Nos. 25-238; 25-566

IN THE

Supreme Court of the United States

CUTBERTO VIRAMONTES, ET AL.,
Petitioners,

v.

COOK COUNTY, ILLINOIS, ET AL.,
Respondents.

EDDIE GRANT, JR., ET AL.,
Petitioners,

v.

RONNELL HIGGINS, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Seventh and Second Circuits

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BRIEF OF *AMICI CURIAE* MINNESOTA GUN OWNERS LAW CENTER, MINNESOTA GUN OWNERS CAUCUS, AND COLORADO STATE SHOOTING ASSOCIATION IN SUPPORT OF PETITIONERS

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INTEREST OF THE *AMICUS CURIAE*[1]

The Minnesota Gun Owners Law Center (MGOLC) is a 501(c)(3) nonprofit legal organization that engages in education, litigation, and policy work to protect and restore the right to keep and bear arms in Minnesota. The Minnesota Gun Owners Caucus (MGOC) is a 501(c)(4) grassroots advocacy organization with thousands of members across Minnesota. Their members rely on constitutionally protected arms for self-defense, hunting, competition, training, and other lawful purposes.

The Colorado State Shooting Association (CSSA) is a Colorado nonprofit corporation and Colorado's state association of the National Rifle Association. CSSA promotes lawful firearm ownership, shooting sports, hunter education, public safety, and preservation of the constitutional right to keep and bear arms. Its members now live under a law that reaches far beyond firearms labeled "assault weapons": Colorado now generally prohibits the purchase or transfer of most modern semiautomatic rifles and shotguns with detachable magazines and certain semiautomatic handguns, subject to exceptions for certain excluded models and for purchasers or transferees who first successfully navigate a Byzantine "permit to purchase" regime.

If the history of the AR-15 is of legal significance, it must be accurately addressed. *Amici* submit this brief to provide the Court with that history, and to address three connected propositions.

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[1] Rule 37 statement: No party's counsel authored this brief in any part and no person or entity other than amici funded its preparation or submission.

First, the AR-15's origin as a military rifle is not a constitutional embarrassment to be explained away. Rather, it confirms that the rifle belongs to the class of ordinary, bearable arms contemplated by the Amendment's militia premise, those favored by Americans for centuries. Second, military and civilian small-arms development has always been intertwined. Private industry and individuals have supplied designs and arms to the military for centuries; these service arms have been long favored by civilians for lawful purposes. Third, treating military application as proof that an arm is outside the text or "unusually dangerous" has no limiting principle. Colorado's new restrictions show how quickly that reasoning can expand to semiautomatic firearms generally, including common handguns.

SUMMARY OF THE ARGUMENT

The AR-15's history—indisputably intertwined with military use—places it squarely in a longstanding tradition of civilian firearm ownership. ArmaLite, a division of Fairchild Engine and Airplane Corporation, developed the AR-15 in direct response to military specifications, seeking to make a more accurate, lightweight, user-friendly rifle. The resulting design was tested against the then-standard M14 rifle, saw use in combat in Vietnam, and was purchased by the Department of Defense. Our armed forces adopted the Colt AR-15 Model 604, ultimately designating it the M16.

Rifles marked "AR-15" included automatic rifles issued to our armed forces, as well as semiautomatic versions intended for civilian and military markets alike. As with previous military designs, semiautomatic variants of the AR-15 found favor with civilians, culminating in tens of millions of AR-15s being chosen by civilians for lawful purposes.

The Court should hold that ordinary bearable small arms suitable for lawful purposes fall within the historical core of the Second Amendment. A bearable arm's suitability for military use provides strong historical support in a longstanding tradition of civilians owning such firearms. The Second Amendment does not exclude an arm because it proved useful enough for soldiers and popular enough with citizens. And when the arm is commonly possessed by law-abiding citizens for lawful purposes, it cannot be prohibited as dangerous and unusual.

ARGUMENT

I. THE AR-15'S HISTORY CONFIRMS ITS STATUS AS AN "ARM."

Lower courts, justifying restrictions on these arms, have described the AR-15 as a "civilian analogue" of the M16. This is both taxonomically incorrect and, even if it were true, constitutionally insignificant. An instrument's status as an "arm" cannot reasonably hinge on it lacking military usefulness.

A. **The AR-15 was designed, tested, and fielded as a military rifle**

Unquestionably, the AR-15 was born as a service rifle. In 1957, General Willard Wyman of the United States Continental Army Command circulated requirements for a new lightweight infantry rifle. The requested arm was to weigh less than six pounds, fire a small-caliber projectile capable of penetrating a steel helmet at 500 yards, and possess both semiautomatic and fully automatic capability. Eugene Stoner and ArmaLite answered with a prototype based on the AR-10. They called the new rifle the AR-15.[2]

Over the next five years, Army organizations tested the AR-15 at locations ranging from Fort Benning to Aberdeen Proving Ground, California, and Alaska. In one evaluation, the Combat Developments Experimentation Center reported that the AR-15 exceeded the M14 in volume of fire and number of

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[2] Dallas T. Durham, *Speed Versus Quality: A Cautionary Tale of the M-16 in Vietnam*, Mil. Rev., Mar.–Apr. 2022, at 99, 101–02 (describing General Willard C. Wyman's 1957 specifications for a lightweight rifle with semiautomatic and automatic capability and Eugene Stoner's resulting AR-15 prototype).

targets hit and estimated that a five-to-seven-man squad armed with AR-15s could equal a ten-man squad armed with M14s.[3]

ArmaLite would ultimately sell the design and several patents concerning the AR-15 to Colt's Patent Fire Arms Manufacturing Company (Colt) in 1961. Colt solicited further interest in the AR-15 from the United States Armed Forces.

