No. 13-634

In the

# Supreme Court of the United States

MONTANA SHOOTING
SPORTS ASSOCIATION, *et al.*,

*Petitioners*,

v.

ERIC HOLDER, JR., Attorney General,

*Respondent.*

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

## *AMICUS CURIAE* BRIEF OF CENTER FOR CONSTITUTIONAL JURISPRUDENCE IN SUPPORT OF PETITIONERS

JOHN EASTMAN
ANTHONY T. CASO
*Counsel of Record*
Center for Constitutional Jurisprudence
c/o Dale E. Fowler School of Law at Chapman University
One University Drive
Orange, CA 92866
Telephone: (714) 628-2666
E-Mail: caso@chapman.edu

*Counsel for Amicus Curiae Center for Constitutional Jurisprudence*

## QUESTION PRESENTED

Does the Commerce Clause grant Congress a "police power" to regulate intrastate activity as a means of "crime control"?

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

**Cases**

**Statutes**



**Other Authorities**

**Rules**



**Regulations**

## IDENTITY AND INTEREST OF AMICUS CURIAE

Amicus, Center for Constitutional Jurisprudence[1] was established in 1999 as the public interest law arm of the Claremont Institute, the mission of which is to restore the principles of the American Founding to their rightful and preeminent authority in our national life, including the proposition that the Founders intended to divide power between federal and state governments as a means of protecting individual liberty. In addition to providing counsel for parties at all levels of state and federal courts, the Center has participated as amicus curiae before this Court in several cases of constitutional significance, including *Rapanos v. United States*, 547 U.S. 715 (2006), *Kelo v. City of New London, Connecticut*, 545 U.S. 469 (2005); *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001); and *United States v. Morrison*, 529 U.S. 598 (2000).

## SUMMARY OF ARGUMENT

Over the past two decades, this Court has reinvigorated the Founders' vision of a constitutional system based on a division of the people's sovereign

---

[1] Pursuant to this Court's Rule 37.2(a), all parties have consented to the filing of this brief. Petitioner has filed a blanket consent with the clerk and the consent of the Solicitor General has been lodged with the Clerk. All parties were given notice of this brief more than 10 days prior to filing.

Pursuant to Rule 37.6, amicus curiae affirms that no counsel for any party authored this brief in any manner, and no counsel or party made a monetary contribution in order to fund the preparation or submission of this brief. No person other than Amicus Curiae, its members, or its counsel made a monetary contribution to the preparation or submission of this brief.

powers between the federal and state governments. In *New York* v. *United States*, 505 U.S. 144, 156-57 (1992), for example, the Court recognized that the principle of reserved powers underlying the Tenth Amendment serves as a barrier to the exercise of power by Congress. In *Printz* v. *United States*, 521 U.S. 898, 923-24 (1997), the Court recognized that the principle was grounded not so much in the text of the Tenth Amendment but in the word "proper" of the Necessary and Proper clause, as informed by the overall structure of the Constitution and the numerous clauses that recognize the retention of sovereign powers by the States. This same idea of state sovereignty has been given voice in the parallel cases arising under the Eleventh Amendment: *Seminole Tribe of Florida* v. *Florida*, 517 U.S. 44 (1996); *Alden* v. *Maine*, 527 U.S. 706 (1999); *College Sav. Bank* v. *Florida Prepaid Postsecondary Educ. Expense Bd.*, 527 U.S. 666 (1999); *Florida Prepaid Postsecondary Educ. Expense Bd. v. College Sav. Bank*, 527 U.S. 627 (1999).

Yet for the Founders, the division of sovereign powers was not designed simply or even primarily to insulate the states from federal power. It was designed so that the states might serve as an independent check on the federal government, preventing it from expanding its powers against ordinary citizens. *Morrison,* 529 U.S., at 616 n.7; *United States* v. *Lopez*, 514 U.S. 549, 552, 582 (1995). And it was designed so that decisions affecting the day-to-day activities of ordinary citizens would continue to be made at a level of government close enough to the people so as to be truly subject to the people's control. *See Gregory* v. *Ashcroft*, 501 U.S. 452, 458 (1991). The Tenth and Eleventh amendments are

simply examples of what the Founders accomplished principally through the main body of the Constitution itself. Congress was delegated only specifically enumerated powers (and the necessary means of giving effect to those powers) over subjects of truly national concern; it was not given a general police power to control the ordinary, local activities of the citizenry.

