

**In The  
Supreme Court of the United States**

—◆—  
NANCY WHITE VENCIL,

*Petitioner,*

v.

PENNSYLVANIA STATE POLICE, et al.,

*Respondents.*

—◆—  
**On Petition For Writ Of Certiorari  
To The Pennsylvania Supreme Court,  
Middle District**

—◆—  
**MOTION FOR LEAVE TO FILE AND  
BRIEF OF *AMICI CURIAE* AUTISTIC SELF  
ADVOCACY NETWORK AND PENNSYLVANIA  
FEDERATION OF SPORTSMEN'S CLUBS  
IN SUPPORT OF PETITIONER**

—◆—  
JONATHAN S. GOLDSTEIN  
SHAWN M. RODGERS  
MCNELLY & GOLDSTEIN, LLC  
11 Church Road  
Hatfield, PA 19440  
(610) 727-4191

JOHN PARKER SWEENEY  
*Counsel of Record*  
JAMES WALLACE PORTER, III  
T. SKY WOODWARD  
AMANDA D. WARRINER  
BRADLEY ARANT BOULT  
CUMMINGS LLP  
1615 L Street, NW,  
Suite 1350  
Washington, DC 20036  
(202) 393-7150  
jsweeney@bradley.com  
*Counsel for Amici Curiae*

**MOTION FOR LEAVE TO FILE  
BRIEF AS *AMICI CURIAE***

Pursuant to Supreme Court Rule 37.2(b), Autistic Self Advocacy Network (“ASAN”) and Pennsylvania Federation of Sportsmen’s Clubs (“PFSC”) (collectively, “*Amici Curiae*”) respectfully move for leave to file the attached brief as *Amici Curiae* in support of Petitioner Nancy White Vencil and supporting the grant of certiorari.

The *Amici Curiae* provided notice to counsel of all parties of their intent to file an *Amici Curiae* brief in accordance with Supreme Court Rule 37.2(a). Counsel for Petitioner granted consent. Counsel for Respondent Pennsylvania State Police and Counsel for Respondent Holy Spirit Hospital of the Sisters of Christian Charity did not consent, necessitating this motion.

**IDENTITY AND INTEREST OF *AMICI CURIAE***

ASAN was established in 2006 to advance the principles of the disability rights movement with regard to autism. ASAN supports the right of autistic people to enjoy equal access, rights, and opportunities, and empowers autistic individuals to take control of their own lives. ASAN provides a voice for autistic people to be heard in policy debates, and improves public perceptions of autism through education and advocacy. ASAN seeks to promote understanding and cooperation among the various groups that share concerns about how autistics and all people with disabilities are

treated in our society, working toward the goal of human rights for all people regardless of neurology or disability.

ASAN is familiar with legal action involving the due process rights of individuals due to its advocacy of policy positions important to autistic people and others with disabilities. ASAN challenges harmful and inaccurate representations of autism and disability to ensure a justice system in which all people are fully included and accepted. ASAN and the individuals it represents are adversely impacted by the collateral consequences resulting from a temporary involuntary commitment under Pennsylvania law.

The PFSC was established in 1932 through a small meeting of Pennsylvania conservationists. The organization was built out of a concern for the environment and how sportsmen in particular could benefit conservation efforts in the Commonwealth of Pennsylvania. Following World War II, the sportsmen's role in conservation efforts was redoubled as many soldiers returned home to find hunting and fishing areas devastated by heavy strip mining. Since then, PFSC has grown to represent more than 70,000 concerned sportsmen. The PFSC strives to preserve, promote, and protect the outdoor heritage of hunting through education, community involvement, and legal action.

The PFSC is familiar with legal action involving the Second Amendment due to its previous role in working to repeal the Philadelphia Firearms Act and

advancing the interests of the responsible conservationists and sportsmen PFSC represents. PFSC and its members are adversely impacted by the collateral consequences, including permanent loss of their right to keep and bear arms guaranteed by Article I, Section 21 of the Pennsylvania Constitution and by the Second Amendment to the United States Constitution, resulting from a temporary involuntary commitment under Pennsylvania law.

