IN THE SUPREME COURT OF IOWA

STATE OF IOWA Plaintiff-Appellee, v. AUSTIN MAHANA, Defendant-Appellant.	Cerro Gordo No. FECR031848 Supreme Court No. 24-0239

APPEAL FROM THE IOWA DISTRICT COURT
FOR CERRO GORDO COUNTY
HONORABLE ADAM D. SAUER, JUDGE

APPELLANT'S REPLY BRIEF AND ARGUMENT

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NATURE OF THE CASE

COMES NOW the Defendant–Appellant, pursuant to Iowa R. App. P. 6.903(4), and hereby submits the following argument in reply to the State's brief filed on or about March 10, 2025. While the defendant's brief adequately addresses the issues presented for review, a short reply is necessary to address certain contentions raised by the State.

ARGUMENT

I. The defendant's conviction for possession of a firearm by a prohibited person is unconstitutional under the Second Amendment of the United States Constitution and under Article I, Section 1A of the Iowa Constitution.

The State challenges the preservation of error regarding the defendant's challenge to his conviction under the Bruen analysis, claiming the district court did not rule on the "as applied" challenge by the defendant. State's Br. at pp. 12-13. Under Bruen, the standard for applying the Second Amendment is:

> When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation. Only then may a

> court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command."

New York Rifle & Pistol Assn., Inc. v. Bruen, 597 U.S. 1, 24 (2022). In its ruling, the district court decided that the defendant did not fall into the category of "the people" because that was reserved for law abiding citizens, and he was not one because of his previous conviction. End of Story. The State had the burden of proof in this case, the court heard both sides, and, once it decided categorically that anyone convicted of a crime was not protected by the Second Amendment as "the people," there was no need to go any further. The analysis is the same in such a case, whether it be a determination of constitutionality on its face or as applied. See United States v. Cooper, 127 F.4th 1092, 1098 (8th Cir. 2025) (quoting Bruen, 597 U.S. at 17, and stating that regardless of whether the question is the constitutionality of a firearm regulation is "as applied" on "on its face," the question is the same: "is 'the regulation…consistent with the Nation's historical tradition of firearm regulation?'"). The district court ruled on the issue as it

saw it after hearing the arguments of the parties. Error was preserved.

In its brief, the State also argues that the Second Amendment allows categorically a ban on firearms to all felons. The State argues that the ban is constitutional as applied to the defendant because of his status as a "felon" under Iowa law, and therefore does not make any argument about Mahana's particular conviction. The State engages in the same analysis on it "as applied" argument as the district court did in its ruling. The state then also claims nonsensically that error was not preserved.

The State first seems to present the same argument that the district court found, which was that the defendant is not among "the people" protected by the Second Amendment. State's Br. at pp. 17-18. The U.S. Supreme Court has stated that "the people" is a term of art that refers to a "'class of persons who are part of a national community or who have developed sufficient connection with this country to be considered part of that community.'" District of Columbia v. Heller, 554 U.S.570, 580 (2008) (quoting

United States v. Verdugo-Urquidez, 494 U.S. 259, 265 (1990)). "The people" is used throughout the Constitution and "unambiguously refers to all members of the political community, not a specified subset." Id. The Second Amendment therefore "presumptively 'belongs to all Americans.'" Range v. Atty General United States, 124 F.4th 218, 226 (3rd Cir. 2024) (quoting Heller, 554 U.S. at 581). In Range, the court found that "the people" did not exclude felons for a number of reasons. First, excluding people because they are not "law abiding" as the term is used in Heller and Bruen is dicta as the defendants' criminal histories were not an issue in those cases. Id. Second, felons are not categorically barred from other constitutional protections such as First and Fourth Amendment protections, and there is no legitimate reason to exclude felons from the rights contained in the Second Amendment while they keep those other rights. Id.; see also United States v. Daniels, 124 F.4th 967, 973 (5th Cir. 2025) (stating the burden on the State was heavy because the Second Amendment is not a second-class right). Third, the court agreed with the other cases holding that the Second

Amendment applies to individuals even though they may be stripped of that right under certain circumstances. Id. at 226-27. Finally, the court decided that stripping people of their rights because they are not "law abiding" was too vague. The court queried:

> Does it exclude those who have committed summary offenses or petty misdemeanors, which typically result in a ticket and a small fine? No. We are confident that the Supreme Court's references to "law abiding, responsible citizens" do not mean that every American who gets a traffic ticket is no longer among "the people" protected by the Second Amendment.

