPLY WHAT'S KNOWN AS THE MARKS RULE,  
7 LOOKING FOR THE POSITION TAKEN BY THOSE CONCURRING IN THE  
8 JUDGMENT ON THE NARROWEST GROUNDS?

9 MS. BELLANTONI: THE ONLY TWO STATUTES THAT ARE BEING  
10 CHALLENGED HERE ARE 25850 AND 26350. AND THE ISSUE HERE IS  
11 WHETHER IS THERE A -- AN HISTORICAL ANALOGUE FOR CRIMINALIZING  
12 PUBLIC CARRY, WHICH THERE IS NOT. AND THE STATE HAS FAILED TO  
13 MEET ITS BURDEN OF SHOWING THAT THERE IS ONE. AND THEY CAN'T  
14 JUSTIFY THE LACK OF HISTORICAL ANALOGUE BY POINTING TO  
15 MODERN-DAY LICENSING REGULATIONS. BECAUSE ON THAT NOTE, AGAIN,  
16 THERE WAS NO LICENSING AT THE FOUNDING. THEY WOULDN'T EVEN  
17 HAVE CONTEMPLATED HAVING TO SEEK AND ASK PERMISSION IN ORDER TO  
18 EXERCISE A PREEXISTING RIGHT.

19 NOBODY HAS TO GO ASK THE GOVERNMENT IF THEY COULD GO TO  
20 CHURCH OR IF THEY COULD HAND OUT, YOU KNOW, PUBLIC POLITICAL  
21 FLYERS ON A SIDEWALK. THOSE ARE THINGS -- YOU WAKE UP IN THE  
22 MORNING, YOU HAVE THE RIGHT TO DEFEND YOURSELF IF SOMEONE TRIES  
23 TO ATTACK YOU AND TAKE YOUR LIFE FROM YOU. YOU HAVE THE RIGHT  
24 TO HAVE A WEAPON ON YOU IN ORDER TO DO THAT.

25 AND JUST WHILE WE'RE ON THAT, THAT 26045 CARVEOUT, IT

1 REQUIRES THE INDIVIDUAL TO ESSENTIALLY BE A CRIMINAL AND CARRY  
2 WITHOUT A LICENSE. AND THEN IF THEY ARE ATTACKED, THEY HAVE A  
3 DEFENSE. BUT WHAT ABOUT THE SITUATION WHERE, YOU KNOW, THEY'RE  
4 FOUND IN POSSESSION OF THEIR GUN AND THEY WEREN'T IN A  
5 SELF-DEFENSE SITUATION AND THEY WEREN'T BEING IMMINENTLY  
6 ATTACKED?

7 THE SECOND AMENDMENT DOESN'T REQUIRE -- AND THIS IS THE  
8 PROPER CAUSE REGULATION THAT WAS STRICKEN BY BRUEN -- THEY  
9 DON'T REQUIRE YOU TO HAVE AN IMMINENT, YOU KNOW, FEAR OF BEING  
10 ATTACKED. YOU DON'T HAVE TO SHOW THAT SOMEONE IS AFTER YOU OR  
11 THAT YOU'RE SEPARATE FROM EVERYBODY ELSE IN SOCIETY. THAT WAS  
12 STRICKEN ALREADY. SO TO THE EXTENT THE STATE IS RELYING ON  
13 THAT EXCEPTION, IT'S -- IT -- IT'S BEEN STRICKEN BY, YOU KNOW,  
14 ESSENTIALLY -- IN PRACTICE BY BRUEN BECAUSE IT'S THE SAME AS  
15 THE PROPER CAUSE ANALYSIS. AND IT'S A FALLACY BECAUSE IT  
16 REQUIRES YOU TO BREAK THE LAW BY CARRYING A GUN AND THEN ONLY  
17 PROVIDES A DEFENSE IF YOU ARE ACTUALLY ATTACKED.

