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SAF Asks Supreme Court to Review Maryland 'Assault Weapons' Ban

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The Second Amendment Foundation (SAF) has joined several other groups in filing an amicus brief asking the Supreme Court to review Maryland's ban on so-called 'assault weapons.'

"Our interest in this case [*Kolbe v. Hogan]* is guided by the belief that government cannot prohibit whole classes of firearms, including semiautomatic sport-utility rifles, that are in common use by private citizens and civilian law enforcement," explained SAF founder and Executive Vice President Alan M. Gottlieb in a press release.

"But in Maryland, they want to do exactly that," he continued. "It's almost as if they either don't understand *Heller*, but are deliberately ignoring what was explained clearly by the late Justice Antonin Scalia."

Back in February, the 4th Circuit Court of Appeals upheld the ban, which was expanded in 2013 under the "Firearms Safety Act of 2013," arguing that the Supreme Court's 2008 *Heller* decision left the door open to permit governments to regulate firearms that are similar to those issued to military personnel.

Here is the excerpt from *Heller* that the 4th Circuit underscored as grounds for bans on black rifles (emphasis added):

It may be objected that if weapons that are most useful in military service—**M-16 rifles and the like—may be banned**, then the Second Amendment right is completely detached from the prefatory clause. But as we have said, the conception of the militia at the time of the Second Amendment's ratification was the body of all citizens capable of military service, who would bring the sorts of lawful weapons that they possessed at home to militia duty. It may well be true today that a militia, to be as effective as militias in the 18th century, would require sophisticated arms that are highly unusual in society at large. Indeed, it may be true that no amount of small arms could be useful against modern-day bombers and tanks. But the fact that modern developments have limited the degree of fit between the prefatory clause and the protected right cannot change our interpretation of the right.

In the brief, SAF, the Cato Institute, the Independence Institute and the National Sheriffs' Association argue that the 4th Circuit's decision is a misreading of *Heller*.

"Maryland's firearm and ammunition restrictions stem from a misunderstanding of firearms that are in common use by citizens and law enforcement agencies. Most sheriffs and deputies carry semi-automatic handguns with magazines larger than 10 rounds that are banned in Maryland; many patrol vehicles carry a rifle that is banned in Maryland," reads the brief.

“Classifying typical sheriffs’ arms as ‘weapons of war’ alienates the public from law enforcement. Among the many harmful consequences: when a deputy uses deadly force, people will say that he or she used a military weapon. This is inflammatory, and false,” it continues.

The Supreme Court will return from its summer break in Oct. It will then decide what cases it will hear for the next session. SCOTUS receives around 10,000 petitions each year. Of those, it only picks about 80 cases to hear. Yes, that means that less than one percent of cases make it before the bench.

“This is just one of several Second Amendment questions we believe the high court needs to address,” Gottlieb said. “There is also the question of bearing arms outside the home for personal protection. These constitutional issues must be addressed, and we’d rather it be sooner than later.”