This *Amici Curiae* brief brings to the Court's attention collateral consequences of the Pennsylvania Supreme Court decision that are not otherwise presented in the Petition. In their brief, *Amici Curiae* will urge this Court to grant certiorari to ensure adequate due process protections are in place to expunge records of individuals subjected to a Section 302 Commitment upon insufficient evidence under Pennsylvania law. The brief will show that the Petition should be granted because significant adverse collateral consequences befall an individual with a record of a Section 302 Commitment, including the permanent loss of Second Amendment rights. Fundamental precepts of due process require that individuals should have a full and fair opportunity to expunge their records where the evidence supporting their commitment was insufficient under Pennsylvania law.

For the foregoing reasons, *Amici Curiae* respectfully move for leave to file their *Amici Curiae* brief.

Respectfully submitted,

JONATHAN S. GOLDSTEIN  
SHAWN M. RODGERS  
MCNELLY & GOLDSTEIN, LLC  
11 Church Road  
Hatfield, PA 19440  
(610) 727-4191

JOHN PARKER SWEENEY  
*Counsel of Record*  
JAMES WALLACE PORTER, III  
T. SKY WOODWARD  
AMANDA D. WARRINER  
BRADLEY ARANT BOULT  
CUMMINGS LLP  
1615 L Street, NW,  
Suite 1350  
Washington, DC 20036  
(202) 393-7150  
jsweeney@bradley.com  
*Counsel for Amici Curiae*

## **QUESTIONS PRESENTED**

1. WHETHER A STATE, IN DEPRIVING AN ALLEGED MENTALLY ILL INDIVIDUAL OF HIS/HER FUNDAMENTAL RIGHT TO LIBERTY THROUGH A PROCESS OF INVOLUNTARY CIVIL COMMITMENT, MAY PERMISSIBLY, PURSUANT TO THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT, APPLY A STANDARD OF PROOF LESS STRINGENT THAN “CLEAR AND CONVINCING”?
2. WHETHER A STATE, IN ADHERING TO TRADITIONAL NOTIONS OF PROCEDURAL DUE PROCESS, MAY DEPRIVE AN INDIVIDUAL OF A HEARING WHEN THAT INDIVIDUAL ASSERTS THEY WERE SUBJECT TO A WRONGFUL, ALBEIT TEMPORARY INVOLUNTARY CIVIL COMMITMENT?

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IN SUPPORT OF PETITIONER**

Pursuant to Supreme Court Rule 37.2, ASAN and PFSC respectfully submit this *Amici Curiae* brief in support of Petitioner Nancy White Vencil and supporting the grant of certiorari.<sup>1</sup>



**IDENTITY AND INTEREST OF *AMICI CURIAE***

ASAN was established in 2006 to advance the principles of the disability rights movement with regard to autism. ASAN supports the right of autistic people to enjoy equal access, rights, and opportunities, and empowers autistic individuals to take control of their own lives. ASAN provides a voice for autistic people to be heard in policy debates, and improves public perceptions of autism through education and advocacy.

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<sup>1</sup> Pursuant to Supreme Court Rule 37.2(a), notice of ASAN's and PFSC's intent to file this *Amici Curiae* brief was received by counsel of record for all parties at least 10 days prior to the due date of this brief. Counsel for Petitioner granted consent. A copy of the Petitioner's written consent has been filed with the Clerk of this Court. Counsel for Respondent Pennsylvania State Police and Respondent Holy Spirit Hospital of the Sisters of Christian Charity did not consent. Pursuant to Supreme Court Rule 37.6, the undersigned affirms that no counsel for a party authored this brief in whole or in part, and no person other than ASAN, PFSC, and the National Rifle Association of America, Inc., their members, or their counsel made a monetary contribution intended to fund the preparation or submission of this brief.

ASAN seeks to promote understanding and cooperation among the various groups that share concerns about how autistics and all people with disabilities are treated in our society, working toward the goal of human rights for all people regardless of neurology or disability.

