



City Attorney Dennis Herrera Statement

For Immediate Release:
June 8, 2015
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Herrera gratified, hopeful with U.S. Supreme Court denial of NRA challenge to S.F. gun law

Speculating that 'pendulum's swing toward unfettered gun access may finally have reached its pivot point,' City Attorney has high hopes for viability of gun safety laws

SAN FRANCISCO (June 8, 2015)—City Attorney Dennis Herrera expressed gratitude and optimism today in response to the U.S. Supreme Court's decision to deny review to an appeal by the National Rifle Association and local gun rights advocates, who sought to invalidate a San Francisco ordinance requiring gun owners to lock or disable their weapons when they are stored at home.

Among 144 petitions for writs of certiorari summarily denied in this morning's high court order list, San Francisco's case was alone in drawing a written dissent from the majority's decision to deny review. Justice Clarence Thomas was joined by Justice Antonin Scalia in what one high court analyst described as "a fervent dissent" to argue that the appellate court decision upholding the constitutionality of San Francisco's law "is in serious tension" with two relatively recent U.S. Supreme Court holdings on the U.S. Constitution's Second Amendment. Those rulings, in *Heller* (2008) and *McDonald* (2010), identified for the first time in more than two centuries of American jurisprudence "an individual's right to keep and bear arms" within the Second Amendment. Lyle Denniston, the influential independent legal analyst for ScotusBlog, speculated that today's denial raised "significant new questions about how much protection the Constitution's Second Amendment actually gives to gun owners."

Because efforts by several major American cities to address their problems with gun violence were widely considered hamstrung by the *Heller* and *McDonald* rulings, today's denial of cert—and even the dissent by two justices—gives Herrera hope that the court's majority sees common-sense limits on individuals' gun rights to protect lives and public safety.

"The U.S. Supreme Court denies thousands of petitions for review, usually without comment, and I know better than to read too much into any of them," Herrera said. "But today's denial and dissent

[MORE]

give me hope that the pendulum’s swing toward unfettered gun access may finally have reached its pivot point, and that cities like mine may be freer to enact common sense gun safety laws than we’ve believed over the last several years. I’m gratified that San Francisco’s common sense gun safety law stands, and I’m very proud of my office’s work to defend it. I’m also intrigued to see where this court goes from here to balance gun rights and public safety.”

The case is: *Espanola Jackson, et al. v. City and County of San Francisco, et al.*, U.S. Supreme Court No. 14-704, On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit, decided June 8, 2015.

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(ORDER LIST: 576 U. S.)

MONDAY, JUNE 8, 2015

CERTIORARI -- SUMMARY DISPOSITIONS

13-697 MADRIGAL-BARCENAS, PEDRO V. LYNCH, ATT'Y GEN.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Ninth Circuit for further consideration in light of *Mellouli v. Lynch*, 575 U. S. ____ (2015).

13-8837 MARTINEZ, ELLISA V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Eleventh Circuit for further consideration in light of *Elonis v. United States*, 575 U. S. ____ (2015).

14-235 BANK OF AMERICA V. BELLO, DAYO

14-580 BANK OF AMERICA V. WAITS, YVONNE R.

14-581 BANK OF AMERICA V. LEE, ROBBIE T., ET UX.

14-600 BANK OF AMERICA V. IEST, BARTEL J.

14-652 BANK OF AMERICA, N. A. V. NEMCIK, KIMBERLEY

14-749 BANK OF AMERICA, N. A. V. HALL, MARTIN R., ET UX.

14-750 BANK OF AMERICA, N. A. V. PHILLIPS, JAMES J., ET UX.

14-787 BANK OF AMERICA V. IEST, AMANDA L.

The petitions for writs of certiorari are granted. The judgments are vacated, and the cases are remanded to the United

States Court of Appeals for the Eleventh Circuit for further consideration in light of *Bank of America, N. A. v. Caulkett*, 575 U. S. ____ (2015).

14-808 NOBACH, KELSEY V. WOODLAND VILLAGE NURSING CENTER

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Fifth Circuit For further consideration in light of *EEOC v. Abercrombie & Fitch Stores, Inc.*, 575 U. S. ____ (2015).