18 THE COURT: SO HELP -- JUST THINKING MORE ABOUT WHAT  
19 THE COURT SAID IN BRUEN, ONLY ORDINARY LAW-ABIDING CITIZENS --  
20 THAT'S BEEN A THEME IN THE RECENT SUPREME COURT JURISPRUDENCE  
21 -- ONLY LAW-ABIDING CITIZENS CAN CARRY FIREARMS IN PUBLIC FOR  
22 SELF-DEFENSE. SO STATES HAVE TO HAVE THE ABILITY TO  
23 DISTINGUISH ORDINARY LAW-ABIDING CITIZENS FROM OTHERS, CORRECT?

24 MS. BELLANTONI: NO. I DON'T AGREE WITH THAT.  
25 EVERYONE STARTS OUT WITH THE RIGHT. IT'S YOUR LIFE. YOU HAVE

1 THE RIGHT TO DEFEND IT. AND IF YOU'VE DONE SOMETHING, LET'S  
2 SAY --

3 THE COURT: SO IS THE PRESUMPTION -- THE PRESUMPTION  
4 IS THAT EVERYONE IS AN ORDINARY LAW-ABIDING CITIZEN?

5 MS. BELLANTONI: THE -- YES. THE PRESUMPTION IS THAT  
6 ALL AMERICANS HAVE THE RIGHT TO BEAR ARMS FOR SELF-DEFENSE.  
7 THAT IS THE PRESUMPTION. THAT'S THE CONDUCT THAT'S  
8 PRESUMPTIVELY PROTECTED BY THE PLAIN TEXT OF THE SECOND  
9 AMENDMENT.

10 THE COURT: SO STATES CANNOT ENGAGE IN ANY EFFORT TO  
11 DISTINGUISH THOSE THAT THE SUPREME COURT HAS ACKNOWLEDGED MAY  
12 NOT -- MAY NOT HAVE THAT RIGHT BECAUSE OF A FELONY CONVICTION,  
13 BECAUSE OF A MENTAL HEALTH CONDITION? THE STATE HAS NO RIGHT  
14 TO TRY TO MAKE ANY DISTINCTIONS TO IDENTIFY THOSE PERSONS WHO  
15 MIGHT BE EXCEPTED?

16 MS. BELLANTONI: SO, JUDGE, THE PROBLEM WITH THE  
17 LICENSING SCHEME IS THAT IT -- IT --

18 THE COURT: JUST ANSWER -- WHAT ABOUT -- JUST THINK  
19 ABOUT DISTINCTIONS.

20 MS. BELLANTONI: OKAY. SO THERE ARE RULES. LIKE I  
21 TALKED ABOUT BEFORE, THE FEDERAL STATUTE 18 USC 922(G), THAT  
22 LAYS OUT OBJECTIVE FACTORS FOR INDIVIDUALS WHO HAVE, BY ACTS OR  
23 CONDITIONS OR EVENTS, DISQUALIFIED THEMSELVES FROM THE RIGHT  
24 THAT'S PROTECTED BY THE SECOND AMENDMENT. SO FELONY  
25 CONVICTIONS, MISDEMEANOR DOMESTIC VIOLENCE CONVICTIONS. BUT AS

1 WE SEE IN THE RAHIMI CASE, IN THE RANGE CASE THAT ARE GOING UP  
2 TO THE SUPREME COURT, THAT EVEN THOSE MAY NOT HAVE A -- AN  
3 HISTORICAL ANALOGUE AND THOSE ARE BEING CHALLENGED. BUT  
4 OBJECTIVELY THE STATE ALREADY HAS STATUTES THAT PUNISH  
5 INDIVIDUALS WHO ARE PROHIBITED INDIVIDUALS FROM CARRYING.

6 THERE IS NO REASON TO PUNISH EVERYONE SIMPLY BECAUSE SOME  
7 PEOPLE ARE PROHIBITED FROM CARRYING AND THAT'S WHAT THE  
8 LICENSING DOES. IT PUTS EVERYONE ON THE DEFENSIVE AND SAYS  
9 EVERYONE IS PROHIBITED. EVEN THOUGH THEY HAVEN'T DONE  
10 ANYTHING, EVERYONE IS PROHIBITED UNTIL THEY PROVE THAT THEY'RE  
11 NOT PROHIBITED TO THE -- YOU HAVE TO PROVE TO THE GOVERNMENT.  
12 AND IT'S A SUBJECTIVE SCHEME. AND EVEN IF IT WERE OBJECTIVE,  
13 THERE IS STILL NO -- IT STILL VIOLATES THE PLAIN TEXT AND THE  
14 INTENTION OF CODIFYING THE SECOND AMENDMENT TO MAKE SOMEONE GO  
15 TO THE GOVERNMENT AND SAY I'M NOT PROHIBITED.