In 1962, the Advanced Research Projects Agency (ARPA) obtained one thousand AR-15s for South Vietnamese troops and American advisers. The official report was titled *Test of Armalite Rifle, AR-15*.[4] It evaluated the rifle under actual combat conditions and concluded that its suitability as a basic shoulder weapon had been established. Secretary of Defense Robert McNamara later directed the purchase of 104,000 AR-15s in 1963, with deliveries to begin in 1964.[5] The purchased Army variant—the AR-15 model 603—was designated the XM16E1, while the Air Force variant—the AR-15 model 604—was designated the M16.[6]

Colt was also interested in offering a version of the AR-15 for the civilian market. Because the $200 tax

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[3] Durham, *supra* note 2, at 102–04 (describing Army testing, the Combat Developments Experimentation Center comparison, ARPA's combat evaluation, and the purchase of 104,000 AR-15s redesignated XM16E1); Joint Research & Test Activity, Research & Development Field Unit, Advanced Research Projects Agency, Report of Task No. 13A, Test of ArmaLite Rifle, AR-15 (U), AD343778, at 3, annex A at 9 (July 31, 1962) (describing the combat evaluation and concluding that the AR-15 was the best all-around shoulder weapon for use in Vietnam).

[4] Blake Stevens & Edward C. Ezell, *The Black Rifle: M16 Retrospective* 100 (Collector Grade Publ'ns 1987).

[5] *Id*. at 118.

[6] *Id*. at 123.

levied against firearms subject to the National Firearms Act was prohibitively expensive for most consumers, Colt elected to produce a version of the AR-15 which lacked full automatic fire capability. This version, the AR-15 SP1, was first sold to the public in 1964 as the "Colt Comanche," but was quickly renamed to the "Sporter."[7]

The Smithsonian catalogs a Colt ArmaLite AR-15 Model 01 made in 1960 as an automatic military rifle. It separately catalogs a semiautomatic Colt AR-15 SP1 made in 1964. [8] Both are AR-15s, and illustrate how the AR-15 had evolved into a family of firearms over 60 years ago, with configurations differing in fire-control capability and intended market.

Today, tens of millions of AR-15s are owned by civilians for virtually every lawful purpose, including self-defense.

The challenged rifles are protected because they are bearable arms overwhelmingly possessed for lawful purposes. Their relationship to the military AR-15 and M16 family reinforces the historical fit: they are lightweight, accurate, controllable individual rifles of a kind one citizen can keep, carry, train with, and bring to collective defense. Those qualities do not cease to serve individual defense when they also serve infantry use.

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[7] *Pete Kuhlhoff, U.S. Rifles & Shotguns*, in *Gun Digest 1965* 34, 37, 39–40 (John T. Amber ed., 19th annual ed. 1964).

[8] Nat'l Museum of Am. Hist., Colt ArmaLite AR-15 Model 01, ID No. AF.69458M (1960), https://americanhistory.si.edu/collections/object/nmah_416089 (last visited Aug. 31, 2026); Nat'l Museum of Am. Hist., Colt AR-15, Model SP1, ID No. 1991.0854.014 (1964), https://americanhistory.si.edu/collections/object/nmah_1119580 (last visited Aug. 31, 2026).

B. **Semiautomatic AR-15 derivatives have seen consistent military use and adoption.**

Some advocates attempt to explain away the AR-15's military heritage by suggesting that only fully automatic variants have been used by armed forces worldwide. This is demonstrably not the case. *Amici* provide the following because it is important that if the history and martial use of these firearms are to be of legal significance, the Court should be fully apprised thereof.

Despite most—but not all—AR-derivatives in U.S. military service being selective-fire, militaries also issue semiautomatic-only rifles for combat service. The Canadian Forces acquired the 5.56×45mm C7CT from Diemaco (now Colt Canada) for use as a precision rifle with sniper teams during the war in Afghanistan.[9] The C7CT is an accurized derivative of Canada's C7 service rifle—itself a direct descendant of the AR-15—but, unlike the standard C7, the C7CT was configured for semiautomatic fire only. Colt Canada's technical catalog identifies "Semi-Auto Only" as standard on the C7CT while marking both "Automatic" and "Three Round Burst" as unavailable.[10] The Canadian government's Firearms Reference Table confirms C7CT as a "Semi-Automatic" rifle.[11] Thus, an AR-15 rifle incapable of

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[9] Paul Pryce, Canada's Future Soldier, NATO Ass'n of Can. (Jan. 20, 2015) (explaining that the C7CT was acquired to fill the Canadian Forces' Marksman Rifle System requirement for the Afghanistan mission).