14-828 BANK OF NEW YORK MELLON V. LANG, PHALLY

14-829 BANK OF AMERICA V. FARMER, VINCENT N.

The petitions for writs of certiorari are granted. The judgments are vacated, and the cases are remanded to the United States Court of Appeals for the Eleventh Circuit for further consideration in light of *Bank of America, N. A. v. Caulkett*, 575 U. S. ____ (2015).

14-1052 BELMONT HOLDINGS CORP., ET AL. V. DEUTSCHE BANK AG, ET AL.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Second Circuit for further consideration in light of *Omnicare, Inc. v. Laborers Dist. Council Constr. Industry Pension Fund*, 575 U. S. ____ (2015).

14-7915 ABDUL-AZIZ, SHAROB V. RICCI, MICHELLE, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Third Circuit for further consideration in light of *Holt v. Hobbs*, 574 U. S. ____ (2015).

ORDERS IN PENDING CASES

14M122 WILKINS, WILLETTE V. JOHNSON, SEC. OF HOMELAND

14M123 SHELTON, MARQUETTE A. V. BITER, WARDEN

The motions to direct the Clerk to file petitions for writs of certiorari out of time are denied.

14M124 JOLLEY, WILLIAM B. V. DEPT. OF JUSTICE

The motion for leave to proceed as a veteran is granted.

14M125 GARCIA, WILFRED V. UNITED STATES

The motion for leave to file a petition for a writ of certiorari under seal with redacted copies for the public record is granted.

14-8806 TEICHMANN, BORIS V. NEW YORK

The motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* is denied.

14-9160 SCOTT, TERESA A. V. LACKEY, PAMELA W., ET AL.

14-9373 MEZA, MARI C. V. CALIFORNIA

14-9495 TADLOCK, RODNEY K. V. FOXX, SEC. OF TRANSPORTATION

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until June 29, 2015, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI GRANTED

14-419 LUIS, SILA V. UNITED STATES

14-990 SHAPIRO, STEPHEN M., ET AL. V. MACK, BOBBIE S., ET AL.

14-1146 TYSON FOODS, INC. V. BOUAPHAKEO, PEG, ET AL.

The petitions for writs of certiorari are granted.

CERTIORARI DENIED

14-772 FIELDS, SHERMAN L. V. UNITED STATES

14-847 FORT BEND COUNTY, TX V. DAVIS, LOIS M.

14-882 U.S. LEGAL SERVICES GROUP V. ATALESE, PATRICIA

14-883 MI WORKER'S COMP., ET AL. V. ACE AMERICAN INS. CO., ET AL.

14-891 SUPERVALU, INC., ET AL. V. D&G, INC.

14-992 MAYHEW, MARY C. V. BURWELL, SEC. OF H&HS, ET AL.

14-1060 AURORA ENERGY SVCS., ET AL. V. AK COM. ACTION ON TOXICS, ET AL.

14-1062 GARCIA-PADILLA, GOV. OF PR V. DIAZ-CARRASQUILLO, IVAN

14-1070 G. M. V. ALEDO INDEP. SCH. DIST., ET AL.

14-1193 DIAMOND, LANCE S. V. LOCAL 807, ET AL.

14-1197 WILLIAMS, THOMAS A. V. NASSAU COUNTY, NY, ET AL.

14-1211 ACCORD, RONALD, ET AL. V. PHILIP MORRIS USA, INC., ET AL.

14-1221 STIEGEL, STEVEN M. V. PETERS TOWNSHIP, PA, ET AL.

14-1226 SWEPORTS, LTD. V. MUCH SHELIST, P.C., ET AL.

14-1239 BUDIK, EDITH M. V. UNITED STATES

14-1244 CHIQUILLO, CHRISTOPHER V. CALIFORNIA

14-1259 CALEB, MABLE, ET AL. V. GRIER, TERRY, ET AL.

14-1261 STONE, JOANNE V. LA DEPT. OF REVENUE

14-1271 MOODY, ETHAN O. V. VOZEL, FRANK, ET AL.