16 EVERYONE STARTS OUT WITH THE NATURAL RIGHT. IT'S A NATURAL  
17 RIGHT. AND IT'S ONLY, YOU KNOW, THAT WE'VE HAD ALL THESE  
18 REGULATIONS PILED ON TOP OF THE NATURAL RIGHT, NOW WE'RE TRYING  
19 TO PEEL THEM BACK AND GET BACK TO THE NATURAL RIGHT OF BEING  
20 ABLE TO JUST DEFEND YOURSELF.

21 THE COURT: THAT COMES THROUGH IN YOUR BRIEFING. I'M  
22 VERY CLEAR ON THAT. AND I KNOW HELLER TALKED ABOUT THAT.

23 SO THIS IS A NIT -- A RELATIVE NIT, BUT AT ONE POINT THE  
24 PLAINTIFFS DO ARGUE THAT WEAPONS MIGHT BE DIFFICULT TO CONCEAL.  
25 IT'S AN ARGUMENT. IS THERE ANY EVIDENCE IN THE RECORD THAT

1 SUPPORTS THAT ARGUMENT THAT HANDGUNS ARE INEFFECTIVE FOR  
2 SELF-DEFENSE WHEN CONCEALED?

3 MS. BELLANTONI: NO, YOUR HONOR, IT WAS -- IT'S  
4 REALLY ANECDOTAL FROM A COMMON SENSE PERSPECTIVE. AND IT GOES  
5 TO WHAT WE HAD TALKED ABOUT BEFORE IN THAT THE PLAIN TEXT  
6 COVERS BOTH CONCEALED AND OPEN CARRY. BUT IT'S COMMON -- IT'S  
7 A COMMON SENSE, YOU KNOW, ANECDOTAL PIECE OF INFORMATION THAT  
8 IF AN INDIVIDUAL IS UNDER DURESS AND ATTEMPTING TO ACCESS THEIR  
9 FIREARM WHERE TIMING IS OF THE ESSENCE, AND AN EMERGENT  
10 SITUATION, IT'S MUCH EASIER TO ACCESS A FIREARM THAT'S NOT  
11 HIDDEN AND CONCEALED BENEATH CLOTHING AND LAYERS OF CLOTHING  
12 AND IS OPEN AND ABLE TO BE ACCESSED MORE EXPEDITIOUSLY.

13 THE COURT: ALL RIGHT.

14 MS. HADDAD, I ASKED MS. BELLANTONI QUITE A FEW QUESTIONS.  
15 IF YOU HAVE SOMETHING TO SAY IN RESPONSE TO WHAT YOU'VE HEARD  
16 THAT'S NOT IN YOUR BRIEFING, YOU CAN DO THAT. I THINK MY  
17 BOTTOM LINE QUESTION FOR YOU THAT I HAVEN'T ASKED IS, BASED ON  
18 THE RECORD BEFORE THE COURT, WOULD YOU CONCEDE THE COURT COULD  
19 CONCLUDE THERE IS NO HISTORICAL 1790S ANALOGUE TO THE STATE'S  
20 LICENSING STATUTE?

21 MS. HADDAD: TO LICENSING SPECIFICALLY?

22 THE COURT: RIGHT.

23 MS. HADDAD: WE WOULD CONCEDE THAT THERE IS NO  
24 ANALOGUE. THERE ARE LAWS THAT IMPOSE FAR GREATER BURDENS THAN  
25 THE RELATIVE FLEXIBILITY OF A LICENSING SCHEME THAT IS HERE,

1 WHICH AS I THINK YOUR HONOR HAS CORRECTLY NOTED, THAT BRUEN  
2 HAS -- THAT BRUEN HAS SANCTIONED -- THAT BRUEN HAS ALLOWED FOR  
3 LICENSING SCHEMES THAT APPLY OBJECTIVE, NARROW RESTRICTIONS.  
4 JUSTICE KAVANAUGH'S CONCURRENCE SPELLS THAT OUT QUITE CLEARLY.

