State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON, NJ 08625-0080

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

MATTHEW J. PLATKIN
Attorney General

February 5, 2024

Patricia S. Dodszuweit, Clerk of Court
U.S. Court of Appeals for the Third Circuit
21400 United States Courthouse
601 Market Street
Philadelphia, PA 19106-1790

Re: Letter pursuant to Fed. R. App. P. 28(j) in No. 23-1900, *Siegel v. Attorney General of New Jersey* and No. 23-2043, *Koons v. Attorney General of New Jersey.*

Dear Ms. Dodszuweit:

Lara v. Commissioner, 2024 WL 189453 (3d. Cir. 2024)[1]—which dealt with a different statute and a different historical record—has no bearing on this case. The parties do not dispute that the questions are different: nothing in this case turns on the scope of the term "the People" in the Second Amendment. *See* Dkt. 134 at 1. The *Siegel* Appellees instead argue that *Lara* is important to the resolution of this case because of its treatment of Reconstruction-era evidence. But *Lara* decided only whether to use Founding- or Reconstruction-era evidence when the court has to "pick between the two timeframes"—when "there is daylight between how each generation understood a particular right." 2024 WL 189453 at * 8, n.14. Because that panel believed there was evidence that the Founding generation saw 18-year-olds as having the right to bear arms, it resolved the perceived conflict in favor of Founding-era evidence. *Id.* at *9 (citing Founding-era militia requirement for 18-to-20-year-olds).

[1] A petition for rehearing en banc is anticipated, *see* No. 21-1832.

But *Lara* is inapposite where there is no conflict between Founding- and Reconstruction-era evidence, and thus where the Court can continue to look at the entire history in assessing the validity of restrictions on firearms in sensitive places. *See* Dkt. 43 at 13-26 (record evidence of prohibitions on firearms in sensitive places dating from before the Founding, in the antebellum era, and through the Reconstruction period); Dkt. 108 at 26-42 (same). Indeed, had *Lara* intended to foreclose the use of Reconstruction-era evidence absent direct conflict, it would have said so, and noted its split with the Second Circuit. *See Antonyuk v. Chiumento*, 89 F.4th 271, 339, 361, 375-76 (2d Cir. 2023). And although the *Siegel* Appellees argue there were *more* sensitive-place laws at Reconstruction than the Founding, that is not a conflict: the lack of "positive legislation from a particular place" and particular time may reflect only "a lack of political demand rather than constitutional limitations." *Id.* at 301-02. That does not show either generation saw sensitive-place restrictions as unlawful; instead, the national tradition is consistently to the contrary.

Respectfully yours,

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Angela Cai
Angela Cai
Deputy Solicitor General

Word Count: 350

CC: All counsel via ECF