[10] Colt Can., C7 Family of Combat Weapons 17 (2006).

[11] Royal Canadian Mounted Police, Firearms Reference Table, FRN 125652 (Jan. 12, 2026).

automatic fire was not merely suitable for military use; it was actually acquired and fielded by a modern NATO military for combat service.

As pictured below, the United States fielded semiautomatic SDM-R AR-15 rifles to troops in Iraq, and the U.S. Army currently issues the semiautomatic M110 directly to infantry units.[12] Both of these are semiautomatic-only derivatives with substantial parts interchangeability with the AR-15 family of firearms.

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[12] U.S. Army Marksmanship Unit, *Custom Firearms Shop*, U.S. Army Recruiting Command, https://recruiting.army.mil/About-USAREC/Major-Subordinate-Organizations/US-Army-Recruiting-Division/Marketing-and-Engagement-Brigade/Army-Marksmanship-Unit/Army-Marksmanship-Team-Members/Custom-Firearms-Shop/ (last visited Sept. 3, 2026) (explaining that USAMU modified M16A2 rifles in response to operational-needs statements from the 3d Infantry Division and built 296 SDMRs for the division's squad-designated-marksman program); Doraine Bennett, *U.S. Army Marksmanship Unit: Unit Offers Training, Assistance*, Infantry, Mar.–Apr. 2005, at 49–50, https://www.moore.army.mil/infantry/magazine/issues/2005/mar-apr/pdfs/mar-apr%202005.pdf (describing the SDM rifle's "two-stage match trigger" and explaining that it required 4.3 pounds of trigger pressure, compared with seven pounds for a standard M16 trigger); U.S. Army, *M110 7.62mm Semi-Automatic Sniper System (SASS)*, Capability Program Executive Ground, https://cpeground.army.mil/Equipment/Equipment-Portfolio/PM-SL-Portfolio/M110-Semi-Automatic-Sniper-System/ (last visited Sept. 3, 2026) (describing the M110 as the Army's 7.62mm sniper rifle and explaining that it provides semiautomatic capability to sniper teams).
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[13] Defense Visual Information Distribution Service (DVIDS), *Soldiers Provide Overwatch to an IP Traffic Control Point*, Photo ID 6070 and 6071 (Feb. 28, 2005) (photograph of Task Force Liberty soldiers, 3d Infantry Division, providing overwatch at an Iraqi police traffic-control point in Tikrit, Iraq).

Ukraine provides another modern example of semiautomatic AR-platform rifles being used for military purposes. Before Russia's full-scale invasion, members of Ukraine's Territorial Defense Forces—which are part of the Ukrainian armed forces—trained with privately acquired firearms, including a U.S.-made "AR-15-style semiautomatic rifle" purchased and used by a member of Kyiv's 130th Territorial Defense Battalion.[14] After the invasion began, semiautomatic AR-pattern rifles were supplied directly through Ukraine's defense apparatus. In May 2022, Adams Arms and six other U.S. manufacturers announced the donation of "state-of-the-art, semiautomatic sniper rifle systems," built on Adams Arms' AR-pattern piston platform, for delivery to the Ukrainian Ministry of Defence; the National Shooting Sports Foundation separately reported that Adams Arms had already shipped 1,000 rifles to Ukraine and planned to supply at least 1,500 more.[15] Ukraine's experience therefore supplies yet another concrete example of semiautomatic AR-pattern rifles being employed by, and supplied for use by, a modern national military during active hostilities.

C. **Military doctrine clarifies the limited utility of automatic fire in a service rifle.**

It's no wonder semiautomatic firearms are commonplace in militaries around the world, as our military's own marksmanship standards show that

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[14] David L. Stern, *Meet the Ukrainian Volunteers Training to Fight Russians in the Streets of Kyiv*, Wash. Post (Jan. 27, 2022).
[15] Joe Bartozzi, *Firearm and Ammunition Industry Answering Ukraine's Call to Arms*, Nat'l Shooting Sports Found. (May 10, 2022).

automatic fire is a specialized suppressive technique that "may not apply to most engagements[,]" not what gives the ordinary service rifle its general utility. Army doctrine treats semiautomatic fire as the normal mode of employment for the M16/M4 family, emphasizing that they "should normally be employed in the semiautomatic fire mode," and that trained semiautomatic fire is the "most important firing technique during fast-moving, modern combat[,]" with automatic fire "drastically decreas[ing] the probability of a hit[.]"[16]

Military service thus neither requires automatic fire capability nor distinguishes the AR-15 design family from other modern self-loading service arms. It is undeniable that the AR-15 has a military pedigree in both selective-fire and semiautomatic-only configurations. That does nothing to undo the tens of millions of lawfully used AR-15 derivatives in American hands, making the firearm unquestionably in common lawful use. While the answer is obviously "yes," the question of whether militaries issue the AR-15 in semiautomatic configuration is a constitutional red herring.

