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America's Future Files Amicus Brief to Protect the Second Amendment

Florida – April 6, 2022 – America's Future, Inc., a national leader in the fight to preserve individual rights, promote American values and traditions, and protect the nation's Constitutional Republic, announced that it submitted an [Amicus brief](#) to the Supreme Court of the United States on Friday, April 1, 2022, with 11 other nonprofit and educational organizations supporting the position of the Petitioners in their fight to secure their Constitutional right to bear arms – the Second Amendment.

In the case, *Duncan, et al. v. Rob Bonta, in His Official Capacity as Attorney General of California*, No. 21-1194 (2022), Petitioner Virginia Duncan along with similarly situated plaintiffs sued California arguing California Penal Code § 32310, as amended by Ca. Senate Bill 1446, along with Proposition 63 (2016), the combination of which served to prohibit Californian's possession of large-capacity magazines, is an unconstitutional violation of the Second Amendment right to bear arms.

"Under the Second Amendment of the U.S. Constitution, American citizens have the right to bear arms, guaranteeing our right to self-defense, and that right – and *all* of our individual rights – should never be infringed upon," said Mary O'Neill, Executive Director of America's Future. "It is our position that SCOTUS should uphold our fundamental right to bear arms, unabridged."

As background about this case, after California's Proposition 63 was approved, but prior to its effective date, the Plaintiffs sought a preliminary injunction that was granted and later upheld by an appellate court. The federal district court judge presiding over the merits of the case granted the plaintiffs motion for summary judgement, essentially handing the Plaintiffs a "win." On appeal, a panel of Ninth Circuit judges affirmed the lower court's decision. At this point, the state of California requested the Ninth Circuit hear the case *en banc*, meaning all Ninth Circuit judges participate in a review of the Ninth Circuit panel decision. An *en banc* review vacated the decision of the Ninth Circuit panel, resulting in the reversal of the district court summary judgment ruling; keeping this litigation moving forward in the system.

Of note, in the dissenting opinion in the Ninth Circuit's *en banc* decision, authored by Judge Bumatay, shined a light on the unfortunate reality that politics too often plays a part in full Circuit rulings, stating, "[i]n reality, this tiers-of-scrutiny approach functions as nothing more than a black box used by judges to uphold favored laws and strike down disfavored ones."

In addition, and central to the Petitioners' position is that they are entitled under "possess for lawful purposes magazines that hold more than 10 rounds" by the plain text of the Second Amendment. In raising this element, Petitioners cited the landmark Second Amendment 2008 Supreme Court decision [*District of Columbia v Heller*, 554 US 570 \(2008\)](#) in which the late Justice, Antonin Scalia, writing for the majority in *Heller* reminded us that "the inherent right of self-defense has been central to the Second Amendment right." Even more telling, Justice Scalia warned against the use of "judge empowering interest-balancing inquir[ies]" which is precisely what the Ninth Circuit *en banc* panel improperly engaged in to issue their patently erroneous decision. *Heller* demands, and as we reiterated in our Amicus brief that "any court examining a law prohibiting "arms" need ask only whether the banned item is (1) commonly used, (2) by law-abiding citizens, (3) for lawful purposes, including for self-defense or defense of "hearth and home." If so, then the banned item is categorically protected under the Second Amendment and no further analysis is needed.

In addition to this case, America's Future has joined in a number of other Amicus filings. To read more about these filings, please visit our Law & Policy page on our website at www.AmericasFuture.net.

ABOUT AMERICA'S FUTURE, INC.

Founded in 1946, America's Future, Inc. is a 501(c)(3) nonprofit organization committed to protecting the individual rights of every American and our Judeo-Christian values that make America exceptional. We do our work through educational and informational initiatives, strategic partnerships, communications, and networking opportunities that empower Americans to get involved in the fight to preserve the American way of life, now and for generations to come. For information, visit www.AmericasFuture.net.