Notwithstanding this renewed interest in returning the Constitution to its stated bounds, lower courts continue to assume that Congress exercises a police power so long as some object of its regulation has a theoretical effect on commerce – even intrastate commerce. No such power was granted in the Constitution to the federal government. This case presents an appropriate vehicle for this Court to enforce the limits in the Constitution on federal power.

## REASONS TO GRANT REVIEW

### I. The Division of Power Between State and Federal Government Is an Essential Part of the Constitutional Structure.

When the framers of our Constitution met in Philadelphia in 1787, it was widely acknowledged that a stronger national government than existed under the Articles of Confederation was necessary if the new government of the United States was going to survive. The Continental Congress could not honor its commitments under the Treaty of Paris; it could not meet its financial obligations; it could not counteract the crippling trade barriers that were being enacted by the several states against each other; and it could not even insure that its citizens, especially those living on the western frontier, were se-

cure in their lives and property. *See*, *e.g.*, Letter from Tench Coxe to the Virginia Commissioners at Annapolis (Sept. 13, 1786), *reprinted in* 3 The Founders' Constitution 473-74 (P. Kurland & R. Lerner eds., 1987) (noting that duties imposed by the states upon each other were "as great in many instances as those imposed on foreign Articles"); The Federalist No. 22, at 144-45 (Hamilton) (C. Rossiter, ed., 1961) (referring to "[t]he interfering and unneighborly regulations in some States," which were "serious sources of animosity and discord" between the States); *New York*, 505 U.S., at 158 ("The defect of power in the existing Confederacy to regulate the commerce between its several members [has] been clearly pointed out by experience") (quoting The Federalist No. 42, p. 267 (Madison) (C. Rossiter ed. 1961)).

But the framers were equally cognizant of the fact that the deficiencies of the Articles of Confederation existed by design, due to a genuine and almost universal fear of a strong, centralized government. *See*, *e.g.*, *Bartkus* v. *People of State of Illinois,* 359 U.S. 121, 137 (1959) ("the men who wrote the Constitution as well as the citizens of the member States of the Confederation were fearful of the power of centralized government and sought to limit its power"); *Garcia* v. *San Antonia Metropolitan Transportation Authority*, 469 U.S. 528, 568-69 (1985) (Powell, J., dissenting, joined by Chief Justice Burger and Justices Rehnquist and O'Connor). Our forebears had not successfully prosecuted the war against the King's tyranny merely to erect in its place another form of tyranny.

The central problem faced by the convention delegates, therefore, was to create a government strong enough to meet the threats to the safety and happiness of the people, yet not so strong as to itself become a threat to the people's liberty. *See* The Federalist No. 51, at 322 (Madison). The framers drew on the best political theorists of human history to craft a government that was most conducive to that end. The idea of separation of powers, for example, evident in the very structure of the Constitution, was drawn from Montesquieu, out of recognition that the "accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny." The Federalist No. 47, at 301 (Madison).

But the framers added their own contribution to the science of politics, as well. In what can only be described as a radical break with past practice, the Founders rejected the idea that the government was sovereign and indivisible. Instead, the Founders contended that the people themselves were the ultimate sovereign, *see*, *e.g.*, James Wilson, Speech at the Pennsylvania Ratifying Convention (Nov. 26, 1787), *reprinted in* 2 J. Wilson, The Works of James Wilson 770 (R. McCloskey ed., 1967), and could delegate all or part of their sovereign powers, to a single government or to multiple governments, as, in their view, was "most likely to effect their Safety and Happiness," Declaration of Independence, ¶ 2. The importance of the division of sovereign powers was highlighted by James Wilson in the Pennsylvania ratifying convention:

> I consider the people of the United States as forming one great community, and I consid-

> er the people of the different States as forming communities again on a lesser scale. From this great division of the people into distinct communities it will be found necessary that different proportions of legislative powers should be given to the governments, according to the nature, number and magnitude of their objects.
>
> Unless the people are considered in these two views, we shall never be able to understand the principle on which this system was constructed. I view the States as made *for* the people as well as *by* them, and not the people as made for the States. The people, therefore, have a right, whilst enjoying the undeniable powers of society, to form either a general government, or state governments, in what manner they please; or to accommodate them to one another, and by this means preserve them all. This, I say, is the inherent and unalienable right of the people.