D. The plain text and *Miller* treat military suitability as affirmative evidence of protection.

The Second Amendment protects "the right of the people to keep and bear Arms."[17] *Heller* observed that even a narrower founding-era definition classified all

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[16] Dep't of the Army, FM 3-22.9, *Rifle Marksmanship: M16-/M4-Series Weapons* ¶¶ 7-12, 7-34 (Aug. 12, 2008); Dep't of the Army, *TC 3-22.9, Rifle and Carbine* ¶ 8-21 (May 13, 2016).
[17] U.S. Const. amend. II.

firearms as "arms," and held that the Second Amendment extends prima facie to all instruments that constitute bearable arms.[18] *Wolford* makes the sequence explicit: Courts must first ask whether the law applies to the people, concerns any form of arms, and restricts keeping or bearing them. History cannot be smuggled into that test to exclude a disfavored rifle before the government bears its burden.[19]

Miller provides a still more direct answer to the military-origin argument. The *Miller* Court found no record evidence that the sawn-off shotgun bore "some reasonable relationship to the preservation or efficiency of a well regulated militia."[20] The decision then described the historical militia as citizens who appeared with arms supplied by themselves and of the kind in common use.

The AR-15 presents the converse of *Miller*'s deficient record. It was designed to satisfy an Army specification, tested as an infantry rifle, used in combat, adopted by the government, and further developed into a dominant family of military small arms. Under *Miller*'s own questions, those facts support constitutional protection. And because current semiautomatic AR-platform rifles are also possessed by millions for lawful private purposes, the argument does not depend on military utility alone.

Caetano provides insight into the inverse: a state court's conclusion that stun guns were unprotected because they were not readily adaptable to military

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[18] *District of Columbia v. Heller*, 554 U.S. 570, 581–82 (2008).
[19] *Wolford v. Lopez*, 146 S. Ct. 2032, 2043–44, 2049 (2026); *id.* at 2054 n.1 (Barrett, J., concurring).
[20] *United States v. Miller*, 307 U.S. 174, 178–82 (1939).

use was rejected.[21] The right extends beyond military weapons. But an expansion beyond a historical core does not erase that core. *Caetano* means an arm need not be useful in war; it does not mean an ordinary rifle's usefulness in war becomes a reason to prohibit it.

II. AMERICAN SMALL-ARMS DEVELOPMENT HAS ALWAYS CROSSED BETWEEN PRIVATE AND MILITARY USE.

A. Private industry and civilian gun owners repeatedly supplied arms and technology to military forces.

American military small-arms development has consistently depended on arms and technologies first developed and used by the People. Of course, military development often likewise supplied civilians. Often, the same private manufacturers served both markets at once.

The American Long Rifle—a pattern of rifle dating from the early 1700s—is an early example. It developed through civilian gunsmithing and frontier use, where accuracy mattered for both subsistence and defense. When the Revolution began, the Continental Congress trusted it, with its civilian pedigree, almost implicitly. Congress raised companies of expert riflemen from Pennsylvania, Maryland, and Virginia.[22] John Adams described their "peculiar kind of musket, called a rifle" and praised its ability to carry a ball with great exactness

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[21] *Caetano v. Massachusetts*, 577 U.S. 411, 411–12 (2016) (per curiam); see *id.* at 417–20 (Alito, J., concurring).

[22] See 2 Journals of the Continental Congress, 1774–1789, at 89 (Worthington C. Ford ed., 1905).

over great distances.[23] Civilian marksmen and privately held rifles became military assets *because* the arms were effective.[24]

In the nineteenth century, Samuel Colt's revolver was a privately patented commercial innovation that entered military service. Spencer and Henry repeating rifles emerged from private industry and were purchased by military units and individual soldiers alike. After the war, Winchester repeating rifles sold abundantly among defensive, sporting, and military contexts.[25]

Like its predecessors, the AR-15 fits this private-to-public pattern. ArmaLite was a commercial firm responding to a military request, but the platform was conceptualized outside Springfield Armory and the Army Ordnance Department. Still, despite the existence of specialized government armories, our government ultimately adopted the design because its light weight, controllability, and effectiveness—universally desirable traits of almost any tool—answered military needs. A doctrine that treats military adoption as disqualifying would punish a private design for succeeding.

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[23] John Adams, Letter to Abigail Adams (June 17, 1775), in Familiar Letters of John Adams and His Wife Abigail Adams During the Revolution 65–66 (Charles Francis Adams ed., 1876).
[24]Stephen V. Grancsay, The Craft of the Early American Gunsmith, 6 Metro. Museum of Art Bull. 54, 54–56 (1947).
[25] See David B. Kopel & Joseph G.S. Greenlee, *The History of Bans on Types of Arms Before 1900*, 50 J. Legis. 223, 255, 270–82 (2024).

B. **Service arms and military technology repeatedly returned to civilian use.**

Small arms influence also moved in the opposite direction. Bolt-action rifles developed for military service became ordinary American sporting rifles, sometimes through direct conversion of service arms and sometimes through commercial models using the same actions. Smithsonian collections include Springfield Model 1903 and Remington Model 1917 rifles cataloged under both military and sporting subjects.[26] The same mechanism that made a reliable service rifle made a reliable sporting rifle.

