

## ERIC RUBEN

SMU Dedman School of Law  
3315 Daniel Avenue • Dallas, TX 75205  
eruben@smu.edu  
<http://ssrn.com/author=2436317>

### ACADEMIC EXPERIENCE

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#### **SMU Dedman School of Law, Dallas, TX**

*Assistant Professor of Law*, August 2019-Present

*Courses*: Criminal Law; Professional Responsibility; Second Amendment and Weapons Regulation

#### **New York University School of Law, New York, NY**

*Adjunct Professor*, January 2018-January 2019

*Course*: The Regulation of Weaponry in Democratic Society

#### **Brennan Center for Justice at New York University School of Law, New York, NY**

*Fellow*, December 2014-Present

### EDUCATION

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#### **NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY**

J.D., May 2007, *cum laude*

*New York University Law Review*, Articles Editor

Florence Allen Scholar (top 10% after 4 semesters)

Law Students for Human Rights, Board Member and Treasurer

Administrative and Regulatory State, T.A. for Prof. Peggy Cooper Davis

#### **DARTMOUTH COLLEGE, Hanover, NH**

B.A. in Government, Minor in Mathematics, June 2003, *magna cum laude*

Honors in writing and philosophy; recipient of Lombard Post-Graduate Fellowship

### JUDICIAL CLERKSHIP

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#### **The Honorable Julio M. Fuentes, U.S. Court of Appeals, Third Circuit, Newark, NJ**

*Judicial Clerk*, August 2007-August 2008

### ACADEMIC PUBLICATIONS

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[\*Self-Defense Exceptionalism and the Immunization of Private Violence\*](#), 96 S. CAL. L. REV. \_\_\_\_ (forthcoming 2023)

[\*Public Carry and Criminal Law After Bruen\*](#), 135 HARV. L. REV. F. \_\_\_\_ (forthcoming 2022)

- *formed basis for* quotes in the New York Times and Washington Post, as well as interview on Vox's Today Explained podcast

[\*"Second-Class" Rhetoric, Ideology, and Doctrinal Change\*](#), 110 GEO. L.J. (forthcoming 2022) (with Joseph Blocher)

- *companion piece* published in the Washington Post

- *featured in episodes of Strict Scrutiny and Vox’s The Most Dangerous Branch podcasts*

[\*Law of the Gun: Unrepresentative Cases and Distorted Doctrine\*](#), 107 IOWA L. REV. 173 (2021)

- *cited in the brief filed by the Giffords Law Center to Prevent Gun Violence in *New York State Rifle & Pistol Ass’n v. Bruen*, No. 20-843, 2021 WL 1602643 (U.S. Apr. 26, 2021)*

[\*The Gun Rights Movement and “Arms” Under the Second Amendment\*](#), BRENNAN CTR. FOR JUST. (2021)

[\*An Unstable Core: Self-Defense and the Second Amendment\*](#), 108 CALIF. L. REV. 63 (2020)

- *cited in various briefs including those filed by Criminal Law Scholars and United States Senators in *Bruen*, supra*

[\*You Can Lead a Horse to Water: Heller and the Future of Second Amendment Scholarship\*](#), 68 DUKE L.J. O. 1 (2018) (with Joseph Blocher)

[\*From Theory to Doctrine: An Empirical Analysis of the Right to Keep and Bear Arms After Heller\*](#), 67 DUKE L.J. 1433 (2018) (with Joseph Blocher)

- *cited in various briefs including one filed by Second Amendment Law Professors in *Bruen*, supra*
- *cited in *Mance v. Sessions*, 896 F.3d 390, 394 n.7 (5th Cir. 2018) (Higginson, concurring)*
- *featured in the New York Times, Wall Street Journal, and USA Today, among others*

[\*Justifying Perceptions in First and Second Amendment Doctrine\*](#), 80 LAW & CONTEMP. PROBS. 149 (2017)

[\*Preface: The Second Generation of Second Amendment Law & Policy\*](#), 80 LAW & CONTEMP. PROBS. 1 (2017) (with Darrell A. H. Miller)