James Wilson, Pennsylvania Ratifying Convention, (Dec. 4, 1787), *reprinted in* 1 The Founders' Constitution 62.

As a result, it became and remains one of the most fundamental tenets of our constitutional system of government that the sovereign people delegated to the national government only certain, enumerated powers, leaving the entire residuum of power to be exercised by the state governments or by the people themselves. *See*, *e.g.*, The Federalist No. 39, at 256 (Madison) (noting that the jurisdiction of the federal government "extends to certain enumerated

objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects"); The Federalist No. 45, at 292-93 (Madison) ("The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite"); *M'Culloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316, 421 (1819) (Marshall, C.J.) ("We admit, as all must admit, that the powers of the government are limited and that its limits are not to be transcended"); *Gregory*, 501 U.S. at 457 ("The Constitution created a Federal Government of limited powers").

This division of sovereign powers between the two great levels of government was not simply a constitutional add-on, by way of the Tenth Amendment. *See* U.S. Const. Amend. X ("The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"). Rather, it is inherent in the doctrine of enumerated powers embodied in the main body of the Constitution itself. *See* U.S. Const. Art. I, Sec. 1 ("All legislative Powers *herein granted* shall be vested in a Congress of the United States" (emphasis added)); U.S. Const. Art. I, Sec. 8 (enumerating powers so granted); *see also M'Culloch*, 17 U.S. (4 Wheat.), at 405 ("This government is acknowledged by all, to be one of enumerated powers. The principle, that it can exercise only the powers granted to it, . . . is now universally admitted"); *Lopez*, 514 U.S., at 552 ("We start with first principles. The Constitution creates a Federal Government of enumerated powers").

The constitutionally-mandated division of the people's sovereign powers between federal and state governments was not designed to protect state governments as an end in itself, but rather "was adopted by the Framers to ensure protection of our fundamental liberties." *Lopez*, 514 U.S., at 552 (quoting *Gregory*, 501 U.S., at 458); *see also Morrison*, 529 U.S., at 616 n.7 ("As we have repeatedly noted, the Framers crafted the federal system of government so that the people's rights would be secured by the division of power" (citing *Arizona* v. *Evans*, 514 U.S. 1, 30 (1995) (Ginsburg, J., dissenting); *Gregory*, 501 U.S., at 458-59; *Atascadero State Hospital* v. *Scanlin*, 473 U.S. 234, 242 (1985) (quoting *Garcia*, 469 U.S., at 572 (Powell, J., dissenting))); *Garcia*, 469 U.S., at 582 (O'Connor, J., dissenting) ("This division of authority, according to Madison, would produce efficient government and protect the rights of the people") (citing The Federalist No. 51, pp. 350-351 (Madison) (J. Cooke ed. 1961)).

"Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front." *Lopez*, 514 U.S., at 582 (quoting *Gregory*, 501 U.S., at 458); *Gregory*, 501 U.S., at 459 (quoting The Federalist No. 28, pp. 180-81 (Hamilton) (J. Cooke ed. 1961)); *id*. (quoting The Federalist No. 51, p. 323 (Madison) (J. Cooke ed. 1961)); *see also Garcia*, 469 U.S., at 581 (O'Connor, J., dissenting) ("[The Framers] envisioned a republic whose vitality was assured by the diffusion of power not only among the branches of the Federal Government, but also between the

Federal Government and the States" (citing *FERC* v. *Mississippi*, 456 U.S. 742, 790 (1982) (O'Connor, J., dissenting)); *id.,* at 571 (Powell, J., dissenting) ("The Framers believed that the separate sphere of sovereignty reserved to the States would ensure that the States would serve as an effective 'counterpoise' to the power of the Federal Government").