ASAN is familiar with legal action involving the due process rights of individuals due to its advocacy of policy positions important to autistic people and others with disabilities. ASAN challenges harmful and inaccurate representations of autism and disability to ensure a justice system in which all people are fully included and accepted. ASAN and the individuals it represents are adversely impacted by the collateral consequences resulting from a temporary involuntary commitment under Pennsylvania law.

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The PFSC is familiar with legal action involving the Second Amendment due to its previous role in working to repeal the Philadelphia Firearms Act and advancing the interests of the responsible conservationists and sportsmen PFSC represents. PFSC and its members are adversely impacted by the collateral consequences, including permanent loss of their right to keep and bear arms guaranteed by Article 1, Section 21 of the Pennsylvania Constitution and by the Second Amendment to the United States Constitution, resulting from a temporary involuntary commitment under Pennsylvania law.



### **SUMMARY OF THE ARGUMENT**

This Court should grant the Petition for Certiorari because an involuntary commitment under 50 P.S. § 7302 (“Section 302 Commitment”)<sup>2</sup> causes significant

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<sup>2</sup> 50 P.S. § 7302 provides, in pertinent part, that an “emergency examination may be undertaken at a treatment facility upon the certification of a physician stating the need for such examination; or upon a warrant issued by the county administrator authorizing such examination; or without a warrant upon application by a physician or other authorized person who has personally observed conduct showing the need for such examination. . . . A person taken to a facility shall be examined by a physician within two hours of arrival in order to determine if the person is severely mentally disabled. . . . If it is determined that the person is severely mentally disabled and in need of emergency treatment, treatment shall be begun immediately. . . . The physician shall make a record of the examination and his findings. . . . Upon arrival at the facility, the person shall be informed of the reasons for

injury to an individual's liberty and property interests, separate and apart from a temporary loss of physical freedom for up to 120 hours. This injury may involve many collateral consequences, including the permanent loss of the right to keep and bear arms guaranteed by the Second Amendment. If an individual is committed improperly under Section 302, the only remedy may be expungement of the record under 18 Pa. C.S. § 6111.1(g),<sup>3</sup> which can only be granted if there was insufficient evidence to support the Section 302 Commitment.

Historically, the Pennsylvania lower courts required a hearing *de novo* and a clear and convincing evidentiary standard for expungement of a Section 302 Commitment,<sup>4</sup> but the Pennsylvania Supreme Court reversed those rulings.<sup>5</sup> In so doing, the court failed to consider the collateral consequences to other liberty and property interests implicated by a commitment.

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emergency examination and of his right to communicate immediately with others. He shall be given reasonable use of the telephone.”

<sup>3</sup> 18 Pa. C.S. § 6111.1(g)(2) provides, in pertinent part, that “a person who is involuntarily committed pursuant to section 302 of the Mental Health Procedures Act may petition the court to review the sufficiency of the evidence upon which the commitment was based. If the court determines that the evidence upon which the involuntary commitment was based was insufficient, the court shall order that the record of the commitment submitted to the Pennsylvania State Police be expunged.”

<sup>4</sup> See *In Re Vencil v. Pennsylvania State Police*, Petition for Writ of Certiorari, Appendix B & C, United States Supreme Court Case No. 16-1253 (“Petition”).

<sup>5</sup> See *id.*, Appendix A.

The Pennsylvania Supreme Court erroneously concluded that the only liberty interest affected by a Section 302 Commitment was the temporary loss of physical liberty, and effectively removed due process protections necessary to protect against the collateral consequences incurred by a Section 302 Commitment.<sup>6</sup> That court's holding, if left in place, will deprive individuals who have been subjected improperly to a Section 302 Commitment of any meaningful due process protections against many significant collateral consequences of that brief commitment.<sup>7</sup>

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## ARGUMENT

### **I. A Section 302 Commitment has profound due process implications.**

#### **A. An individual suffers many collateral consequences due to a Section 302 Commitment.**

The many severe and lasting consequences of a Section 302 Commitment include (but are by no means limited to) social stigma, reputational harm, diminished employment, permanent deprivation of certain civil rights,<sup>8</sup> and loss of associational opportunities. If

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<sup>6</sup> *See id.*, Appendix A at pp. 38-39, 41.

