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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

KIRK FISHER

Plaintiff,

vs.

LOUIS KEALOHA, as an individual and  
in his official capacity as Honolulu Chief  
of Police; PAUL PUTZULU, as an  
individual and in his official capacity as  
former Honolulu Acting Chief of Police;  
and CITY AND COUNTY OF  
HONOLULU,

Defendants.

)  
) Civ. No. 11-00589 ACK-BMK  
) Notice Of Supplemental Authority  
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NOTICE BY OF SUPPLEMENTAL AUTHORITY

Amicus Curiae Hawaii Defense Foundation (“HDF”), by and through undersigned counsel, hereby notifies the Court of the recent decision in *Schrader v. Holder*, 704 F.3d 980 (D.C. Cir. 2013) (attached). In denying Plaintiffs’ facial claim that section 922(g)(1) of Title 18 of the United States Code is

unconstitutional as applied to common-law misdemeanants as a class, the D.C. Appeals Court applied intermediate scrutiny. While dicta, the Court made clear that a properly made as applied challenge by Mr. Schrader would have required a higher level of scrutiny. This is because “common-law assault and battery ...included all forms of assault with the exception of certain narrow categories of statutory aggravated assaults that were defined as felonies. [Including] serious, violent conduct, and many offenders received sentences of ten or twenty years' imprisonment.” *Id.* at 985. This opinion runs contrary to Amicus Curiae Brady Campaign’s position that no scrutiny need be applied before casting Mr. Fisher outside of the protection of the law as an unvirtuous person. HDF would also note that Amicus Curiae Brady Campaign cites to no law and makes no historical analysis that supports that position. The reason for that is there is none. Strict scrutiny should be applied. As applied to Mr. Fisher, H.R.S. 134-7 is an unconstitutional deprivation of his civil rights.

Executed this the 23rd day of July, 2013.

/s/ Alan Beck  
Alan Beck (HI Bar No. 9145)  
Attorney for Amicus Curiae  
Hawaii Defense Foundation

**Certificate of Service**

On this, the 23<sup>rd</sup> day of February, 2013, I served the foregoing pleading by electronically filing it with the Court's CM/ECF system, which generated a Notice of Filing and effects service upon counsel for all parties in the case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 23<sup>rd</sup> day of July, 2013.

/s/ Alan Beck

Alan Beck (HI Bar No. 9145)  
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Hawaii Defense Foundation