The M1 Garand, of course, demonstrates how quintessential military arms were actively distributed for civilian use. The semiautomatic Garand was designed at Springfield Armory and adopted as the standard United States service rifle in 1936.[27] Far from recoiling in fear of the rifle's military origin or semiautomatic operation as a justification to keep it from the People, Federal law authorizes the Civilian Marksmanship Program to sell surplus .30-caliber rifles—like the Garand—directly to eligible citizens.[28]

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[26] Nat'l Museum of Am. Hist., Sporterized Springfield Model 1903 Bolt Action Rifle, ID No. AF.82805M, https://americanhistory.si.edu/collections/object/nmah_418546 (last visited Aug. 31, 2026); Nat'l Museum of Am. Hist., Remington Model 1917 Bolt Action Rifle, Sporter, ID No. AF.74779M, https://americanhistory.si.edu/collections/object/nmah_416427 (last visited Aug. 31, 2026).

[27] Durham, *supra* note 2, at 100–02 (describing the M1 Garand as a semiautomatic service rifle and the Army's search for a successor).

[28] 36 U.S.C. § 40732(a)–(b) (authorizing sale of surplus .22- and .30-caliber rifles and surplus M1911 and M1911A1 pistols to qualifying citizens subject to age, citizenship, affiliated-club membership, legal-eligibility, and background-check

The American firearm was forged in a shared crucible of civilian ingenuity and martial necessity. At least with shoulder-arms, no boundary between the two can be gleaned from the historical record.

C. Advancements in military capability did not produce a tradition of constitutional forfeiture.

Major advances in firearms design were frequently pursued for military use or rapidly adopted by military forces: more accurate rifles, repeating actions, self-contained metallic cartridges, detachable magazines, bolt actions, semiautomatic actions, lighter materials, and so on. Those advances also served civilians, and the historical record almost universally celebrated them.

Legislatures sometimes regulated carry, misuse, or particular concealed weapons. But the historical record does not show a tradition of treating a prevailing class of ordinary rifle as forfeiting constitutional protection because technological improvements made it more effective or more attractive to military forces.

Repeating rifles and revolvers proliferated during the nineteenth century without a general possession-ban tradition. Early twentieth-century semiautomatic restrictions were rare, often capacity-specific or permit-based, and too late to create a Founding-era principle. *See* Pet. Br. 5–10, 42, 49.

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requirements); Civilian Marksmanship Program, CMP Celebrates 25th Anniversary of John C. Garand Match in 2023 (June 23, 2023), https://thecmp.org/cmp-celebrates-25th-anniversary-of-john-c-garand-match-in-2023/ (last visited Aug. 31, 2026).

This historical silence is especially probative where the asserted problem was familiar. Governments had always known that effective firearms could be misused and that developments in small arms may increase their usable force. Yet the regulations concerning these arms *required* private citizens to possess them, regulating dangerous *conduct* rather than the cutting-edge arms of the day.[29] The absence of a distinctly similar prohibition is not an evidentiary gap to be filled with policy. Under *Bruen*, it is evidence *against* the modern ban's constitutionality.[30]

III. THE FOUNDING ERA'S MILITIA STRUCTURE PRESUPPOSED PRIVATE POSSESSION OF MILITARY ARMS.

A. The Militia Act of 1792 made private acquisition of serviceable infantry arms a legal duty.

Enacted by the Second Congress shortly after ratification of the Bill of Rights, the Militia Act of 1792 required each enrolled citizen to "provide himself" with a good musket or firelock, bayonet, belt, spare flints, knapsack, ammunition pouch, and not fewer than twenty-four suitable cartridges. A citizen who supplied a rifle instead had to provide a powder horn, shot pouch, balls, powder, and related equipment. He was to appear so armed when called.[31]

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[29] Act of May 8, 1792, ch. 33, § 1, 1 Stat. 271, 271–72 (requiring citizens to provide themselves with muskets, firelocks, or rifles); *State v. Huntly*, 25 N.C. 418 (3 Ired.) 418, 422–23 (1843) (distinguishing lawful carriage from armed conduct intended to terrorize).

[30] *See N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 26–27 (2022).

[31] Act of May 8, 1792, ch. 33, § 1, 1 Stat. 271, 271–72.

Congress placed the initial obligation on the citizen, and it protected the required arms and accoutrements from being seized, distrained, or sold for debt or taxes. Government property would not have needed protection from the citizen's creditors.[32]

The required arms were precisely the individual infantry arms and equipment needed for militia duty at the time. [33] The legal system of the Founding Era did not merely tolerate military capability in private hands: it depended on it.