[\*Firearm Regionalism and Public Carry: Placing Southern Antebellum Case Law in Context\*](#), 125 YALE L.J. F. 121 (2015) (with Saul Cornell)

- *cited in various briefs including those filed by the NAACP Legal Defense & Education Fund and New York State in *Bruen*, supra*
- *cited in *Young v. Hawaii*, 992 F.3d 765, 844 (9th Cir. 2021), among others*
- *companion piece published in The Atlantic*

## Work-in-Progress

*Felons, Firearms, and Restoration*

*Text, History, Tradition, and Ideology* (with Joseph Blocher)

## Edited Volumes

[\*Protests, Insurrection, and the Second Amendment\*](#), BRENNAN CTR. FOR JUST. (2021)

[\*Second Generation of Second Amendment Law and Policy\*](#), 80 LAW & CONTEMP. PROBS. 1 (2017) (with Darrell Miller)

## ACADEMIC PRESENTATIONS

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“Public Carry and Criminal Law after *Bruen*,” Harvard Law Review Symposium (March 2022)

- “Self-Defense Exceptionalism,” UC Davis Law Review Symposium (October 2021)
- “Gun Law Reform: The Current Legal Landscape,” NYU School of Law Symposium (March 2021)
- “The Gun Rights Movement and ‘Arms’ Under the Second Amendment,” Brennan Center Workshop (February 2021)
- “Unrepresentative Litigation and Constitutional Distortion: The Case of the Gun-Centric Second Amendment,” Drexel University School of Law Faculty Workshop (November 2020)
- “An Unstable Core: Self-Defense and the Second Amendment,” Video Interview, Duke Law (May 2020)
- “‘The Second Amendment Is Not a Second-Class Right’: A Case Study in Constitutional Rhetoric,” AALS Conference (January 2020)
- “Mistake, Self Defense, and the Role of the Jury: Framing the Botham Jean/Amber Guyger Case,” SMU Dedman School of Law (flash class) (October 2019)
- “The Second Amendment After *Heller* and *Caetano*: Overlooked Implications for the Future of Weapons Regulation,” Duke Law School Workshop (August 2019)
- “The Second Amendment and Self-Defense,” Hastings School of Law (January 2019); New York University School of Law (April 2018); and University of New Hampshire School of Law (April 2018)
- “Guns and Free Speech,” New York University School of Law (November 2017)
- “Justifying Perceptions in First and Second Amendment Doctrine,” Guns in a Civil Society Summit, Washington Alliance for Gun Responsibility (November 2017) and Symposium on Second Generation of Second Amendment Law & Policy, New York University School of Law (April 2016)
- “Preemption and Firearms Law,” Constitutional Governance Practicum at the Columbia Law School (September 2017)
- “The Second Amendment: A Discussion,” Fordham Law Chapter of the American Constitutional Society (September 2017)
- “Discussion on Second Amendment Jurisprudence and Advocacy,” NYU Law Chapter of the American Constitution Society (March 2016)
- “An Introduction and Discussion on the Second Amendment,” Cardozo Law Chapter of the American Constitution Society (March 2016)
- “The Second Amendment: Gun Rights in America,” John Jay College, New York, NY (November 2015)

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**SELECTED PUBLICATIONS, PRESENTATIONS, AND MEDIA APPEARANCES FOR A GENERAL AUDIENCE**

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**Publications**

[\*Three Supreme Court Cases to Watch Beyond Abortion Rights\*](#), BRENNAN CENTER BLOG (with Alicia Bannon and Harry Isaiah Black) (June 2022)

[\*A Right to Conceal and Carry?\*](#), BRENNAN CENTER BLOG (with Emil Mella Pablo) (May 2022)

[\*No, Courts Don't Treat the Second Amendment as a "Second-Class Right,"\*](#) WASH. POST (Nov. 2021)  
(with Joseph Blocher)

[\*First Major Second Amendment Case Before the Supreme Court in Over a Decade Could Topple Gun Restrictions,\*](#) THE CONVERSATION (October 2021)

Republished in over a dozen other publications across the country and online, including MarketWatch, Iowa Capital Dispatch, Houston Chronicle, St. Louis Post-Dispatch, Idaho Press-Tribune, NewsBreak, and The Raw Story

