



July 21, 2021

Molly C. Dwyer  
Clerk of the Court  
U.S. Court of Appeal for the Ninth Circuit  
95 Seventh Street  
San Francisco, California 94103-1518

*Re: Matthew Jones, et al. v. Rob Bonta, et al.*  
United States Court of Appeals for the Ninth Circuit, Case No. 20-56174

Dear Ms. Dwyer:

Plaintiffs-Appellants respectfully submit this letter to alert the Court to the recent decision in *Hirschfeld v. BATFE*, No. 19-2250 (4th Cir. July 13, 2021), attached hereto as **Exhibit 1** (“Op.”). See FED. R. APP. P. 28(j); Cir. R. 28.6. In that decision, the United States Court of Appeals for the Fourth Circuit held unconstitutional federal laws and regulations restricting 18-to-20-year-old adults from purchasing a handgun from a licensed dealer. 18 U.S.C. § 922(b)(1); see also 27 C.F.R. § 478.99(b)(1).

Applying a two-step analysis similar to the Ninth Circuit’s, Op. at 11, n.5, the court first asked “whether the conduct at issue was understood to be within the scope of the right at the time of ratification.” Op. at 11. After rejecting the Government’s argument that the ban was presumptively lawful, Op. at 14–18, the court concluded that the text, structure, and history of the Second Amendment confirms that 18-to-20-year-olds enjoy a right within its scope. Like Plaintiffs, the court emphasized militia laws, reasoning that “those included in the militia were surely covered by the Second Amendment.” Op. at 36; see also Br. of Pls.-Appellants (“Pls. Br.”), at 20–21, Doc. 17 (Dec. 4, 2020). In the process, the court rejected many of the same arguments the State makes here. Op. at 36–60.

Next, without specifying the level of scrutiny that applies to the federal ban, the court held that it does not survive even intermediate scrutiny. Op. at 60–82. Most relevant here, the Court concluded “a showing of disproportionate bad conduct by a group cannot justify categorical restrictions on rights when the percentage of the group engaged in the unwanted conduct is minuscule.” Op. at 65. 68–72. It also found the Government’s evidence that a ban on sales by licensed dealers would reduce the crime, though more robust than the evidence the State offers here, to be insufficient. Op. at 72–82. See Pls. Br. at 39–51.

Sincerely,  
Counsel for Plaintiffs-Appellants

/s/ John W. Dillon  
Dillon Law Group APC