5 SO IS THERE A LAW THAT SAYS, IN 1791, THERE WAS -- THAT  
6 INDIVIDUALS COULD ONLY CARRY IF THEY OBTAINED A LICENSE FROM  
7 THE STATE? NO. THERE WERE LAWS THAT INSTEAD PROHIBITED  
8 CARRYING ALTOGETHER. SO IN THAT RESPECT I WOULD -- I WOULD  
9 JUST URGE YOUR HONOR TO STILL CONSIDER THE LAWS THAT WE HAVE  
10 PUT FORTH BECAUSE THE BURDENS ARE NOT ONLY COMPARABLE, THE  
11 BURDENS ARE -- IMPOSED WERE FAR GREATER THAN CALIFORNIA'S  
12 SCHEME HERE. THAT DOES NOT MAKE THEM IRRELEVANT TO THE  
13 ANALYSIS.

14 THE COURT: I UNDERSTAND THAT ARGUMENT.

15 MS. HADDAD: THANK YOU.

16 THE COURT: ALL RIGHT. ANYTHING ELSE YOU WANT TO SAY  
17 IN RESPONSE TO WHAT YOU HEARD FROM MS. BELLANTONI?

18 MS. HADDAD: JUST A FEW -- JUST A FEW POINTS.

19 I UNDERSTAND PLAINTIFFS' POSITION THAT THE ATTORNEY  
20 GENERAL'S LEGAL ALERT HAS NO WEIGHT. HOWEVER, I THINK THAT THE  
21 NINTH CIRCUIT'S DECISION IN FLANAGAN V. BONTA PUT THIS TO REST.  
22 THAT DISMISSED AN APPEAL INVOLVING THE GOOD CAUSE REQUIREMENT  
23 THAT'S IN THE STATUTES THAT ARE ABOUT TO BE AMENDED BY SB2.  
24 THAT DISMISSED IT AS MOOT.

25 I ALSO WOULD LIKE TO POINT OUT THAT REGARDING THE ARGUMENT

1 THAT CLOTHES -- THAT -- THAT WEAPONS COULD NOT BE CARRIED  
2 CONCEALED UNDER CLOTHING, DR. RIVAS, OUR EXPERT, GAVE EXTENSIVE  
3 -- DEVOTED AN EXTENSIVE PART OF HER REPORT TO THE PURPOSE OF  
4 WEAPONS THAT WERE DEVELOPED DURING THE 17TH, 18TH AND 19TH  
5 CENTURIES, AND THAT THEY WERE -- EXCUSE ME, THE 18TH AND 19TH  
6 CENTURIES THEY WERE INTENDED TO BE CARRIED CONCEALED. SO I  
7 WOULD JUST DIRECT THIS COURT'S ATTENTION TO THAT PORTION OF HER  
8 REPORT.

9 AND THEN I JUST -- RESPONDING TO PLAINTIFFS' CONTENTIONS  
10 THAT THE STATE HAS NOT PUT FORTH LAWS DEMONSTRATING SIMILAR  
11 BURDENS, THE -- BRUEN MADE CLEAR THAT -- AND THE -- AND THE  
12 NINTH CIRCUIT RECENTLY ENDORSED THAT LANGUAGE, THAT NO ANALOGUE  
13 NEED BE A DEAD RINGER OR AN HISTORICAL TWIN.

14 THE QUESTION -- SO SOME OF THESE LAWS MAY NOT HAVE THE SAME  
15 LANGUAGE OR THE SAME BURDENS AS CALIFORNIA'S LAWS, BUT THE  
16 BURDENS ARE STILL SIMILAR. OFTEN THE BURDENS THAT WE HAVE  
17 CITED -- THE LAWS THAT WE HAVE CITED TO IMPOSE GREATER BURDENS  
18 THAN CALIFORNIA'S CURRENT LAWS, AND THE PURPOSES FOR THOSE LAWS  
19 STILL REMAIN.

