

STATE OF NEW JERSEY

GOVERNOR PHIL MURPHY

## ICYMI: AG GREWAL FILES AMICUS BRIEF DEFENDING CONSTITUTIONALITY OF HAWAII LAW LIMITING PUBLIC CARRY OF FIREARMS

*From the New Jersey Office of the Attorney General:*

*AG Grewal Leads Coalition of 12 States, His Latest Action To Protect The Public And Law Enforcement From The Dangers Of Gun Violence*

**TRENTON** – Attorney General Gurbir S. Grewal last night filed an amicus brief defending the constitutionality of a Hawaii law that prevents individuals from carrying a firearm openly in public unless they can demonstrate an individualized need to do so.

Attorney General Grewal's brief supports Hawaii's bid to overturn a 2-1 Ninth Circuit Court of Appeals ruling, issued in July, holding that the Second Amendment prohibits a state from carefully regulating an individual's ability to openly carry a gun in public. That ruling is contrary to prior Ninth Circuit decisions, as well as multiple other appellate court decisions.

Hawaii now seeks a rehearing on the issue "en banc" -- before the full Ninth Circuit, as opposed to a three-judge panel of the court. The amicus filing argues in support of Hawaii's request, and urges the Court "rehear this case" and correct this "erroneous and far-reaching decision."

"States have every right under the Constitution to look at the available data and make the tough calls about how to protect their residents from the spread of gun violence," **said Attorney General Grewal**. "That's not just common sense – it's the law. And the evidence is clear that when more people carry guns in public, public confrontations get more dangerous, not only for the public, but also for our law enforcement officers. Courts have no basis to overrule these careful public safety determinations made by states."

In filing the brief, Attorney General Grewal led a multi-state coalition of 12 states. The coalition includes: California, Connecticut, Delaware, Illinois, Iowa, Maryland, Massachusetts, Rhode Island, Oregon, Virginia, and the District of Columbia.

The brief filed last night notes that public carrying of firearms "substantially increase[s] the risk that confrontations in the public sphere will turn deadly." The brief also observes that public carrying impacts the safety of law enforcement officers. Encounters between community residents and police that might be "routine, friendly and trusting" become more "high risk," forcing officers to take extra precautions.

"States have an obligation to protect their residents from the scourge of gun violence," the brief explains. One approach to do so "is to limit the situations in which a person can carry a firearm in public, whether concealed or carried openly. Hawaii chose that approach in light of the evidence confirming that public carry undermines public safety, and its law does not offend the Second Amendment." Ultimately, "no State is required to protect residents from the dangers of public carry" of firearms, but "every State is permitted to do so under the Second Amendment."

The amicus brief asserts that the Constitution affords states "significant leeway" to put limits on the public carrying of firearms. The brief notes that, as Judge Richard Clifton of the Ninth Circuit explained in his dissent in July, "legislatures – not courts – are best suited to decide how to keep residents safe."

In finding Hawaii's public carry law unconstitutional in July, the brief adds, the Ninth Circuit disagreed with the majority of federal circuits to consider the issue, conflicted with its own past decisions, and "undermined a key tenet of federalism – the right of each State to protect its residents and its law enforcement officers."

This brief is the latest New Jersey effort to protect the public and law enforcement from gun violence. Since taking office in January, Attorney General Grewal has:

- Sued Cody Wilson and Defense Distributed in a successful effort to prevent them from publishing additional codes that would allow dangerous individuals to print unserialized and untraceable 3D firearms;
- Sued the Federal Government, along with the Washington Attorney General and a coalition of other states, to prevent the Government from permitting the publication of Defense Distributed's printable gun codes;
- Sent a cease-and-desist letter to a group of ghost gun manufacturers, warning them that their sales violate New Jersey law;
- Collaborated with Governor Phil Murphy to host the inaugural meeting of States For Gun Safety, which explored cross-state sharing of gun crime intelligence;
- Worked with Governor Murphy and the State Police to release regular reports on gun crime in the state, including the "source state" where the gun was sold;
- Issued Attorney General Directive 2018-4, which requires all law enforcement in New Jersey to share information on crime guns, including the purchasers and dealers of all firearms ultimately used in crime in the state;
- Defended in court a New Jersey law, signed by Governor Murphy in June, that limits possession of dangerous large capacity magazines;
- Defended in court a New Jersey law regulating the public carrying of firearms; and
- Filed an amicus brief defending Massachusetts's law regulating the public carrying of firearms.

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