<sup>7</sup> *See* Petition at p. 21.

<sup>8</sup> For example, a Section 302 Commitment permanently prohibits the exercise of Second Amendment rights, as demonstrated in Section II of this brief.

Petitioner and other individuals cannot obtain expungement of an improper Section 302 Commitment, they are faced with disclosing that involuntary commitment for most educational, employment, and associational opportunities for the remainder of their lives, subjecting them to a lifetime of discrimination, if not outright disqualification.

The Pennsylvania Constitution recognizes an individual right to reputation and the right to a remedy if it is injured.<sup>9</sup> Pa. Const. Art. I, §§ 1, 11. In light of the stigma associated with psychiatric disabilities, and the fact that many job opportunities remain closed to individuals who have experienced a Section 302 Commitment, maintaining records of an individual's Section 302 Commitment may cause reputational harm. But the Pennsylvania Supreme Court has allowed redress of such reputational injuries from a mental health commitment (through the destruction of mental health records) only after a commitment has been found to be

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<sup>9</sup> Although this Court has determined that a harm or injury to reputation alone does not indicate a deprivation of liberty or property interests under federal due process laws in the absence of a state law granting the right (*see, e.g., Paul v. Davis*, 424 U.S. 693 (1976)), the Pennsylvania Supreme Court has held that the federal "stigma-plus" line of cases fails to speak to the Pennsylvania Constitution's inclusion of reputation as an inherent right under Article I, Sections 1 and 11. "This Court has recognized that the right to reputation, although absent from the federal constitution, is a fundamental right under the Pennsylvania Constitution." *In Re J.B.*, 107 A.3d 1, 16 (Pa. 2014). Accordingly, a Pennsylvania citizen has a vested right of reputation, and its harm in the absence of sufficient procedural protection is a manifest violation of due process.

unlawful. *Wolfe v. Beal*, 384 A.2d 1187 (Pa. 1978). An individual cannot obtain relief from permanent collateral consequences without a full and adequate Section 302 Commitment expungement proceeding, which would allow her the opportunity to demonstrate the commitment was unlawful. Pennsylvania law provides no other avenue of relief.

A Section 302 Commitment bars an individual from obtaining credentials necessary for certain employment opportunities. An example is the Transportation Worker Identification Credential (“TWIC”), which is required by the Maritime Transportation Security Act for workers who must access secure areas of the nation’s maritime facilities and vessels. 46 U.S.C. § 70105. Individuals seeking to become credentialed merchant mariners, port facility employees, longshore workers, or truck drivers requiring access to secure maritime vessels and facilities are required to obtain this credential. To apply for a TWIC, however, an applicant must certify that he “has not been adjudicated as lacking mental capacity, or committed to a mental health facility involuntarily, or is applying for waiver.” 49 C.F.R. § 1572.17(b)(5). Pennsylvania reports Section 302 Commitments to federal authorities and other states under 49 C.F.R. § 1572.17(b)(5) and similar statutes. As a result, individuals who cannot expunge an improper Section 302 Commitment may be faced with this and similar bars to their desired employment.

A Section 302 Commitment has the potential to haunt an individual and stymie opportunities to become a pilot, a medical professional, or even simply a

respected member of the community at large. Despite this, a Section 302 Commitment can be issued with as little as a brief evaluation of an individual by a physician – any physician – with minimal explanation or reasoning to support the commitment. None of the additional due process protections that attach in other deprivation of rights contexts are observed in a Section 302 Commitment.

Now the Pennsylvania Supreme Court has held that an individual does not have the right to present evidence after a Section 302 Commitment that may impeach the certifying physician's initial limited evaluation, which must be upheld if supported by a preponderance of the evidence before the physician at the time. This allows an improper Section 302 Commitment to persist as a permanent black mark upon an individual's social standing and reputation, significantly impacting educational, employment, and other associational opportunities. By unfairly constraining the only available post-deprivation remedy for an improper commitment, the Pennsylvania Supreme Court has denied Petitioner due process of law.