[\*Claiming Self-Defense Isn't a Get-Out-of-Jail-Free Card,\*](#) BRENNAN CENTER BLOG (July 2020)

[\*The Supreme Court's Second Amendment Surprise,\*](#) BRENNAN CENTER BLOG (June 2020)

[\*What the Supreme Court's Latest Second Amendment Ruling Means for Future Cases,\*](#) BRENNAN CENTER BLOG (May 2020)

[\*The Supreme Court Shouldn't Disrupt the Judicial Consensus on the Second Amendment,\*](#) SCOTUSBLOG (November 2019) (with Joseph Blocher)

[\*Is the Handgun America's "Most Popular" Self-Defense Weapon? It's a Crucial Question at the Supreme Court,\*](#) BRENNAN CENTER BLOG (November 2019)

[\*Misguided 'Second Amendment Protection Acts' Have the Opposite Effect of Their Intent,\*](#) BRENNAN CENTER BLOG (June 2019) (with Adam B. Sopko)

[\*What to Know About the Supreme Court's First Gun Case in 9 Years,\*](#) THE TRACE (April 2019) (print interview)

[\*The Second Amendment Allows for More Gun Control Than You Think,\*](#) VOX.COM (May 2018) (with Joseph Blocher)

[\*There Is No Constitutional Bar to Further Gun Control,\*](#) N.Y. TIMES (June 2016)

[\*Exaggerated Claims of "Judicial Nullification" in Gun Cases,\*](#) THE JURIST (May 2016)

[\*Justice Scalia, the Second Amendment, and Judicial Conservatives,\*](#) CASETEXT (February 2016)

[\*The Slave-State Origins of Modern Gun Rights,\*](#) THE ATLANTIC (September 2015) (with Saul Cornell)

## **Presentations**

"Guns vs. Speech: Does the 2<sup>nd</sup> Amendment Threaten the 1<sup>st</sup>?" Brennan Center for Justice Live Event (September 2021)

"The Second Amendment and State Efforts in Gun Violence Prevention," American Constitution Society Northeast Regional Convening (October 2019)

"The Gun Shop," Fulbright Film Series Panel Discussion (February 2018)

"The Second Amendment and Gun Laws: A Primer for Advocates," New York Lawyer Chapter of the American Constitution Society (October 2017)

“When the First and Second Amendment Collide,” League of Women Voters Gun Safety Committee (September 2017)

“*Binderup* and the Future of As-Applied Second Amendment Challenges,” Consortium for Risk-Based Firearm Policy (February 2017)

“2nd Amendment - Protecting Rights, Protecting People,” The Liberty Series, Union League of Philadelphia (January 2017)

“As-Applied Second Amendment Challenges,” Second Amendment Litigation and Jurisprudence Conference, Washington, D.C. (December 2016)

“David v. Goliath: The Gun Violence Prevention Movement and Challenging the NRA,” Annual RebLaw Conference, Yale University Law School (February 2016)

### Media Appearances

Ellen loanes, [\*What Does the Second Amendment Mean in 2022?\*](#), Vox (June 2022) (print)

[\*NBC News Now with Joshua Johnson\*](#), NBC News (June 2000) (television)

Josh Clancy, [\*America and Guns—Did It Have to Be This Way?\*](#), THE TIMES (May 2022) (print, England)

*Velshi on MSNBC*, MSNBC (May 2022) (television)

Jess Bidgood, [\*From Concealed Carry to Eliminating Permits, Gun Restrictions Have Loosened Since Sandy Hook\*](#), BOSTON GLOBE (May 2022) (print)

Sherryn Groch & Billie Eder, [\*Why Can't America Fix Its Gun Crisis?\*](#), SYDNEY MORNING HERALD (May 2022) (print)

Emilie Burditt, [\*Gun Laws, Reform Following School Shooting in Uvalde, Texas\*](#), WISCONSIN PUBLIC RADIO (May 2022) (radio)

[\*Trump urges mental health initiatives at NRA event\*](#), NEWSNATION PRIME (May 2022) (television)

[\*Interview Regarding Uvalde Shooting\*](#) FRANCE 24 (May 2022) (television, France)

