

Cooper & Kirk

Lawyers

A Professional Limited Liability Company

David H. Thompson
dthompson@cooperkirk.com

1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036

(202) 220-9600
Fax (202) 220-9601

March 22, 2023

VIA CM/ECF

The Honorable Kate M. Menendez
United States District Court
316 North Robert Street
St. Paul, MN 55101

RE: *Worth et al, v. Harrington, et al.*, No. 21-cv-1348 (KMM/LIB)

Dear Judge Menendez,

In *National Rifle Association v. Bondi*, --- F.4th ----, 2023 WL 2484818 (11th Cir. Mar. 9, 2023), the Eleventh Circuit upheld a Florida law banning firearms sales to 18-to-20-year-olds. The Eleventh Circuit's decision is deeply flawed and distinguishable from this case. It should provide no support for Minnesota's law prohibiting 18-to-20-year-olds from carrying firearms for self-defense.

First, the Eleventh Circuit wrongly focused on the period surrounding the ratification of the Fourteenth Amendment as determinative for defining the scope of the Second Amendment with respect to the States. *Bondi*, at *4–5. This conclusion is contrary to *NYSRPA v. Bruen*, see 142 S. Ct. 2111, 2137 (2022), and to the Supreme Court's treatment of the Bill of Rights generally. The key period for understanding the Second Amendment is the Founding. See Pls.' MSJ Br. at 15–16, Doc. 42 (Aug. 4, 2022); Pls.' Resp. at 18–24, Doc. 74 (Aug. 25, 2022); Pls.' Reply at 9–11, Doc. 77 (Sept. 8, 2022).

Second, the *Bondi* court erroneously concluded several Reconstruction-era laws were relevantly similar to the Florida law. *Bondi*, at *6–12. These laws should not have been considered analogues in *Bondi* and are not analogues here because, as Plaintiffs' have explained, 18-to-20-year-olds are adults today, but the historical laws all targeted *minors*. See Pls.' MSJ Br. at 23–24; Pls.' Resp. at 26–27; Pls.' Reply at 11. Both the “how” and the “why” of laws targeting minors are different than that of laws targeting adults. What is more, *Bondi*, like the historical laws generally, involved a restriction on purchasing firearms, but this case involves a restriction on *carriage*, so the way the Second Amendment right is affected is different here. See Pls.' Reply at 12–13.

Third, *Bondi* misunderstood the value of Founding era militia laws for understanding the scope of the Second Amendment. See *Bondi*, at *12. Plaintiffs have never argued that militia service *conferred* a right to 18-to-20-year-olds. Rather, the inclusion of 18-to-20-year-olds in

Cooper & Kirk
Lawyers

The Hon. Kate M. Menendez
March 22, 2023
Page 2 of 2

militias makes clear that they were understood to enjoy the full protection of the Second Amendment. Pls.' Resp. at 15–16.

Sincerely,

s/ David H. Thompson
David H. Thompson
Counsel for Plaintiffs

cc: All counsel of record