**B. There is no meaningful pre-commitment process nor adequate post-commitment relief for collateral consequences caused by a Section 302 Commitment.**

As demonstrated by Petitioner's case, an individual is not provided even the most basic due process protections in advance of an involuntary temporary

commitment under Section 302. Petitioner received no pre-deprivation notice of the potential consequences of the Section 302 Commitment; she received no right to review by a neutral arbiter; she received no opportunity to make an oral presentation; she was provided no means of presenting evidence; she received no opportunity to cross-examine witnesses and respond to evidence; she received no right to counsel; she received no decision based upon a written record; and, perhaps most importantly, she received no pre-commitment review by a judicial officer. *See* Petition at pp. 27-33.

Even if the Commonwealth can satisfy this Court that exigent circumstances surrounding a Section 302 Commitment require denial of due process protections in advance of that commitment, the Commonwealth cannot justify the lack of adequate post-commitment relief. Petitioner's case demonstrates that the post-deprivation remedies available are inadequate to meet the constitutionally required minimums when severe and permanent collateral consequences attach as a result of the commitment. The Pennsylvania Supreme Court's holding constrains the statutory expungement process to provide only a scant review of a Section 302 Commitment, with complete deference to the original fact-finding physician's certification, under a preponderance of the evidence standard, and without the benefit of additional evidence. *See* Petition at p. 46. An individual seeking expungement of a Section 302 Commitment is left with only a dramatically one-sided and incomplete record upon which to dispute that the Commonwealth met its burden for a proper commitment.

Should the holding of the Pennsylvania Supreme Court be allowed to stand, individuals like Petitioner will not be afforded an adequate post-deprivation remedy for an improper commitment.

**II. A Section 302 Commitment permanently deprives an individual from exercising the fundamental and individual right to keep and bear arms guaranteed by the Second Amendment.**

**A. The Second Amendment enshrined a fundamental individual right to keep and bear arms.**

In *District of Columbia v. Heller*, 554 U.S. 570 (2008), this Court confirmed that there was “no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms.” *Heller*, 554 U.S. at 595. The Second Amendment is incorporated through the substantive Due Process Clause of the Fourteenth Amendment and restricts state as well as federal government action. *McDonald v. City of Chicago*, 561 U.S. 742, 791 (2010). This Court has further declared that the rights protected by the Second Amendment are among those fundamental rights necessary to our system of ordered liberty. *See McDonald*, 561 U.S. at 778. The ability to keep and bear arms is a hallmark of uniquely American liberties.

The Pennsylvania Supreme Court cannot allow an individual liberty interest as important as the Second

Amendment right to be cast aside without due process protections and expect to comport with this Court's holdings in *Heller* and *McDonald*. This would be like holding that an individual who has been subjected to a Section 302 Commitment cannot exercise free speech, or cannot be protected against unreasonable search and seizure. This Court specifically rejected the invitation "to treat the right recognized in *Heller* as a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees. . . ." *McDonald*, 561 U.S. at 780.

As it stands, the decision by the Pennsylvania Supreme Court significantly constrains Petitioner's procedural rights at an expungement hearing under 18 Pa. C.S. § 6111.1(g) and will effectuate a permanent unconstitutional deprivation of her Second Amendment rights.

**B. A Section 302 Commitment deprives an individual of Second Amendment rights.**

A Section 302 Commitment immediately and permanently disqualifies an individual from keeping and bearing arms under Pennsylvania law in accordance with 18 Pa. C.S. § 6105(c)(4),<sup>10</sup> as well as under federal

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<sup>10</sup> 18 Pa. C.S. § 6105(a) and (c) provide, in pertinent part, that an individual "who has been convicted of an offense . . . within or without this Commonwealth, regardless of the length of sentence . . . shall not possess, use, control, sell, transfer or manufacture or obtain a license to possess, use, control, sell, transfer or manufacture a firearm in this Commonwealth," including, "a person who

law, 18 U.S.C. § 922(g)(4).<sup>11,12</sup> The Pennsylvania Supreme Court's determination that the only liberty interest affected by Petitioner's Section 302 Commitment was the temporary suspension of her physical freedom is plainly wrong in the face of this Court's holdings in both *Heller* and *McDonald*.