Timothy L. O'Brien, [\*Uvalde Families Should Take Gunmakers to Court\*](#), WASHINGTON POST and BLOOMBERG NEWS (May 2022) (print)

[\*Debate por el control de armas: el callejón sin salida al que EE.UU. vuelve tras la matanza en Texas\*](#), EL MERCURIO (May 2022) (print, Chile)

Kevin T. Dugan, [\*The NRA won after Sandy Hook, but today the gun lobby is in disarray and gun safety is slowly making gains in states\*](#), NEW YORK MAGAZINE (INTELLIGENCER) (May 2022) (print)

Tyler Kingkade, [\*Uvalde shooting renews push for 'red flag' laws — 4 years after Texas Republicans blocked one\*](#), NBC NEWS (May 2022) (print)

[\*NBC News Now with Joshua Johnson\*](#), NBC News (May 2022) (television)

Annie McDonough, [\*SCOTUS could soon overturn New York's gun law. Here how the state could respond\*](#), CITY AND STATE (May 2022) (print)

[\*Interview Regarding the Uvalde Shooting\*](#), TIMES RADIO (May 2022) (radio, England)

[\*Coverage of the Uvalde Shooting\*](#), CTV NEWS, (May 2022) (television, Canada)

Lindsay Whitehurst, Michael Tarm, & James Anderson, [\*Buffalo shooter's previous threat raises red-flag questions\*](#), AP News (May 2022) (print)

Kevin McCoy, [\*Gun Rights Groups' Wave of Lawsuits Could Change America's Relationship With Firearms\*](#), USA TODAY (February 2022) (print)

Brandan Pierson, [\*Manslaughter Charges Against Michigan Shooter's Parents Break New Legal Ground\*](#), REUTERS (December 2021) (print)

[\*Kyle Rittenhouse and the "Self-Defense" Defense\*](#), VOX'S TODAY, EXPLAINED (November 2021) (podcast)

[\*The Supreme Court, Concealed Carry, and How Your Laws Might Change\*](#), NEW BOOKS NETWORK (November 2021) (podcast)

Kiara Alfonseca, [\*Arbery, Rittenhouse Cases Spotlight Self-Defense and Vigilantism\*](#), ABC NEWS (November 2021) (print)

Marc Fisher & Mark Berman, [\*After Rittenhouse: Will Deadly Clashes Multiply as the Right to Self-Defense Expands?\*](#), WASH. POST (November 2021) (print)

Willy Lowry, [\*Rittenhouse and Arbery Cases Expose Deep Rifts on Gun Rights and Vigilantism in US\*](#), THE NATIONAL (November 2021) (print)

Interview, KCBS Radio San Francisco, [\*The Claim of Self-Defense Raising Concerns in Recent Court Cases\*](#) (November 2021) (radio)

Shaila Dewan, [\*Can Self-Defense Laws Stand Up to a Country Awash in Guns?\*](#), N.Y. TIMES (November 2021) (print)

[\*Interview\*](#), NYC's WPIX 11 TV (November 2021) (television)

Jonah E. Bromwich & Ashley Southall, [\*What Happens if the Supreme Court Strikes Down New York's Gun Law?\*](#), N.Y. TIMES (November 2021) (print)

Bob Ortega, [\*Fears of Unlikely Federal Gun-Control Measures Lead to Raft of State Laws\*](#), CNN.COM (November 2021) (print)

[\*U.S. Supreme Court Firearms Case Could Reshape Gun Control in America\*](#), NPR DETROIT (WDET) (November 2021) (radio)

[\*Interview\*](#), Houston's ABC 13 KTRK TV (November 2021) (television)



Noah Goldberg, [\*Supreme Court Appears Likely to Shoot Down New York Gun Law\*](#), N.Y. DAILY NEWS (November 2021) (print)

[\*La Cour Supreme des États-Unis Examine un Dossier Majeur sur les Armes à Feu\*](#), LE FIGARO (November 2021) (print)

Noah Goldberg, [\*Supreme Court Could Nix New York Gun Law that Limits Right to Carry Guns in Public\*](#), N.Y. DAILY NEWS (November 2021) (print)