When Congress (or a federal agency, in supposed reliance on an act of Congress) acts beyond the scope of its enumerated powers, therefore, it does more than simply intrude upon the sovereign powers of the states; it acts without constitutional authority, that is, tyrannically, and places our liberties at risk. *See, e.g.,* The Federalist No. 33, at 204 (Hamilton) (noting that laws enacted by the Federal Government "which are *not pursuant* to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies . . . will be merely acts of usurpation, and will deserve to be treated as such").

Foremost among the powers not delegated to the federal government was the power to regulate the health, safety, and morals of the people—the so-called police power. *See, e.g.,* The Federalist No. 45, at 292-93 (Madison) ("The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State"); *Gibbons* v. *Ogden*, 22 U.S. (9 Wheat.) 1, 203 (1824) ("No direct general power over these objects is granted to Congress; and, consequently, they remain subject to State legislation"); *United States* v. *E. C. Knight Co.*, 156 U.S. 1, 11 (1895) ("It cannot be de-

nied that the power of a state to protect the lives, health, and property of its citizens, and to preserve good order and the public morals, 'the power to govern men and things within the limits of its dominion,' is a power originally and always belong to the states, not surrendered by them to the general government").

Congress does retain some measure of discretion to choose the means necessary for giving effect to its enumerated powers, of course but it cannot use its discretionary power over means in furtherance of ends not granted to it. As Chief Justice Marshall noted in *M'Culloch* v. *Maryland*: "[S]hould congress, under the pretext of executing its powers, pass laws for the accomplishment of objects not intrusted to the [national] government; it would become the painful duty of this tribunal . . . to say, that such an act was not the law of the land." 17 U.S. (4 Wheat.), at 423; *see also Carter* v. *Carter Coal Co.*, 298 U.S. 238, 317 (1936) (Hughes, C.J., separate opinion) ("Congress may not use this protective [commerce] authority as a pretext for the exertion of power to regulate activities and relations within the states which affect interstate commerce only indirectly").

## II. This Court's Decisions Have, on Occasion, Recognized the Limits of the Commerce Power

As originally conceived, Congress's power under the Commerce Clause was limited to the regulation of interstate trade. *See*, *e.g.*, *Corfield* v. *Coryell*, 6 F. Cas. 546, 550 (C.C.E.D.Pa. 1823) (Washington, J., on circuit) ("Commerce with foreign nations, and among the several states, can mean nothing more than intercourse with those nations, and among those

states, for purposes of trade, be the object of the trade what it may"); *Lopez*, 514 U.S., at 585 (Thomas, J., concurring) ("At the time the original Constitution was ratified, "commerce" consisted of selling, buying, and bartering, as well as transporting for these purposes"). Indeed, in the first major case arising under the clause to reach this Court, it was contested whether the Commerce Clause even extended so far as to include "navigation." Chief Justice Marshall, for the Court, held that it did, but even under his definition, "commerce" was limited to "intercourse between nations, and parts of nations, in all its branches." *Gibbons*, 22 U.S. (9 Wheat.), at 190; *see also Corfield,* 6 F. CAS., at 550 ("Commerce . . . among the several states . . . must include all the means by which it can be carried on, [including] . . . passage over land through the states, where such passage becomes necessary to the commercial intercourse between the states").

The *Gibbons* Court specifically rejected the notion "that [commerce among the states] comprehend[s] that commerce, which is completely internal, which is carried on between man and man in a State, or between different parts of the same State, and which does not extend to or affect other States." *Gibbons*, 22 U.S., at 194 (quoted in *Morrison*, 529 U.S., at 616 n.7). In other words, for Chief Justice Marshall and his colleagues, the Commerce Clause did not even extend to trade carried on between different parts of a state. The notion that the power to regulate commerce among the states included the power to regulate wholly intrastate transactions, therefore, would have been completely foreign to them. And *a fortiori*, any claim that the Commerce

Clause encompassed a power to preempt state regulation of purely intrastate transactions.

