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IN THE SUPREME COURT
STATE OF ARIZONA

In the Matter of: PETITION TO REPEAL RULE 25(g), ARIZONA RULES OF PROTECTIVE ORDER PROCEDURE	Supreme Court No. R-17-0026 **Petitioner's Reply to the CIDVC regarding Rule 25(g), Arizona Rules of Protective Order Procedure**

As I predicted in my petition, the CIDVC opposes my petition to repeal its baby, its Rule 25(g). (Interestingly, the Liberal governors of the State Bar did not comment this time.) I reply.

THE HEART OF THE PROBLEM

When I first petitioned the Court to repeal this Rule (in 2009), I thought that this would be a simple matter. It was obvious that the Justices had made an innocent mistake (more specifically, an oversight) the year before (2008) when this Rule sneaked into the ARPOP. (When the Justices first adopted the ARPOP as a whole.)

So I thought that once the Justices were altered to their mistake – and the numerous constitutional violations arising from it – they would immediately correct their error.

Wow was I wrong.

After watching others subsequently petition (and fail) to repeal this Rule, I now realize that this is not about law. Rather, it's about politics. (As President Trump has also learned, after seeing the lawless rulings judges made against his lawful travel ban.) As I noted in my petition, "This made-up Rule [25(g)] suspending the Second Amendment has always been a political battle between the Liberals in the court and Conservatives outside." (In fact, as shown in previous petitions/comments, the CIDVC – and by extension, previous Justices – have demonstrated more fidelity to the Anti-Gun Brady Campaign than to our federal and state constitutions.[1])

Given that this is a political battle over the Second Amendment and not a legal battle, it seems pointless for me to continue to argue on legal grounds.

It's particularly frustrating because there's nothing more to argue. In its comment in opposition, the CIDVC did not rebut any legal arguments I made in my petition. (Which I take as a tacit admission that the CIDVC is wrong. (So hasn't the CIDVC waived its opposition by not making a cogent defense?)) Instead, like Liberals in the Press, the CIDVC simply promulgates Fake News, reporting that in A.R.S. § 12-1809(F)(3), "**the Legislature did not limit the type of relief a judicial officer can grant to protect the plaintiff and other persons shielded by the injunction."**

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[1] Shown by the CIDVC taking its cue from a Brady Campaign pamphlet for its Rule prohibiting firearms in Civil Injunctions.

I proved in my petition that this is a false report.

But even if the Court of Appeals had not said that the Legislature had limited itself (*LaFaro*), and even if the Legislature's prohibition of firearms in criminal DV matter didn't limit itself in civil injunctions (*American Helicopters*), the Legislature is still limited by our pesky Constitution.

For example, federal Judge Snow recently ruled that revised parts of § 12-1809 were unconstitutional because they violated the First Amendment. *(United Food & Commercial Wrks. Loc. 99 v. Bennett*, 934 F. Supp. 2d 1167 - Dist. Court, D. Arizona 2013.) This proves that, contrary to Judge Million's matter-of-fact report, the Legislature IS limited in the type of relief a judicial officer can grant in civil injunctions. The Legislature cannot suspend (or cause a judicial officer to suspend) a constitutional right in civil injunctions. And, as Justice Thomas noted, the Second Amendment is still a constitutional right.

At this point, as in the movie *The Shawshank Redemption*, I feel like asking someone in the Court how they can be so obtuse. But I already know the answer. This is willful.

Still, encouraged by Justice Bolick's recent Opinion in *Stave v. Primous*, I appeal to him directly, in the hope that he – and the other two new Conservative Justices – can convince at least one heretofore Liberal colleague to uphold the Constitution and repeal this unconstitutional Rule.

JUSTICE BOLICK SAID IT BEST

State v. Primous was decided by this Court during the pendency of this

Petition. In *Primous*, Judge Bolick wrote that "the Fourth Amendment prohibits **any search** of an individual unless the police have a reasonable belief that **crime is afoot** ..."

If the Fourth Amendment prohibits searches (and, by extension, seizures) by law enforcement officers when no crime is afoot, then the Fourth Amendment also prohibits seizures by judicial officers when no crime is afoot. (Both officers are agents of the State. And the Founders meant for the Constitution to protect us from governmental overreach, no matter what kind of officer is overreaching.)

There is no crime afoot in a civil Injunction against Harassment. (If there were, then it would be criminal Harassment, per A.R.S. § 13- 2921.) Therefore, seizing a firearm from a citizen via a civil action, where, by definition, no crime is afoot, is an unreasonable governmental seizure.

In *Primous*, Judge Bolick cited "'... the "inestimable right" of citizens to be free from unreasonable governmental searches and seizures.'"

I merely ask the Justices to forget the politics, correct their oversight, uphold the Constitution and free us from the CIDVC's unreasonable Rule 25(g).

SUBMITTED this 29th day of June 2017.

By /s/ Mike Palmer