14-1292 HOLZ, MICHAEL J. V. FOSTER, WARDEN

14-1297 MOHAMED, ALI B. V. LYNCH, ATT'Y GEN.

14-1298 CARLSON, DANIEL T. V. MARIN GENERAL SERVICES, ET AL.

14-1300 SEA SHEPHERD CONSERVATION V. INST. OF CETACEAN, ET AL.

14-1305 TROWBRIDGE, JOHN P. V. UNITED STATES

14-1307 AL-DABAGH, AMIR A. V. CASE WESTERN RESERVE UNIVERSITY

14-1311 FISCHER, PAUL CHAIM S., ET AL. V. MAGYAR ILAMVASUTAK ZRT, ET AL.

14-1325 TROYER, DARWIN L. V. UNITED STATES

14-1333 MILLS, THOMAS A. V. UNITED STATES
14-1339 KIVISTO, JUSSI V. SOIFER, MICHAEL
14-8355 CLEWIS, ROSE M. V. MEDCO HEALTH SOLUTIONS, ET AL.
14-8665 ESPARZA, GREGORY V. JENKINS, WARDEN
14-8976 GILMORE, ARTHUR V. UNITED STATES
14-9156 NIXON, TRACY V. ABBOTT, GOV. OF TX, ET AL.
14-9159 NORMAN, ANTHONY W. V. STEPHENS, DIR., TX DCJ
14-9163 STRAHORN, VIDAL D. V. FLORIDA
14-9164 ELLISON, CHRISTOPHER V. EVANS, ANDREA, ET AL.
14-9166 CASTILLO, ARNOLD V. JOHNSON, YOLANDA, ET AL.
14-9169 WILSON, DONALD G. V. JOYNER, ADM'R, HARNETT
14-9170 M. K. V. N. B.
14-9172 DELK, DARNELL V. TEXAS
14-9173 MOLINE, MARGARET A. V. CBS NEWS INC.
14-9174 REISER, HANS V. BEARD, SEC., CA DOC, ET AL.
14-9176 PHAM, KHA T. V. MISSISSIPPI
14-9178 RICHARDSON, MARCUS V. KNIGHT, WARDEN
14-9180 KING, JOSEPH V. CALIFORNIA
14-9187 YHWHNEWBN, EVANGEL V. UNITED STATES, ET AL.
14-9191 ROACH, TERRY W. V. BOTTOM, WARDEN
14-9195 SANDS-WEDEWARD, SUSAN A. V. LOCAL 306
14-9196 RAMSEY, RANDY R. V. TENNESSEE
14-9197 MOATS, KENNETH V. WV DEPT. OF TRANSP., ET AL.
14-9205 WARNER, RONALD V. LOUISIANA
14-9207 BOB, NATA S. V. CASS AND ASSOCIATES, ET AL.
14-9211 ADKINS, EBRAHIM V. USDC KS
14-9218 BRADFORD, WILLIAM C. V. GORDY, WARDEN, ET AL.
14-9219 STEWART, PAUL V. LEE, SUPT., GREEN HAVEN

14-9225 NGUYEN, DUC V. V. MICHIGAN
14-9232 CRUSE, JARED L. V. TEXAS
14-9260 MARCEAUX, BASIL V. USMC
14-9302 BROZ, PATRICK V. V. DEUTSCHE BANK NAT'L TRUST CO.
14-9306 PALAFOX, LUIS W. V. CALIFORNIA
14-9312 TEAGUE, DeROY V. CALIFORNIA
14-9315 SCOTT, KENDALE V. LOUISIANA
14-9330 FURS-JULIUS, WANDA Y. V. SSA
14-9339 EDGARD, JEAN C. V. JONES, SEC., FL DOC, ET AL.
14-9347 LEONG, CHRISTOPHER V. CALIFORNIA
14-9370 HOLMES, JOEL C. V. WASHINGTON
14-9392 DIAMANTOPOULOS, GEORGIOS V. RICKETTS, GOV. OF NE, ET AL.
14-9410 BROOKS, ROBERT N. V. UNITED STATES
14-9441 MINTO, MINTO V. MAFNAS, RAMON C.
14-9446 TRUJILLO, JOHN V. COLORADO
14-9460 KENDRICK, RYAN V. MICHIGAN
14-9462 SMALL, ELZRA A. V. FLORIDA
14-9471 KARSTEN, BRIAN V. CAMACHO, P.A., ET AL.
14-9472 KWONG, MATTHEW J. V. CONNECTICUT
14-9477 JAMES, ANTHONY V. CARTLEDGE, WARDEN
14-9527 FAIRCHILD-LITTLEFIELD, GIGI A. V. CAVAZOS, WARDEN
14-9541 DAHLK, JOHN G. V. WOOPER, MICHELLE, ET AL.
14-9542 ELAM, GERALD V. NORMAN, WARDEN
14-9555 BLAKENEY, HERBERT V. PENNSYLVANIA
14-9562 KING, CHARLES J. V. UNITED STATES
14-9563 HENRY, ASHANTI R. V. UNITED STATES
14-9564 SOLIS-JARAMILLO, OSCAR V. UNITED STATES
14-9567 MORENO-AZUA, JOSE V. UNITED STATES