Amelia Thomson-DeVeaux, [\*How the Supreme Court Could Make It Easier to Carry Guns in Public\*](#), [\*FIVETHIRTYEIGHT\*](#) (November 2021) (print)

Devin Dwyer, [\*Gun Owners Ask Supreme Court to Back Concealed Carry for Self-Defense\*](#), ABC NEWS LIVE (November 2021) (television and print)

[\*US Supreme Court to Hear High-Stakes Gun Rights Case\*](#), VOICE OF AMERICA (November 2021) (print)

Tiana Headley, [\*New York Is America's Latest Battleground Over Gun Rights\*](#), THE RIVER (November 2021) (print)

Robert Gavin, [\*Law Beat: Supreme Court Ready for Possible Landmark Gun Case from Rensselaer County\*](#), ALB. T. UNION (October 2021) (print)

Marcia Coyle, [\*'Originalists' Gorsuch, Kavanaugh, Barrett Under Microscope in 2nd Amendment Case\*](#), NAT'L L.J. (October 2021) (print)

*The Attitude With Arnie Arneson*, WNHN (October 2021) (radio)

[\*SCOTUS Returns for Blockbuster Term\*](#), ABC NEWS LIVE (October 2021) (television)

[\*This Week with George Stephanopoulos\*](#), ABC NEWS (October 2021) (television)

Dan Frosch and Elizabeth Findell, [\*Air Force Found Largely Responsible for Texas Church Shooting\*](#), WALL STREET JOURNAL (July 2021) (print)

Yanqi Xu, [\*Fourth Circuit Ruling: Federal Laws Banning Handgun Sales to Young Adults Violate Second Amendment\*](#), NC POLICY WATCH (July 2021) (print)

Erik Larson, [\*California Gun Laws Reviled by NRA Face Pivotal Court Test\*](#), BLOOMBERG NEWS (June 2021) (print)

*Agenda Svijet*, HRT (May 2021) (television)

Jennifer Mascia, [\*The Supreme Court's Next Big Gun Case, Explained\*](#), THE TRACE (May 2021) (print)

[\*"The Week" with Joshua Johnson\*](#), NBC PEACOCK TV (April 2021) (television)

[\*Open Carry Laws, Public Safety, and Young v. Hawaii\*](#), LAWYER 2 LAWYER (April 2021) (podcast)

Jolana Humpalova, *To Limit or Not to Limit? Weapons Divide America, It Has the Most in the World*, SEZNAM ZPRÁVY (April 2021)

Matt Reynolds, [\*Lawyers Involved in the Gun Debate Are Primed for the Supreme Court to Take the Next Big Case\*](#), ABA JOURNAL (December 2020) (print)

Stephen Gutowski, [\*Gun Lawsuits Flood in After Barrett Supreme Court Confirmation\*](#), WASHINGTON FREE BEACON (December 2020) (print)

Olivia Li, [\*On Guns, Barrett's Philosophy Leaves Little Room for Public Safety\*](#), THE TRACE (September 2020) (print)

Greg Stohr, [\*Gun Cases Could Prompt Supreme Court to Bolster Second Amendment\*](#), BLOOMBERG NEWS (June 2020) (print)

Annie McDonough, [\*What Does SCOTUS' Second Amendment Case Mean for New York?\*](#), CITY & STATE NEW YORK (April 2020) (print)

[\*U.S. Supreme Court Leaves Bump Stock Ban in Place\*](#), CT PUBLIC RADIO (March 2020) (radio)

[\*Virginia Assault Weapon Bill Shot Down by Senate Committee\*](#), KCBS (February 2020) (radio)

Kaley Johnson, [\*White Settlement Church Shooter Had a Long Criminal History. So How Did He Get a Gun?\*](#), FORT WORTH STAR-TELEGRAM (January 2020) (print)

[\*2020 Will Be a Big Year for the Gun Issue\*](#), THE TRACE (January 2020) (print)

Adam Liptak, [\*After Long Gap, Supreme Court Poised to Break Silence on Gun Rights\*](#), N.Y. TIMES (December 2019) (print)