Moreover, the Pennsylvania Supreme Court failed to consider that a Section 302 Commitment has the same drastic impact on Second Amendment rights as does an involuntary commitment for a much longer period, or even a felony conviction. And that, unlike a Section 302 Commitment, these other disqualifying events provide an individual significantly more due process protections before and after deprivation.

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has been adjudicated as an incompetent or who has been involuntarily committed to a mental institution for inpatient care and treatment under section 302. . . .”

<sup>11</sup> 18 U.S.C. § 922(g)(4) provides, in pertinent part, that “it shall be unlawful for any person who has been adjudicated as a mental defective or who has been committed to a mental institution . . . to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.”

<sup>12</sup> Pennsylvania interprets a Section 302 Commitment to meet the criteria of 18 U.S.C. § 922(g)(4) and transmits the names of individuals who have been subject to that commitment to the National Instant Criminal Background Check System, which operates to prohibit individuals from possessing a firearm under federal law.

For example, involuntary commitments under 50 P.S. § 7303 (“Section 303 Commitment”)<sup>13</sup> and 50 P.S. § 7304 (“Section 304 Commitment”)<sup>14</sup> for periods of up

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<sup>13</sup> 50 P.S. § 7303 provides, in pertinent part, that an “application for extended involuntary emergency treatment may be made for any person who is being treated pursuant to section 302 whenever the facility determines that the need for emergency treatment is likely to extend beyond 120 hours. . . . Upon receiving such application, the court of common pleas shall appoint an attorney who shall represent the person unless it shall appear that the person can afford, and desires to have, private representation. Within 24 hours after the application is filed, an informal hearing shall be conducted by a judge or by a mental health review officer. . . . At the commencement of the informal conference, the judge or mental health review officer shall inform the person of the nature of the proceedings. . . . The person or his representative shall have the right to ask questions of the physician and of any other witnesses and to present any relevant information. . . . Upon the filing and service of a certification for extended involuntary emergency treatment, the person may be given treatment in an approved facility for a period not to exceed 20 days.” 50 P.S. § 7303(a)-(f).

<sup>14</sup> 50 P.S. § 7304 similarly provides additional process to an individual subjected to an involuntary commitment not to exceed 90 days, such as the “hearing on a petition for involuntary treatment must be conducted according to the following: the person shall have the right to counsel and to the assistance of an expert in mental health. The person shall not be called as a witness without his consent. The person shall have the right to confront and cross-examine all witnesses and to present evidence in his own behalf. The hearing shall be public unless it is requested to be private by the person or his counsel. A stenographic or other sufficient record shall be made, which shall be impounded by the court and may be obtained or examined only upon the request of the person or his counsel or by order of the court on good cause shown. The hearing shall be conducted by a judge or mental health review officer. . . .” 50 P.S. § 7304(e).

to twenty or ninety days, respectively, require additional pre-commitment procedures that include a hearing and a right to counsel, and in the case of a Section 304 Commitment, the determination must be supported by clear and convincing evidence. 50 P.S. § 7304(f). *Amici Curiae* do not agree that the aforementioned procedures are sufficient to satisfy due process, but present them as evidence that additional procedures are feasible in advance of a permanent deprivation of rights. Even though a Section 302 Commitment does not offer any such pre-deprivation protections, the consequential loss of Second Amendment rights for a Section 302 Commitment is the same as that under a Section 303 Commitment or a Section 304 Commitment. Pennsylvania law authorizes the immediate and permanent deprivation of an individual's state firearms rights, 18 Pa. C.S. § 6105(a) and (c), as well as reporting of the commitment to the federal government, which immediately and permanently deprives an individual of federal firearms rights pursuant to 18 U.S.C. § 922(g)(4). The deprivation of Second Amendment rights also occurs upon a Section 303 or Section 304 Commitment, but only after a pre-commitment hearing involving additional due process protections.

