

[ORAL ARGUMENT HELD SEPTEMBER 19, 2013]

No. 12-5305

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STEVEN DEARTH AND SECOND AMENDMENT, FOUNDATION, INC.,

Appellants,

v.

ERIC H. HOLDER,

Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA (NO. 09-587 (RLW))

**NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.'S
UNOPPOSED MOTION FOR LEAVE TO FILE *AMICUS
CURIAE* BRIEF IN SUPPORT OF APPELLANTS AND REVERSAL**

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Pursuant to Federal Rule of Appellate Procedure 29(b), the National Rifle Association of America, Inc. (NRA) respectfully moves this Court for leave to file an *amicus curiae* brief in support of appellants. A copy of the NRA's proposed brief accompanies this motion. In support of its motion, the NRA states as follows:

1. The NRA is America's foremost and oldest defender of Second Amendment rights. Founded in 1871, the NRA today has approximately five million members nationwide. The NRA is America's leading provider of firearms marksmanship and safety training for civilians. The NRA has a strong interest in the second question on which the Court ordered supplemental briefing because many of its members wish to carry firearms outside the home for self-defense. *See Rio Grande Pipeline Co. v. FERC*, 178 F.3d 533, 539 (D.C. Cir. 1999) (observing that this Court has "discretion to grant a party [amicus] status . . . so that its views . . . can be considered").

2. The NRA's participation will assist the Court in deciding whether the Second Amendment applies outside the home. The NRA has filed *amicus* briefs on that question in several cases, including in the Fourth Circuit, the Seventh Circuit, and the Supreme Court of Illinois. *Wollard v. Gallagher*, No. 12-1437 (4th Cir. Aug. 6, 2012) (Doc. 86); *Shepard v. Madigan*, No. 12-1788 (7th Cir. May 10, 2012) (Doc. 26); *Aguilar v. Illinois*, No. 112116 (Ill. Sept. 19, 2011). More broad-

ly, the NRA has extensive experience litigating Second Amendment issues. It filed briefs in the United States Supreme Court in both *District of Columbia v. Heller*, 554 U.S. 570 (2008) (as an *amicus*), and *McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010) (as a party). Since that time, the NRA has participated as both an *amicus curiae* and as a party in cases across the Nation that implicate those seminal decisions and the fundamental rights they explicate and protect.

3. Counsel for the NRA has conferred with counsel for the parties to this case, and the parties do not oppose the NRA filing an *amicus* brief.

February 12, 2014

Respectfully submitted,

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Circuit Rules 26.1 and 29(b), *Amicus Curiae* National Rifle Association of America, Inc. hereby states that it has no parent corporation and that no publicly held corporation owns 10% or more of its stock.

February 12, 2014

/s/ Charles J. Cooper
*Counsel for Amicus Curiae
National Rifle Association of
America, Inc.*

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to Circuit Rule 28(a)(1), undersigned counsel certifies that:

(A) Parties and *Amici*: All parties and *amici* appearing before the district court and those that have filed an appearance or notice of appearance in this court are listed in the Appellants' Supplemental Brief.

(B) Rulings Under Review: References to the ruling at issue appear in the Appellants' Supplemental Brief.

(C) Related Cases: References to all related cases appear in the Appellants' Supplemental Brief.

February 12, 2014

/s/ Charles J. Cooper
Counsel for Amicus Curiae
National Rifle Association of
America, Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on this 12th day of February, 2014, I electronically filed the original of the foregoing document with the clerk of this Court by using the CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

February 12, 2014

/s/ Charles J. Cooper
*Counsel for Amicus Curiae National
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