B. **This Court and Founding-era sources recognize the privately armed character of the militia.**

The militia comprised civilians primarily and soldiers occasionally. When called, they were expected to appear with arms supplied by themselves and of the kind in common use. *Perpich* described Congress's 1792 choice to require militia members to arm and equip themselves. *Heller* relied on the same history: the citizens who made up the militia would bring to duty the lawful arms they possessed at home.[34]

Hamilton and Madison assumed an armed citizenry capable of opposing professional troops. Hamilton described a large body of citizens sufficiently trained to be little inferior in discipline and use of arms. [35] Madison emphasized Americans'

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[32] *Id.*
[33] *Id.* at 271.
[34] *Miller*, 307 U.S. at 179–82; *Perpich v. Dep't of Def.*, 496 U.S. 334, 340–42 & n.7, 350 (1990); *Heller*, 554 U.S. at 624–27.
[35] The Federalist No. 29, at 226–27 (Alexander Hamilton) (Benjamin Fletcher Wright ed., 1961).

"advantage of being armed."[36] Tench Coxe wrote that the implements of a soldier were the birthright of an American and later described the people's right to keep and bear their private arms.[37]

Early constitutional commentators likewise called the right to arms the palladium of liberty and warned against confining it under any pretext. William Rawle treated the prohibition against disarming the people as general.[38] Joseph Story linked the right to the militia's defense against usurpation and foreign invasion.[39] Their accounts presupposed that arms in private homes remained the material reservoir from which collective defense could arise.[40] This Court later described citizens capable of bearing arms as the Nation's reserve military force.[41]

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[36] The Federalist No. 46, at 329, 334 (James Madison) (Benjamin Fletcher Wright ed., 1961); A Pennsylvanian III, *Pa. Gazette* (Phila.), Feb. 20, 1788, reprinted in *The Origin of the Second Amendment* 275–76 (David E. Young ed., 2d ed. 2001).

[37] Tench Coxe, *Remarks on the First Part of the Amendments*, *Fed. Gazette* (Phila.), June 18, 1789, reprinted in *id.* at 671.

[38] William Rawle, *A View of the Constitution of the United States of America* 121–23, 125–26 (1825).

[39] 3 Joseph Story, *Commentaries on the Constitution of the United States* §§ 1890–1891 (1833).

[40] 1 St. George Tucker, *Blackstone's Commentaries: With Notes of Reference to the Constitution and Laws, of the Federal Government of the United States; and of the Commonwealth of Virginia* app. 300 (1803).

[41] *Presser v. Illinois*, 116 U.S. 252, 265 (1886).

IV. MILITARY APPLICATION CANNOT MAKE A COMMON ARM "DANGEROUS AND UNUSUAL."

A. The historical exception is conjunctive, and common possession defeats unusualness.

Heller identified a historical tradition concerning the carrying[42] of "dangerous and unusual weapons." If such an exception exists, the phrase is conjunctive. The rule is not a sliding scale under which a legislature may offset obvious commonality by attaching enough adjectives to danger.[43]

Tens of millions of Americans possess AR-15 platform and similar semiautomatic rifles for lawful purposes. Such arms cannot plausibly be called unusual. *Heller* treated the people's selection of the handgun as dispositive even though handguns were frequently misused. *Smith & Wesson* recently described the AR-15 as the Nation's most popular rifle and as a widely legal product purchased by ordinary consumers.[44]

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[42] As other *amici* have pointed out, the historical material identified in *Heller* all related to conduct, rather than arms themselves. *Amici* here do not agree that a historical tradition exists regulating the simple possession of shoulder-arms at all.

[43] *Heller*, 554 U.S. at 624–28; *Caetano*, 577 U.S. at 417 (Alito, J., concurring) ("A weapon may not be banned unless it is both dangerous and unusual.").

[44] See Pet. Br. 11–13, 34–35 (citing evidence that approximately 26 million Americans own at least one AR-15 or similar semiautomatic rifle and that more than 32 million such rifles were produced for the American market from 1990 through 2023); *Heller*, 554 U.S. at 625, 627–29; *Smith & Wesson*, 605 U.S. at 297; *Snope*, 145 S. Ct. at 1534–35 (Kavanaugh, J., statement respecting denial of certiorari).

Military use cannot overcome that fact. The Founding-era musket and rifle were dangerous because they were arms. The nineteenth-century repeater was more capable than the single-shot rifle it supplemented. The bolt-action service rifle, M1 Garand, and AR-15 each represented dramatic improvements in small arms technology. Their military applications show effectiveness. They do not show unusualness in civilian society, much less establish a historical tradition of banning an entire common class.[45]

A feature can serve military and private purposes at once. Accuracy reduces errant shots. Lower recoil and light weight help smaller, older, disabled, or less experienced users control a rifle. Reliability matters in combat and in an emergency. Dual utility is not evidence of an illicit purpose.

B. **Heller's reference to M16 rifles did not create a military-arms exception.**

Respondents will rely on *Heller*'s dicta to suggest that "M-16 rifles and the like" may be banned. But this Court made no such holding. The Court had described the possibility that a militia as effective as its eighteenth-century predecessor might require sophisticated arms "highly unusual in society at large." It acknowledged a potential degree of imperfect fit between the prefatory clause and the operative right and considered a hypothetical question which was not before the Court. It did not announce that "weapons most useful in military service" are categorically without protection.[46]

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[45] See Kopel & Greenlee, *supra* note 24, at 270–82; Pet. Br. 5–10, 42, 49.