20 THERE IS NOTHING IN BRUEN -- THERE IS NOTHING IN BRUEN TO  
21 SUGGEST THAT LAWS THAT WERE IN EFFECT IN -- IN -- AT THE TIME  
22 OF THE RATIFICATION OF THE FOURTEENTH AMENDMENT IN 1868 ARE NOT  
23 TO BE CONSIDERED. BRUEN IN FACT SAYS THE OPPOSITE, AS DOES THE  
24 NINTH CIRCUIT.

25 AND SO RESPONDING TO THOSE POINTS, I THINK -- I THINK THAT

1 GETS TO EVERYTHING THAT PLAINTIFFS RAISED THAT I WANTED TO MAKE  
2 SURE I RAISED HERE.

3 THERE IS ONE ADDITIONAL POINT. IN OUR OPPOSITION BRIEFING  
4 WE SET FORTH A SERIES OF LAWS THAT WE THOUGHT EXEMPLIFY THE  
5 COMPARABLE BURDENS THAT CALIFORNIA'S LAWS PUT FORTH. TWO  
6 POINTS ON THAT.

7 FIRST, WE NEGLECTED TO INCLUDE IN THAT BULLET POINT LISTING  
8 A LAW IDENTIFIED BY DR. SPITZER AT PAGE 7 OF HIS REPORT. IT'S  
9 AN 1837 GEORGIA LAW THAT RESTRICTED ALL CARRYING OF -- PUBLIC  
10 CARRYING OF WEAPONS. WE'LL INCLUDE THAT IN OUR UPDATED REQUEST  
11 FOR JUDICIAL NOTICE.

12 THE COURT: SO THAT'S YOUR BULLET POINT LIST ON --

13 MS. HADDAD: YES.

14 THE COURT: -- ON -- IT WOULD APPEAR PROBABLY ON PAGE  
15 18?

16 MS. HADDAD: I THINK THAT'S CORRECT. AND IT GOES FOR  
17 SEVERAL PAGES.

18 THE COURT: PAGE 18 AT ECF PAGE -- PAGE 12 OF YOUR  
19 BRIEF.

20 MS. HADDAD: YES, YOUR HONOR.

21 THE COURT: UNDERSTOOD.

22 MS. HADDAD: AND THEN ONE -- ONE POINT THAT  
23 PLAINTIFFS HAVE MADE THAT WE -- THAT WE TAKE GREAT ISSUE WITH  
24 IS THAT THE LAWS THAT WE'VE CITED TO ONLY PENALIZE THE CARRYING  
25 OF WEAPONS TO THE TERROR OF THE COUNTY, THERE WERE -- OR -- OR

1 THAT ARE OFFENSIVELY DISPLAYED, SOME OF THE -- SOME OF THE  
2 LANGUAGE IN THE LAWS ARE PHRASED ARMED DEFENSIVELY.

3 FIRST OFF, THIS IS INCORRECT. WE HAVE CITED TO LAWS THAT  
4 BAN OR PROHIBIT OR SEVERELY RESTRICT THE PUBLIC CARRYING OF  
5 WEAPONS REGARDLESS OF HOW THEY ARE CARRIED.

6 BUT SECONDLY, AS DR. SPITZER WENT TO DESCRIBE AT LENGTH IN  
7 HIS -- IN HIS EXPERT REPORT, THOSE LAWS ARE ABSOLUTELY RELEVANT  
8 BECAUSE THE IDEA IS THAT THE MERE PUBLIC APPEARANCE OF A WEAPON  
9 IS UNLAWFUL. AND THESE DATE BACK TO THE BRITISH STATUTE OF  
10 NORTHAMPTON. THE SAME LANGUAGE OF BEING -- OF LAWS INCLUDING  
11 PHRASES THAT -- THE PROHIBITING OF BEING ARMED DEFENSIVELY, OR  
12 PROHIBITING OF CARRYING TO THE TERRORIZING OF THE PEOPLE. THE  
13 MERE PUBLIC -- THE MERE CARRYING OF A WEAPON IN PUBLIC IN FRONT  
14 OF OTHERS MEETS THOSE REQUIREMENTS.