14-9570 JONES, MICHAEL L. V. PIERCE, WARDEN, ET AL.
14-9571 MARCH, PERRY A. V. McALLISTER, WARDEN
14-9573 GATHINGS, KELVIN A. V. UNITED STATES
14-9577 RIVERS, DESHAWN R. V. UNITED STATES
14-9578 GRADO-MEZA, LORENZO V. UNITED STATES
14-9579 HAWTHORNE, RYAN V. UNITED STATES
14-9586 FUTCH, JOHN R. V. UNITED STATES
14-9587 GREEN, DARRELL V. UNITED STATES
14-9588 FERRANTI, JACK V. ATKINSON, WARDEN
14-9591 SIMONS, LAWRENCE M. V. UNITED STATES
14-9592 MARSHALL, ANDREW D. V. UNITED STATES
14-9595 DELVAL-ESTRADA, HECTOR V. UNITED STATES
14-9596 DEVOS, BRANDON V. UNITED STATES
14-9597 SANCHEZ, JOEL V. UNITED STATES
14-9599 BELL, CHARLES H. V. UNITED STATES
14-9600 MILLS, JOHN R. V. UNITED STATES
14-9602 SARVIS, WILLIS V. UNITED STATES
14-9606 KABIR, ANDRE R. V. BRENNAN, POSTMASTER GEN.
14-9610 McCRACKEN, STEVEN A. V. UNITED STATES
14-9612 SCRIPPS, MICHAEL V. UNITED STATES
14-9621 JACKSON, CARLOS V. UNTIED STATES
14-9622 TRALA, JOHN V. UNITED STATES
14-9624 WRIGHT, CHARLES V. UNITED STATES
14-9626 LEWIS, TEVIN V. UNITED STATES
14-9631 FULLER, ANTHONY D. V. UNITED STATES
14-9633 YOUNG, TERRY V. NORMAN, WARDEN
14-9637 BEAN, JAMES V. UNITED STATES
14-9638 ARBODELA, BLADIMIR R. V. UNITED STATES

14-9639 BARTON, KURT B. V. UNITED STATES
14-9640 JENKINS, BENTLEY V. UNITED STATES
14-9641 LIMON-JUVERA, LAZARO V. UNITED STATES
14-9651 VIOLA, ANTHONY L. V. UNITED STATES
14-9652 DOHOU, EUPHREM V. UNITED STATES
14-9653 INGRAM, SHIRLEY V. UNITED STATES
14-9654 MUHAMMAD, LEO V. UNITED STATES
14-9658 ABILES, JORGE B. V. UNITED STATES
14-9663 CHAPMAN, JAMES V. UNITED STATES
14-9666 WILKERSON, MICHAEL V. UNITED STATES
14-9668 VASQUEZ-DIAZ, ALBERTO V. UNITED STATES
14-9670 KIEFFER, HOWARD O. V. UNITED STATES
14-9675 REID, WARNELL V. UNITED STATES
14-9679 McCAIN, WILLIE J. V. UNITED STATES
14-9681 MICKENS, EDDIE V. UNITED STATES
14-9688 MOSES, RICHARD E. V. UNITED STATES
14-9689 MELENDEZ, WILFREDO V. UNITED STATES
14-9696 ESPINOZA, CHRISTOPHER V. UNITED STATES
14-9697 LYNCH, TREMAYNE V. UNITED STATES
14-9698 DAWSON, RICKY N. V. UNITED STATES
14-9699 ROBBINS, CHARLES A. V. UNITED STATES
14-9700 NDIAGU, CHRISTOPHER V. UNITED STATES
14-9702 CARDIN, WALTER V. UNITED STATES
14-9704 WATKINS, RENAULT V. UNITED STATES
14-9710 SEVERINO-BATISTA, JULIO V. UNITED STATES
14-9713 SMITH, TRAVIS, ET AL. V. UNITED STATES
14-9721 MARTIN, GESHIK-O-BINESE V. UNITED STATES
14-9730 MAXWELL, STEVEN V. UNITED STATES