[46] *Heller*, 554 U.S. at 624–28.

The AR-15's history confirms why "and the like" cannot mean every rifle in the AR design family. Automatic military rifles were marked and fielded as AR-15s before the M16 designation. If "like" were defined by common lineage, appearance, or shared military functions, the same reasoning would reach quintessential civilian handguns such as the 1911 and GLOCK series of pistols.[47]

The better reading tracks the actual holding of *Heller*: common arms selected by Americans for lawful purposes are protected, full stop. That principle distinguishes the rifles here without requiring the Court to decide every issue involving automatic weapons. The challenged semiautomatic rifles are not unusual in society at large. They are among the most common rifles in the country.

Nor can Respondents avoid *Heller* by offering substitutes. The District argued that residents could possess long guns instead of handguns. The Court answered that the availability of another arm did not save a complete prohibition on the class chosen by the people. The same rule applies when a legislature leaves some firearms available while banning others it considers more military or dangerous.[48]

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[47] See Robert W. Hunnicutt, *The Trials of the M1911*, Am. Rifleman (May 24, 2011) (describing the M1911's development through U.S. Army requirements, trials, and requested modifications); Paul M. Barrett, *Glock: The Rise of America's Gun* 6–16 (Crown 2012) (describing development of the Glock 17 for the Austrian Army's service-pistol competition and its subsequent selection and procurement by the Austrian Ministry of Defense).

[48] *Heller*, 554 U.S. at 628–29; *McDonald*, 561 U.S. at 767–68.

V. A MILITARY-RESEMBLANCE EXCEPTION HAS NO LIMITING PRINCIPLE.

The danger of a "military resemblance" exception is manifest in active legislative strategy. As demonstrated by recent enactments in Colorado and aggressive legislative pushes in Minnesota, states are eagerly exploiting this doctrinal loophole to target the fundamental mechanics of nearly all modern firearms. If shared features like semiautomatic operation or detachable magazines can strip a common rifle of constitutional protection, any limiting principle vanishes entirely.

A. The proposed rule would authorize restrictions on broader classes of semiautomatic firearms with detachable magazines.

"Military resemblance" can be defined infinitely, especially where modern firearms so frequently share design lineage. Lower courts' treatment of such factors to exclude common rifles from the category of protected "arms" lacks historical basis and could be used to justify excluding nearly any bearable arm.

The problem extends beyond AR-platform rifles. Many semiautomatic rifles accept detachable magazines. Semiautomatic shotguns may accept detachable magazines and use adjustable stocks, pistol-style grips, rails, or protective handguards. Common semiautomatic pistols—even Glocks—were designed for military or police use, or share components between service and commercial variants.[49] Congress itself authorizes transfer of

[49] *See, e.g.*, U.S. Marine Corps, MARADMIN 091/21, Fiscal Year 2021 Authorized Individual Weapons, Optics, Modular

M1911 and M1911A1 service pistols to citizens. A pedigree rule would put even quintessential handgun protection on unstable ground.[50]

Justice Thomas has criticized lower courts for relying on the "militaristic" character of common semiautomatic rifles. He has also rejected judicial speculation about which arms Americans need.[51] Chief Judge Brennan's *Barnett* dissent identified the same circularity: a court cannot classify a common semiautomatic rifle as outside the right by emphasizing similarities that it shares with the semiautomatic handguns *Heller* protects.[52]

The decisions below would permit serial substitution. A legislature may ban one common class because another remains available, then subject the surviving class to the same military-resemblance or

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Attachments and Modifications for Annual Rifle and Pistol Training ¶ 4.D (Feb. 23, 2021), https://www.marines.mil/News/Messages/Messages-Display/Article/2512004/ (listing the "Pistol, Glock-19, M007" as an authorized Marine Corps pistol); Ashley Calingo, The Corps' Secret Agents Get Their Own 007, Marine Corps Sys. Command (Nov. 8, 2017), https://www.marcorsyscom.marines.mil/News/News-Article-Display/Article/1365946/ (explaining that the Marine Corps fields the Glock 19M as the M007).

[50] *See* 36 U.S.C. §§ 40728(h)(1)–(2), 40732(b)(1) (authorizing annual transfer of up to 10,000 surplus M1911/M1911A1 pistols to the Civilian Marksmanship Program and their sale to eligible U.S. citizens); District of Columbia v. Heller, 554 U.S. 570, 628–29 (2008) (calling the handgun "the quintessential self-defense weapon").

[51] *Harrel v. Raoul*, 144 S. Ct. 2491, 2492–93 (2024) (Thomas, J., statement respecting denial of certiorari); *Snope*, 145 S. Ct. at 1537–38 (Thomas, J., dissenting from denial of certiorari).

[52] *Barnett v. Raoul*, 180 F.4th 1035, 1086–91 (7th Cir. 2026) (Brennan, C.J., dissenting).

dangerousness inquiry. Under this, semiautomatic rifles with detachable magazines might be restricted because manually operated rifles remain; semiautomatic shotguns because single-shot shotguns remain; service-derived pistols because revolvers remain. *Heller* forecloses that method. An enumerated right is not satisfied by a shrinking menu selected by the government.

