For Immediate Release:  
June 8, 2015  
Contact: Matt Dorsey  
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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
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.”

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

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.


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

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

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

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

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

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. LACKY, 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.
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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
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LAGONA, JAMES F. V. UNITED STATES

The petitions for writs of certiorari are denied.

LAVERGNE, BRANDON V. BAJAT, STEVEN, ET AL.

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.

WARE, ULYSSES T. V. SEC

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.

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.

IN RE EARL G. BUSH, SR.

The petition for a writ of habeas corpus is denied.

IN RE GEARY M. MILL

The petition for a writ of mandamus is denied.

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.

IN RE DAVID K. LAMB

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

SCHMUDE, JOSHUA A. V. TEXAS
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
the person of an individual over the age of 18” or “under
the control of a person who is a peace officer under [Calif-
ornia 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 Amend-
ment. According to petitioners, the law impermissibly rendered their handguns “[i]noperable 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 de-
fense 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 Califor-
nia 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 “bur-
dens 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
THOMAS, J., dissenting

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
THOMAS, J., dissenting

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-
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.

* * *

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.