14-9748 LAGONA, JAMES F. V. UNITED STATES

The petitions for writs of certiorari are denied.

14-9200 LAVERGNE, BRANDON V. BAJAT, STEVEN, ET AL.

14-9323 WARE, ULYSSES T. V. SEC

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

14-9417 EL-HAGE, WADIH V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Sotomayor and Justice Kagan took no part in the consideration or decision of this petition.

14-9530 SNIPES, LEON V. ILLINOIS

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

HABEAS CORPUS DENIED

14-9865 IN RE EARL G. BUSH, SR.

The petition for a writ of habeas corpus is denied.

MANDAMUS DENIED

14-9760 IN RE GEARY M. MILL

The petition for a writ of mandamus is denied.

14-9151 IN RE DAVID K. LAMB

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of mandamus is dismissed. See Rule 39.8.

REHEARINGS DENIED

14-806 TRIPLETT-FAZZONE, RAGNA V. COLUMBUS DIV. OF POLICE, ET AL.

14-1034 SCHMUDE, JOSHUA A. V. TEXAS

14-5180 BAJO-GONZALEZ, EDGAR V. UNITED STATES
14-7845 SORO, LUIS A. V. SORO, JOSE L.
14-7934 AUGUST, TRACY V. WARREN, WARDEN
14-7962 HAMMERSLEY, ROBERT E. V. OCONTO, WI
14-8242 PRINCE, DEBORAH A. V. LOMA LINDA UNIV. MED. CTR.
14-8259 LUCIEN, YVON V. HOLDER, ATT'Y GEN.
14-8342 YEGOROV, DMITRIY V. MELNICHUK, NELYA
14-8354 CURRIE, ANNE L. V. MISSOURI
14-8406 WILLIAMS, SAMUEL H. V. RUSSELL, WARDEN
14-8411 REYNA, OSCAR J. V. STEPHENS, DIR., TX DCJ
14-8431 RICHARDSON, ALMA V. TX WORKFORCE COMMISSION, ET AL.
14-8607 CASTEEL, DEVAN R. V. UNITED STATES
14-8703 GRIFFITH, HOWARD V. NEW YORK

The petitions for rehearing are denied.

THOMAS, J., dissenting

SUPREME COURT OF THE UNITED STATES

ESPANOLA JACKSON, ET AL. *v.* CITY AND COUNTY
OF SAN FRANCISCO, CALIFORNIA, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 14–704. Decided June 8, 2015

The petition for a writ of certiorari is denied.

JUSTICE THOMAS, with whom JUSTICE SCALIA joins,
dissenting from the denial of certiorari.

“Self-defense is a basic right” and “the central component” of the Second Amendment’s guarantee of an individual’s right to keep and bear arms. *McDonald v. Chicago*, 561 U. S. 742, 767 (2010) (emphasis deleted). Less than a decade ago, we explained that an ordinance requiring firearms in the home to be kept inoperable, without an exception for self-defense, conflicted with the Second Amendment because it “ma[de] it impossible for citizens to use [their firearms] for the core lawful purpose of self-defense.” *District of Columbia v. Heller*, 554 U. S. 570, 630 (2008). Despite the clarity with which we described the Second Amendment’s core protection for the right of self-defense, lower courts, including the ones here, have failed to protect it. Because Second Amendment rights are no less protected by our Constitution than other rights enumerated in that document, I would have granted this petition.