B. **Colorado's current law demonstrates that the threatened expansion is concrete.**

Colorado has already moved beyond an AR-specific feature ban. Effective August 1, 2026, state law generally prohibits manufacture, distribution, transfer, sale, or purchase of a "specified semiautomatic firearm." The defined class includes any semiautomatic rifle or shotgun with a detachable magazine and certain gas-operated semiautomatic handguns with detachable magazines, subject to named and categorical exclusions.[53]

The law permits some transactions after the purchaser satisfactorily completes prescribed training, but the exception itself imposes substantial preconditions. A purchaser invoking the exception must obtain a sheriff-issued eligibility card and complete prescribed in-person coursework lasting at least four or twelve hours, depending on the route, and score at least 90% on an exam covering the course material. The sheriff may deny or revoke the card

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[53] Colo. Rev. Stat. § 18-12-116(1)(d), (2) (2026). The statute defines "specified semiautomatic firearm" to include any semiautomatic rifle or shotgun with a detachable magazine and certain gas-operated semiautomatic handguns with detachable magazines, subject to listed exclusions.

based on a reasonable belief drawn from documented prior behavior. Fees, background checks, a state record system, and five-year card-validity periods accompany the process.[54]

Colorado's classification proves the doctrinal point. If semiautomatic operation and detachable magazines become markers of military character, the regulated class does not stop with rifles called AR-15. It can encompass nearly every centerfire semiautomatic rifle with a detachable magazine, semiautomatic shotguns with detachable magazines, and selected gas-operated pistols – including those *Heller* extended protection to. Legislatures may carve out favored models today and remove those exclusions tomorrow. A constitutional rule keyed to resemblance supplies no constraint.

The Court need not adjudicate Colorado's statute here. Its relevance is predictive and concrete. CSSA's members no longer confront only the prospect that a named AR-platform rifle will be judged too military in appearance. They confront a legal regime built around the broader characteristics Colorado asked this brief to address: semiautomatic operation and detachable magazines. An affirmance on the theory that AR-platform rifles are not "Arms" would give that expansion a doctrinal invitation.

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[54] Colo. Rev. Stat. § 18-12-116(3)(e)(I), (5)(a)(I)–(III), (5)(b)(I), (III)(B), (V)–(VII) (2026); Colo. Rev. Stat. § 33-9-115(2)–(3) (2026). The exception requires qualifying in-person coursework and a sheriff-issued eligibility card. The courses require at least four or twelve hours, depending on the route. A sheriff may deny or revoke a card based on documented prior behavior indicating that the applicant poses a danger to self or others. Colo. Rev. Stat. § 18-12-116(5)(b)(VI)(C)–(D) (2026).

C. Minnesota's legislative efforts confirm this expansion is an active, ongoing project.

This threatened expansion is not an isolated anomaly in Colorado; it is an active legislative blueprint in other jurisdictions. Most recently, in May 2026, the Minnesota Senate passed SF 4067[55], a sweeping gun control omnibus package containing a categorical ban on common "military-style" semiautomatic weapons and standard-capacity magazines.

While that specific measure ultimately failed, state lawmakers and local municipalities have made their intentions explicitly clear: they will continue to reintroduce and pass these broad prohibitions.[56] They remain entirely undeterred by the constitutional defects of analogous bans. If this Court validates a standard based on "military resemblance," it will

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[55] *See* S.F. 4067, 94th Leg., Reg. Sess. (Minn. 2026). The omnibus bill, which passed the Minnesota Senate in May 2026, would have broadly prohibited the manufacture, transfer, and possession of defined "military-style" semiautomatic firearms and large-capacity magazines.

[56] *See* S.F. 3655, 94th Leg., Reg. Sess. (Minn. 2026) (proposing ban on possession of semiautomatic military-style assault weapons and large-capacity magazines); S.F. 4290, 94th Leg., Reg. Sess. (Minn. 2026) (same); S.F. 4067, 94th Leg., Reg. Sess. (Minn. 2026) (containing similar prohibition and passing Senate 34–33 on May 4, 2026); Minneapolis City Council Proceedings, Sept. 11, 2025 (unanimously adopting resolution calling for statewide bans on assault rifles and high-capacity magazines and local authority to regulate firearms); Saint Paul, Minn., Ord. 25-65 (adopted Nov. 12, 2025) (enacting, contingent on removal of state preemption, prohibitions on assault weapons and large-capacity magazines and identifying coalition of Minnesota municipalities proposing similar ordinances).

serve as a blank check for jurisdictions like Minnesota to swiftly codify categorical bans on the precise firearms millions of law-abiding citizens rely on for self-defense.

CONCLUSION

The Second Amendment was not written to protect harmless trinkets or especially inadequate arms. It protects the People's ability to possess bearable arms effective for individual and collective defense. The AR-15's military lineage and civilian popularity, together, place the rifle squarely within the tradition the Amendment preserves. Because the scope of an enumerated constitutional right cannot depend on which side of a state line an American happens to stand, the judgments below should be reversed.

Respectfully submitted,

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