

The Brady Center to Prevent Gun Violence is the nation's largest non-partisan, non-profit organization dedicated to reducing gun violence through education, research, and legal advocacy. Through its Legal Action Project, the Brady Center has filed numerous briefs as *amicus curiae* in cases involving both state and federal gun laws, including in the recent U.S. Supreme Court cases of *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008), *United States v. Hayes*, 129 S. Ct. 1079 (2009), and *McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010).

The North Carolina Million Mom March Chapters of the Brady Campaign to Prevent Gun Violence work to prevent gun violence throughout North Carolina. The Religious Coalition for a Nonviolent Durham began more than ten years ago as an ecumenical, interracial group of clergy concerned about the high rate of gun violence and homicides in Durham. Members include representatives from law enforcement, the District Attorney's office, the Mayor's office, and other non-profit agencies.

District courts have inherent power to grant third parties leave to file briefs as *amici curiae*, particularly regarding "legal issues that have potential ramifications beyond the parties directly involved or if the [*amici* have] unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide." *NGV Gaming, Ltd. v. Upstream Point Molate, LLC.*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (internal quotations marks omitted); *see also Koerber v. FEC*, 583 F. Supp. 2d 740 (E.D.N.C. 2008) (noting court's acceptance of *amicus curiae* briefs); *United States v. White*, 27 F. Supp. 2d 646, 647 (E.D.N.C. 1998) (same). Here, *amici* bring a broad and deep perspective to the issues raised by this case and have a compelling interest in the federal courts' interpretation of Second Amendment issues. *Amici* thus respectfully submit the attached brief to assist the Court with the constitutional issues in this case, including important matters of first impression under the Second Amendment.

The proposed brief provides an overview of recent and longstanding Supreme Court Second Amendment jurisprudence, discusses the implications of the right to carry arms in public, particularly during emergency situations, and addresses an open question that has resulted from Second Amendment jurisprudence – what the appropriate standard of review for Second Amendment claims should be and how lower courts have answered that question thus far.

The brief also discusses the emerging trend in lower courts towards using a two-pronged approach to Second Amendment claims that asks: (1) whether the statute or regulation at issue implicates Second Amendment activity and, if so, (2) whether it passes the appropriate standard of review. The brief then applies this two-pronged approach to the Second Amendment issues raised herein, employing case law and legal commentary to place North Carolina General Statute §§ 14-288.7, 14-288.12(b), 14-288.13(b), 14-288.14(a), and 14-288.15(d) in the larger context of Second Amendment issues.

The brief concludes that (1) these statutes do not implicate protected Second Amendment activity because the Supreme Court has only recognized a Second Amendment right to keep and bear arms in the home, (2) even if they do implicate protected Second Amendment activity, they would survive the appropriate level of review – the reasonable regulation test that over forty states have adopted – because they constitute a valid exercise of North Carolina’s police powers to enact legislation designed to protect public safety, and (3) states may temporarily limit or suspend constitutional rights during emergency situations. *Amici*, therefore, respectfully submit the attached brief to assist the Court in deciding the significant issues raised in this matter.

For the foregoing reasons, *amici curiae* the Brady Center to Prevent Gun Violence, North Carolina Million Mom March Chapters of the Brady Campaign to Prevent Gun Violence, and

Religious Coalition for a Nonviolent Durham respectfully request that the Court grants leave to file the attached brief.

Respectfully submitted the 16th of December, 2010.

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CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2010, I filed this Motion for Leave to File *Amici Curiae* Brief in Support of Defendants with the Clerk of Court using the CF/ECF system, which will electronically serve this motion on both Plaintiffs' and Defendants' attorneys as follows:

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CERTIFICATE OF CONFERENCE

I hereby certify that on December 15, 2010, counsel for *amici curiae* conferenced with both Plaintiffs' and Defendants' counsel. Defendants Perdue and Young consent to filing this *amicus* brief. Defendant City of King does not object to filing this *amicus* brief. Defendant Stokes County does not consent to filing this *amicus* brief. Plaintiffs state that they consent to filing this *amicus* brief "so long as the defendants in [this] case agree prospectively to consent to any similar motion filed by any parties seeking leave to file an *amicus* brief in support of the plaintiffs' case."

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