15 SO THE LAWS THAT WE HAVE CITED CAN'T JUST BE DISREGARDED.  
16 THEY -- THEY HAVE -- THEY CARRY THE COMPARABLE BURDENS. AND  
17 ALL OF THOSE LAWS THAT WE HAVE CITED HAVE SIMILAR SELF-DEFENSE  
18 EXCEPTIONS TO THE ONE THAT I'VE CITED HERE THAT'S CURRENTLY IN  
19 EFFECT IN CALIFORNIA.

20 THE COURT: ALL RIGHT. UNDERSTOOD.

21 MS. BELLANTONI, ANY -- ANY RESPONSE TO WHAT YOU'VE JUST  
22 HEARD THAT'S NOT COVERED IN THE BRIEFING OR WHAT YOU SAID  
23 PREVIOUSLY?

24 MS. BELLANTONI: YES. BRIEFLY, YOUR HONOR.

25 SO THE CASE CITED BY MR. SPITZER IN GEORGIA, NUNN VERSUS

1 STATE, WAS OVERRULED BY THE GEORGIA SUPREME COURT. CAN'T BAN  
2 CARRY ALTOGETHER.

3 AND I'LL REITERATE THAT THIS IS AN OPEN CARRY BAN. SO EVEN  
4 IF THE STATUTE IS CHANGED TO A "SHALL ISSUE" STATUTE, THERE IS  
5 NO INDICATION THAT THE DOJ IS GOING TO START ISSUING AN  
6 APPLICATION THAT ALLOWS FOR OPEN CARRY TO BE APPLIED FOR. THE  
7 ONLY APPLICATION WHICH ALL OF THE LICENSING OFFICERS ARE  
8 REQUIRED TO USE, THE ONLY APPLICATION ISSUED BY THE DOJ IS  
9 CONCEALED CARRY. THERE ARE GEOGRAPHICAL RESTRICTIONS ON OPEN  
10 CARRY THAT ONCE YOU STEP OUT OVER YOUR COUNTY OF ISSUANCE THAT  
11 THAT OPEN CARRY LICENSE IS AUTOMATICALLY INVALIDATED. AND,  
12 AGAIN, THERE WAS NO LICENSING REQUIREMENT OR PROHIBITION  
13 REQUIRED BACK IN 1791.

14 AND ALSO HELLER AND BRUEN SPEND A FEW PAGES TALKING ABOUT  
15 THE STATUTE IN NORTHAMPTON AND HOW IT'S ABSOLUTELY NOT  
16 COMPARABLE TO PEACEFUL PUBLIC CARRY. AND THERE IS NOTHING IN  
17 ANY STATUTE OR IN THE SUPREME COURT'S ANALYSIS THAT SEEMS TO  
18 INDICATE THAT -- OR EVEN IMPLY THAT SIMPLY WEARING A HANDGUN  
19 OPEN AND HOLSTERED IS GOING TO TERRORIZE PEOPLE.

20 CALIFORNIA AND HAWAII IN THE NINTH CIRCUIT ARE THE ONLY TWO  
21 STATES OF ALL SEVEN STATES THAT OUTLAW AND BAN OPEN CARRY.  
22 OPEN CARRY IS PRACTICED UNREMARKABLY THROUGHOUT THIS COUNTRY.  
23 AND 27 STATES, MORE THAN HALF, ARE CONSTITUTIONAL CARRY AND  
24 DON'T EVEN REQUIRE A PERMIT TO ENABLE PEOPLE TO PROTECT  
25 THEIR -- THEMSELVES OUT IN PUBLIC.

1           THANK YOU.

2           THE COURT: ALL RIGHT. MS. HADDAD, ANY FINAL WORD?  
3           THEY ARE CROSS-MOTIONS HERE, BUT SOMEONE HAS TO HAVE THE  
4           LAST WORD.

5           MS. HADDAD: WELL, JUST A FINE POINT.

6           PLAINTIFFS HAVE -- THERE IS NO EVIDENCE IN THE RECORD THAT  
7           PLAINTIFFS HAVE REAPPLIED FOR AN OPEN CARRY PERMIT SINCE THE  
8           ISSUANCE OF BRUEN.