I

Section 4512 of the San Francisco Police Code provides that “[n]o person shall keep a handgun within a residence owned or controlled by that person unless” (1) “the handgun is stored in a locked container or disabled with a trigger lock that has been approved by the California Department of Justice” or (2) “[t]he handgun is carried on

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the person of an individual over the age of 18” or “under the control of a person who is a peace officer under [California law].” San Francisco Police Code, Art. 45, §§4512(a), (c) (2015). The law applies across the board, regardless of whether children are present in the home. A violation of the law is punishable by up to six months of imprisonment and/or a fine of up to \$1,000. §4512(e).

Petitioners—six San Francisco residents who keep handguns in their homes, as well as two organizations—filed suit to challenge this law under the Second Amendment. According to petitioners, the law impermissibly rendered their handguns “[in]operable for the purpose of immediate self-defense” in the home. *Heller, supra*, at 635. Because it is impossible to “carry” a firearm on one’s person while sleeping, for example, petitioners contended that the law effectively denies them their right to self-defense at times when their potential need for that defense is most acute. In support of that point, they cited a Department of Justice, Bureau of Justice Statistics, survey estimating that over 60 percent of all robberies of occupied dwellings between 2003 and 2007 occurred between 6 p.m. and 6 a.m.

The District Court for the Northern District of California denied them a preliminary injunction, and the U. S. Court of Appeals for the Ninth Circuit affirmed. The Court of Appeals readily acknowledged that the law “burdens the core of the Second Amendment right” because “[h]aving to retrieve handguns from locked containers or removing trigger locks makes it more difficult ‘for citizens to use them for the core lawful purpose of self-defense’ in the home.” 746 F. 3d 953, 964 (2014) (quoting *Heller, supra*, at 630). But it reasoned that this was not a “severe burden” justifying the application of strict scrutiny because “a modern gun safe may be opened quickly.” 746 F. 3d, at 964. Applying intermediate scrutiny, the court evaluated San Francisco’s proffered “evidence that guns

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kept in the home are most often used in suicides and against family and friends rather than in self-defense and that children are particularly at risk of injury and death.” *Id.*, at 965. The court concluded that the law served “a significant government interest by reducing the number of gun-related injuries and deaths from having an unlocked handgun in the home” and was “substantially related” to that interest. *Id.*, at 966.

II

The decision of the Court of Appeals is in serious tension with *Heller*. We explained in *Heller* that the Second Amendment codified a right “‘inherited from our English ancestors,’” a key component of which is the right to keep and bear arms for the lawful purpose of self-defense. 554 U. S., at 599. We therefore rejected as inconsistent with the Second Amendment a ban on possession of handguns in the home because “handguns are the most popular weapon chosen by Americans for self-defense in the home” and because a trigger-lock requirement prevented residents from rendering their firearms “operable for the purpose of immediate self-defense.” *Id.*, at 629, 635. San Francisco’s law allows residents to *use* their handguns for the purpose of self-defense, but it prohibits them from *keeping* those handguns “operable for the purpose of *immediate* self-defense” when not carried on their person. The law thus burdens their right to self-defense at the times they are most vulnerable—when they are sleeping, bathing, changing clothes, or otherwise indisposed. There is consequently no question that San Francisco’s law burdens the core of the Second Amendment right.

That burden is significant. One petitioner, an elderly woman who lives alone, explained that she is currently forced to store her handgun in a lock box and that if an intruder broke into her home at night, she would need to “turn on the light, find [her] glasses, find the key to the

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lockbox, insert the key in the lock and unlock the box (under the stress of the emergency), and then get [her] gun before being in position to defend [herself].” Declaration of Espanola Jackson in Support of Motion for Preliminary Injunction, Record in Case 3:09-cv-02143 (ND Cal.), Doc. 136-3, p. 2. As she is over 79 years old, that would “not [be] an easy task.” *Ibid.* Another petitioner stated that she is forced to store her gun in a code-operated safe and, in the event of an emergency, would need to get to that safe, remember her code under stress, and correctly enter it before she could retrieve her gun and be in a position to defend herself. If she erroneously entered the number due to stress, the safe would impose a delay before she could try again. A third petitioner explained that he would face the same challenge and, in the event the battery drains on his battery-operated safe, would need to locate a backup key to access his handgun. In an emergency situation, the delay imposed by this law could prevent San Francisco residents from using their handguns for the lawful purpose of self-defense. And that delay could easily be the difference between life and death.