This originally narrow understanding of the Commerce Clause continued for nearly a century and a half. Manufacturing was not included in the definition of commerce, held the Court in *E.C. Knight*, 156 U.S., at 12, because "Commerce succeeds to manufacture, and is not a part of it." "The fact that an article is manufactured for export to another State does not of itself make it an article of interstate commerce . . . ." *Id.*, at 13; *see also Kidd* v. *Pearson*, 128 U.S. 1, 20 (1888) (upholding a state ban on the manufacture of liquor, even though much of the liquor so banned was destined for interstate commerce). Neither were retail sales included in the definition of "commerce." *See The License Cases*, 46 U.S. (5 How.) 504 (1847) (upholding state ban on retail sales of liquor, as not subject to Congress's power to regulate interstate commerce); *see also A.L.A. Schecter Poultry Corp.* v. *United States*, 295 U.S. 495, 542, 547 (1935) (invalidating federal law regulating in-state retail sales of poultry that originated out-of-state and fixing the hours and wages of the intrastate employees because the activity related only indirectly to commerce).

For the Founders and for the Courts which decided these cases, regulation of such activities as retail sales, manufacturing, and agriculture (as well as local land use), was part of the police powers reserved to the States, not part of the power over commerce delegated to Congress. *See*, *e.g.*, *E.C. Knight*, 156 U.S., at 12 ("That which belongs to commerce is within the jurisdiction of the United States, but that which does not belong to commerce is within the ju-

risdiction of the police power of the State") (citing *Gibbons,* 22 U.S. (9 Wheat.), at 210; *Brown* v. *Maryland*, 25 U.S. (12 Wheat.) 419, 448 (1827); *The License Cases*, 46 U.S. (5 How.), at 599; *Mobile Co.* v. *Kimball*, 102 U.S. 691 (1880); *Bowman* v. *Railway Co.*, 125 U.S. 465 (1888); *Leisy* v. *Hardin*, 135 U.S. 100 (1890); *In re Rahrer*, 140 U.S. 545, 555 (1891)); *Baldwin* v. *Fish and Game Comm'n of Mont.*, 436 U.S. 371 (1978). And, as the Court noted in *E.C. Knight*, it was essential to the preservation of the states and therefore to liberty that the line between the two powers be retained:

> It is vital that the independence of the commercial power and of the police power, and the delimitation between them, however sometimes perplexing, should always be recognized and observed, for, while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the States as required by our dual form of government. . . .

156 U.S., at 13; *see also Carter Coal*, 298 U.S., at 301 (quoting *E.C. Knight*); *Garcia*, 469 U.S., at 572 (Powell, J., dissenting, joined by Chief Justice Burger and Justices Rehnquist and O'Connor) ("federal overreaching under the Commerce Clause undermines the constitutionally mandated balance of power between the States and the Federal Government, a balance designed to protect our fundamental liberties").

While these decisions have since been criticized as unduly formalistic, the "formalism"—if it can be called that at all—is mandated by the text of the Constitution itself. *See, e.g., Lopez*, 514 U.S., at 553

("limitations on the commerce power are inherent in the very language of the Commerce Clause") (citing *Gibbons*); *id.,* at 586 (Thomas, J., concurring) ("the term 'commerce' was used in contradistinction to productive activities such as manufacturing and agriculture"). And it is a formalism that was recognized by Chief Justice Marshall himself, even in the face of a police power regulation that had a "considerable influence" on commerce:

> The object of [state] inspection laws, is to improve the quality of articles produced by the labour of a country; to fit them for exportation; or, it may be, for domestic use. They act upon the subject before it becomes an article of foreign commerce, or of commerce among the States, and prepare it for that purpose. They form a portion of that immense mass of legislation [reserved to the States]. . . . No direct general power over these objects is granted to Congress; and, consequently, they remain subject to State legislation.

*Gibbons*, 22 U.S., at 203; see also *id*., at 194-95 ("Comprehensive as the word 'among' is, it may very properly be restricted to that commerce which concerns more States than one. . . . The enumeration presupposes something not enumerated; and that something, if we regard the language or the subject of the sentence, must be the exclusively internal commerce of a State"). As this Court noted in *Lopez*, the "justification for this formal distinction was rooted in the fear that otherwise 'there would be virtually no limit to the federal power and for all practical purposes we would have a completely centralized

government." 514 U.S., at 555 (quoting *Schechter Poultry*, 295 U.S., at 548).