9           AND THERE IS CERTAINLY NOTHING TO SUGGEST THAT WHEN SB2  
10          TAKES EFFECT THAT -- THAT THE INDIVIDUAL COUNTIES ISSUING  
11          LICENSES THAT MAKE THE DETERMINATION ON LIMITATION OF LICENSES  
12          WON'T COMPLY WITH THE PLAIN LETTER OF THE LAW. SO THE COUNTIES  
13          THAT PLAINTIFFS LIVE IN, THAT WOULD APPLY TO THEM AS WELL.

14          THE COURT: ALL RIGHT.

15          MS. BELLANTONI: BUT, AGAIN, JUDGE, JUST TO -- JUST  
16          BRIEFLY -- THESE ARE TWO CRIMINAL STATUTES. SO IF THE  
17          LICENSING, YOU KNOW -- YOU KNOW OUR POSITION ON LICENSING AND  
18          WHETHER THAT HAS HISTORICAL ANALOGUE. BUT EVEN IF LICENSING  
19          WERE REQUIRED, WHAT'S THE PUNISHMENT FOR NOT BEING LICENSED?  
20          IT'S NOT -- CAN'T BE GOING TO JAIL. YOU CAN'T CRIMINALIZE AND  
21          PROSECUTE SOMEONE FOR EXERCISING A NATURAL RIGHT AND THAT'S  
22          WHAT THESE TWO STATUTES DO. THEY CAN'T CRIMINALIZE A NATURAL  
23          RIGHT. CAN'T PUT PEOPLE IN JAIL FOR READING THE BIBLE ON THE  
24          BENCH OUT IN PUBLIC. YOU CAN'T PUT PEOPLE IN JAIL FOR  
25          EXERCISING THEIR RIGHT TO SELF-DEFENSE BY CARRYING ARMS

1 PEACEFULLY.

2 THE COURT: I UNDERSTAND THAT POSITION.

3 MS. BELLANTONI: THANK YOU.

4 THE COURT: YOU UNDERSTAND -- I MEAN, THE CRIMINAL  
5 STATUTES -- IT'S BEEN A REFRAIN, AND I -- YOU'VE SAID  
6 EVERYTHING YOU HAVE TO SAY ABOUT THAT?

7 MS. HADDAD: YES, YOUR HONOR. I JUST WANT TO REPEAT  
8 THAT PLAINTIFFS CAN CARRY CONCEALED THROUGHOUT THE STATE.

9 THE COURT: ALL RIGHT. THE MATTER WILL BE SUBMITTED  
10 ONCE I SEE THE -- THE COMPILATION OF THE LAWS AND THE  
11 PLAINTIFFS' RESPONSE.

12 YES?

13 MS. HADDAD: I -- I APOLOGIZE. I JUMPED -- I THINK I  
14 JUMPED AHEAD OF MYSELF. WOULD IT BE POSSIBLE TO HAVE UNTIL  
15 THURSDAY TO SUBMIT THE LAWS --

16 THE COURT: THAT'S FINE. SO THURSDAY FOR --

17 MS. HADDAD: FRIDAY IS A HOLIDAY.

18 THE COURT: I'M SORRY. WHICH IS THE HOLIDAY?

19 MS. HADDAD: SO FRIDAY IS VETERANS DAY.

20 THE COURT: RIGHT. OKAY. SO THURSDAY FOR THE  
21 DEFENDANTS AND THEN --

22 MS. BELLANTONI: MONDAY, YOUR HONOR?

23 THE COURT: YEAH.

24 MS. BELLANTONI: THANK YOU.

25 THE COURT: THE 13TH.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS. BELLANTONI: THANK YOU SO MUCH.

MS. HADDAD: THANK YOU.

THE COURT: THANK YOU.

THE CLERK: COURT IS IN RECESS.

(PROCEEDINGS ADJOURNED, 12:34 P.M.)

---OOO---

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE  
RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

/S/ KIMBERLY M. BENNETT  
KIMBERLY M. BENNETT  
CSR NO. 8953, RPR, CRR, RMR