Since our decision in *Heller*, members of the Courts of Appeals have disagreed about whether and to what extent the tiers-of-scrutiny analysis should apply to burdens on Second Amendment rights. Compare *Heller v. District of Columbia*, 670 F.3d 1244 (CADC 2011) (“We ask first whether a particular provision impinges upon a right protected by the Second Amendment; if it does, then we go on to determine whether the provision passes muster under the appropriate level of constitutional scrutiny”), with *id.*, at 1271 (Kavanaugh, J., dissenting) (“In my view, *Heller* and *McDonald* leave little doubt that courts are to assess gun bans and regulations based on text, history, and tradition, not by a balancing test such as strict or intermediate scrutiny”). One need not resolve that dispute to know that something was seriously amiss in the deci-

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sion below. In that decision, the Court of Appeals recognized that the law “burdens the core of the Second Amendment right,” yet concluded that, because the law’s burden was not as “severe” as the one at issue in *Heller*, it was “not a substantial burden on the Second Amendment right itself.” 746 F. 3d, at 963–965. But nothing in our decision in *Heller* suggested that a law must rise to the level of the absolute prohibition at issue in that case to constitute a “substantial burden” on the core of the Second Amendment right. And when a law burdens a constitutionally protected right, we have generally required a higher showing than the Court of Appeals demanded here. See generally *Heller*, 554 U. S., at 628–635; *Turner Broadcasting System, Inc. v. FCC*, 512 U. S. 622, 662 (1994) (explaining that even intermediate scrutiny requires that a regulation not “burden substantially more speech than is necessary to further the government’s legitimate interests” (internal quotation marks omitted)).

The Court should have granted a writ of certiorari to review this questionable decision and to reiterate that courts may not engage in this sort of judicial assessment as to the severity of a burden imposed on core Second Amendment rights. See *Heller*, 554 U. S., at 634 (“The very enumeration of the right takes out of the hands of government—even the Third Branch of Government—the power to decide on a case-by-case basis what is *really worth* insisting upon”); *id.*, at 635 (explaining that the Second Amendment “elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home”).

The Court’s refusal to review this decision is difficult to account for in light of its repeated willingness to review splitless decisions involving alleged violations of other constitutional rights. See, e.g., *Glossip v. Gross*, 574 U. S. ____ (2015) (cert. granted) (Eighth Amendment); *Ontario v. Quon*, 560 U. S. 746 (2010) (Fourth Amendment); *Hill v.*

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Colorado, 530 U. S. 703 (2000) (First Amendment). Indeed, the Court has been willing to review splitless decisions involving alleged violations of rights it has never previously enforced. See, e.g., *BMW of North America, Inc. v. Gore*, 517 U. S. 559 (1996) (right to limit on punitive damages awards). And it has even gone so far as to review splitless decisions involving alleged violations of rights expressly foreclosed by precedent. See, e.g., *Boumediene v. Bush*, 553 U. S. 723 (2008) (right of aliens held outside U. S. territory to the privilege of habeas corpus); *Lawrence v. Texas*, 539 U. S. 558 (2003) (right to engage in adult, consensual same-sex intimate behavior). I see no reason that challenges based on Second Amendment rights should be treated differently.

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We warned in *Heller* that “[a] constitutional guarantee subject to future judges’ assessments of its usefulness is no constitutional guarantee at all.” 554 U. S., at 634. The Court of Appeals in this case recognized that San Francisco’s law burdened the core component of the Second Amendment guarantee, yet upheld the law. Because of the importance of the constitutional right at stake and the questionable nature of the Court of Appeals’ judgment, I would have granted a writ of certiorari.