Id. at 227. The court further noted that by excluding felons from inclusion in "the people," legislators could decide who to exclude. The court rejected this "approach because such "'extreme deference gives legislatures unreviewable power to manipulate the Second Amendment by choosing a label.'" Id. at 228 (quoting Folajtar v. Attorney General of the United States, 980 F.3d 897, 912 (3rd Cir. 2020) (Bibas, J. dissenting). The defendant does not give up his Constitutional status as one of "the people" simply because he has a criminal conviction.

Next, the State argues that the fact of the defendant's

conviction categorically permanently bans him from possessing a firearm. The State relies heavily on an Eighth Circuit case that found that status-based restrictions can disqualify categories of people from possessing firearms. United States v. Jackson, 110 F.4th 1120, 1129 (8th Cir. 2024). That court justified its conclusion in part because historically this country has prohibited Native Americans, non-Anglican Protestants, Catholics, and people who refused to declare a loyalty oath during the Revolutionary War from possessing firearms. Id. at 1126.

In contrast, the Third Circuit found that a restriction that would cover all felonies and "even misdemeanors that the federal law equates with felonies" too broad. Range, 124 F.4th at 230. The Range court determined that historically felons or violent offenders were only temporarily deprived of firearms and were able to acquire firearms after completing their sentence. Id. at 231 (noting that even the Supreme Court in United States v. Rahimi, 602 U.S.680, 699 (2024) only allowed the temporary disarmament of a person who was specifically found to be dangerous). Although the crime

Range was convicted of did not involve a firearm to justify a temporary forfeit of that right, the court drew a distinction between confiscating instruments of crime and a "status-based lifetime ban on firearm possession." Id.; see also Reese v. Bureau of Alcohol, Tobacco, Firearms & Explosives, 127 F.4th 583, 597-98 (5th Cir. 2025) (distinguishing cases such as Rahimi that require a finding of dangerousness from cases that bar firearm possession based on status).

This Court should adopt the approach that was thoroughly thought out in Range and not the superficial approach in Jackson that decided simply because this country has barred certain classes of people before, we can do it again. The analysis of the Range court looked beyond the label a crime is given by the legislature. If a label that is all that is required to permanently disarm and that entire category of people, then that rule could eventually obviate the right altogether.

After the Supreme Court changed the Second Amendment analysis in Bruen, is seems impossible to have a one size fits all

rule for Second Amendment protections. The Court put the heavy burden on the State to prove that a restriction is historically justified and that the individual's conduct falls outside of Second Amendment protections. Bruen, 598 U.S. at 2130. Each case needs to be decided on its own merits based on the evidence presented to it. The Bruen Court specifically rejected the claim that this framework was unworkable, because it is the job of the courts to "resolve *legal* questions presented in particular cases or controversies." Id. at 2130 n.6. "Courts are . . . entitled to decide a case based on the historical record compiled by the parties." Id. In this case, the State failed to do so as argued in the Appellants Brief previously filed. In this case there is no historical analogue, as guns were not prohibited to be peacefully carried in the first place, and the crime from which Mahana was disarmed is not even a crime in Iowa today.

CONCLUSION

For these reasons and those presented in the initial brief, the defendant requests the Court reverse the defendant's conviction.

CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENTS AND TYPE-VOLUME LIMITATION FOR BRIEFS

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(g)(1) and 6.903(1)(i)(1) because:

> [X] this brief has been prepared in a proportionally spaced typeface Bookman Old Style, font 14 point and contains 1,486 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(i)(1).

/s/ Maria Ruhtenberg Dated: 3/27/25

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