Similarly, an individual who has been subjected to a Section 302 Commitment without such due process protections is subject to the same removal of firearms rights visited upon a convicted felon in accordance with Pennsylvania law, 18 Pa. C.S. § 6105(a) and (c),<sup>15</sup>

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<sup>15</sup> See footnote 10.

and federal law, 18 U.S.C. § 922(g)(1)<sup>16</sup> and (g)(4). The critical difference, however, is that an individual convicted of a felony is afforded full due process protections *before* conviction and subsequent deprivation of Second Amendment rights. An individual committed under Section 302 is provided no meaningful pre-deprivation procedural protections.

Although there exists a mechanism for the ostensible restoration of firearms rights under state law, *see* 18 Pa. C.S. § 6105(f)(1), this “remedy” is wholly insufficient to satisfy due process because it does not restore firearms rights under federal law.<sup>17</sup> *See In Re Keyes*, 83

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<sup>16</sup> 18 U.S.C. § 922(g)(1) provides, in pertinent part, that “it shall be unlawful for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year . . . to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.”

<sup>17</sup> Even should firearms rights be restored under Pennsylvania law, such restoration does not automatically restore firearms rights under federal law, and individual restoration is unavailable under 18 U.S.C. § 925(c) due to legislative defunding. Since October 1992, the annual appropriation budget for the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) has prohibited the expenditure of any funds to investigate or act upon applications for relief from federal firearms disabilities submitted by individuals who may have been successful under 18 Pa. C.S. § 6105(f)(1) and seek to complete the federal process in accordance with 18 U.S.C. § 925(c). This Court has confirmed that no judicial review will be allowed as a decision by the ATF is a prerequisite to judicial review. *United States v. Bean*, 537 U.S. 71 (2002). This underscores the need for meaningful post-deprivation review following a Section 302 Commitment through 18 Pa. C.S.

A.3d 1016, 1026-1027 (Pa.Super. 2013). The Pennsylvania Supreme Court's constraints on an individual seeking expungement effectively eliminate any adequate post-deprivation remedy for the permanent loss of the right to keep and bear arms following a Section 302 Commitment.

A less grudging expungement process under 18 Pa. C.S. § 6111.1(g) is necessary because it is the only available avenue to restore an individual's Second Amendment rights that were forfeited without meaningful pre-deprivation due process protections, and for which no other adequate post-deprivation remedy exists. As the Petitioner demonstrates, the Supreme Court of Pennsylvania's decision reduces the expungement process to an illusory façade that does not provide an adequate remedy. *See* Petition at pp. 58-59.

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## CONCLUSION

The Section 302 Commitment process does not provide an individual any meaningful pre-commitment due process protections, and as now interpreted by the Pennsylvania Supreme Court in Petitioner's case, the expungement process leaves the individual without adequate post-deprivation remedies following an improper commitment. The important liberty and property interests implicated by the Petition are by no means limited to the temporary loss of physical liberty

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§ 6111.1(g), as there is currently no other relief to the prohibition created by a Section 302 Commitment.

during a 120-hour involuntary commitment. The Pennsylvania Supreme Court's failure to consider the permanent harm caused to Petitioner's *other* liberty interests (including her reputation, her future employment prospects, and her Second Amendment rights) necessitates the intervention of this Court to correct a systematic and serious injustice. The Court should grant review of the Petition to ensure constitutionally-required due process protections are in place for individuals who otherwise will be subjected to life-long injury.

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Respectfully submitted,

JONATHAN S. GOLDSTEIN  
SHAWN M. RODGERS  
MCNELLY & GOLDSTEIN, LLC  
11 Church Road  
Hatfield, PA 19440  
(610) 727-4191

JOHN PARKER SWEENEY  
*Counsel of Record*  
JAMES WALLACE PORTER, III  
T. SKY WOODWARD  
AMANDA D. WARRINER  
BRADLEY ARANT BOULT  
CUMMINGS LLP  
1615 L Street, NW,  
Suite 1350  
Washington, DC 20036  
(202) 393-7150  
jsweeney@bradley.com  
*Counsel for Amici Curiae*