[\*Supreme Court Watchers See Chief Justice as Possible Fifth Vote to Dismiss Major Gun Case\*](#), THE TRACE (December 2019) (print)

Richard Wolf, [\*Supreme Court May Expand Second Amendment Rights Despite Repeal of Disputed Gun Restrictions\*](#), U.S.A. TODAY (December 2019) (print)

John Kruzel, [\*Supreme Court Poised to Hear First Major Gun Case in a Decade\*](#), THE HILL (December 2019) (print)

Matt Cohen, [\*Gun Violence Costs Americans Billions Every Year. A California Mayor Has a Plan to Make Gun Owners Pay for It\*](#), MOTHERJONES.COM (August 2019) (print)

Jennifer Mascia, [\*What to Know About the Supreme Court's First Gun Case in 9 Years\*](#), THE TRACE (April 2019) (print)

[\*A Historic Ruling on Guns. Ten Years Later\*](#), 1A, NPR (June 2018) (radio)

Jon Schuppe, [\*Low-Crime Village Bans Military-Style Guns, Citing Parkland and Other Mass Shootings\*](#), NBCNEWS.COM (April 2018) (print)

Andrew Wong, [\*Why the US Is So Different From the UK and Australia When It Comes to Gun Control\*](#), CNBC.COM (March 2018) (print)

Kiran Alvi, [\*US: Most Mass Shootings Not Committed by Mentally Ill\*](#), ALJAZEERA.COM (November 2017) (print)



Jared Keller, [\*Is The End of the Assault Rifle Nigh?\*](#), PACIFIC STANDARD (February 2017) (print)

[\*Does the Second Amendment Leave Any Room for Gun Control Laws?\*](#), TAKE TWO, KPCC (Southern California Public Radio) (June 2016) (radio)

*Guns in the Spotlight: Do Americans Really Need an Assault Weapon to Protect Themselves?*, Paul Henry Show, TV3 (New Zealand) (June 2016) (television)

#### **OTHER LEGAL EXPERIENCE**

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**Morvillo Abramowitz Grand Iason & Anello, P.C.**, New York, NY  
*Litigation Associate*, November 2008-November 2014

**U.S. Department of State, Office of the Legal Advisor**, Washington, D.C.  
*Summer Intern*, May-June 2007

**Davis Polk & Wardwell LLP**, New York, NY and Madrid, Spain  
*Summer Law Clerk*, May-August 2006 (offer extended)

**Civil Association for Equality and Justice (ACIJ)**, Buenos Aires, Argentina  
*Legal Intern*, May-August 2005

#### **UNIVERSITY SERVICE**

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SMU Law AALS Representative (2020, 2021, and 2022)  
Curriculum/Academic Standards Committee, SMU Dedman School of Law (2020-present)  
Teaching Committee, SMU Dedman School of Law (2020-present)  
Faculty Advisor, 1L Inn of Court, SMU Dedman School of Law (2020-2021)  
Faculty Advisory Board, Deason Criminal Justice Reform Center (2019-present)  
Endowed Lectures and Faculty Forum Committee, SMU Dedman School of Law (2019-2020)  
Faculty Secretary, SMU Dedman School of Law (2019-2020)

#### **REFeree ACTIVITY**

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YALE LAW JOURNAL  
STANFORD LAW REVIEW

#### **BRIEFS AND OTHER ADVOCACY**

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Brief of Second Amendment Law Professors as Amici Curiae in Support of Neither Party, New York State Rifle & Pistol Ass'n v. Bruen, No. 20-843 (U.S.) (July 20, 2021)

Statement of Professors of Constitutional Law to Senate Judiciary Committee: The Right to Keep and Bear Arms and the Constitutionality of Expanded Background Checks (March 22, 2021)

Brief of Second Amendment Law Professors as Amici Curiae in Support of Defendant-Appellee, Wade v. The Board of Regents of the University of Michigan, MSC No. 156150 (Mich. Sup. Ct.) (March 1, 2021)

Brief of Second Amendment Law Professors as Amici Curiae in Support of Neither Party, New York State Rifle & Pistol Ass'n v. City of New York, No. 18-280 (U.S.) (May 14, 2019)