## III. Review Is Necessary in this Case to Clarify the Limits on Congressional Power

This case demonstrates the need for the Court to turn to this issue once again. At issue is a state law for manufacture of an item for sale, possession, and use only within the state. Yet the court below found the state law preempted based on a federal enactment that had nothing to do with regulating commerce. The federal law prevailed although its purpose is "crime control" – something "not an essential part of a larger regulation of economic activity." *Lopez*, 514 U.S., at 561.

The source of the confusion is the Court's decision in *Wickard v. Filburn*, 317 U.S. 111 (1942). The lower courts tend to treat *Wickard* as granting Congress a police power to enact any type of regulation it desires so long as some object of the regulation has a theoretical effect on commerce. Ignored in this analysis is the fact that the regulation at issue in *Wickard* was at least an attempt to create or preserve a national market[2] and thus at least had *something* to do with commerce between the states. *Id.*, at 128; *see Lopez*, 514 U.S., at 560. In *Lopez*, the Court candidly admitted that "*Wickard* ushered in an era of Commerce Clause jurisprudence that greatly expanded the previously defined authority of Congress." *Lopez*, 514 U.S., at 556. This recognition that the Court had expanded Congress' power has

---

[2] Similarly, the regulation in *Gonzalez v. Raich*, 545 U.S. 1, 17 (2005) was an attempt to suppress a national market in illicit drugs.

led members of this Court to criticize the decision in *Wickard*. Justice Thomas has noted that *Wickard*'s "substantial effects" test is "rootless" and "malleable." *Raich*, 545 U.S., at 67-68 (Thomas, J., dissenting). The "substantial effects" test of *Wickard*, according to Justice Thomas allows Congress to appropriate "state police powers under the guise of regulating commerce." *Morrison*, 529 U.S., at 627 (Thomas, J., concurring).

Justice Thomas is not alone in his criticism of *Wickard*. All members of this Court signed on to opinions openly expressing discomfort with the changes that *Wickard* introduced into the federalist structure of the Constitution. *See NFIB v. Sebelius*, 132 S.Ct. 2566, 2588 (majority opinion describing *Wickard* as the "most far reaching" of its Commerce Clause decisions), 2643 (dissenting opinion of Justices Scalia, Kennedy, Thomas, and Alito describing *Wickard* as the "*ne plus ultra* of expansive Commerce Clause jurisprudence.") (2012).

Although Commerce Clause decisions following *Wickard* have recited the mantra that the powers of the federal government are few and defined, in truth, *Wickard* has been interpreted so broadly that the Commerce Clause is now viewed as an almost limitless source of federal police power. Moreover, in its application, the Court gives almost almost complete deference to Congress out of "proper respect for a coordinate branch of government." *Id*., at 2579. The States, though, are apparently entitled to no such deference even when the issue is one of whether Congress has encroached on state powers.

An analytical approach that ignores the purpose of the commerce power and defers to Congress neces-

sarily leads to destruction of the careful balance of power outlined in the Constitution. It is time for this Court to reinvigorate the Constitution's limits on Congress' powers. This approach recognizes "proper respect" for Congress, but also requires due respect for the States. This case is an appropriate vehicle for the Court to use for this purpose.

## CONCLUSION

No issue is more important to the structure of our Constitution than the extent of federal power and the ability of Congress to displace state authority over purely intrastate activities. Review is necessary to clarify the scope of federal power so that it is not permitted to become a de facto police power, completely usurping state power.

DATED: December, 2013.

Respectfully submitted,

JOHN EASTMAN
ANTHONY T. CASO
*Counsel of Record*
Center for Constitutional Jurisprudence
c/o Dale E. Fowler School of Law at Chapman Univ.
One University Drive
Orange, CA 92866
Telephone: (714) 628-2666
E-Mail: caso@chapman.edu

*Counsel for Amicus Curiae*
*Center for Constitutional Jurisprudence*