

No. 19-2250

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

TANNER HIRSCHFELD; NATALIA MARSHALL,

Plaintiffs-Appellants,

v.

BUREAU OF ALCOHOL, FIREARMS, TOBACCO & EXPLOSIVES;
MARVIN RICHARDSON, Acting Director of the Bureau of Alcohol,
Tobacco, Firearms, and Explosives; MERRICK B. GARLAND, Attorney
General,

Defendants-Appellees.

Appeal from the U.S. District Court for the
Western District of Virginia at Charlottesville

**AMICUS BRIEF OF THE COMMONWEALTH OF VIRGINIA AND
THE STATE OF MARYLAND IN SUPPORT OF DEFENDANTS-
APPELLEES**

Mark R. Herring
Attorney General of Virginia

Erin Ashwell
Chief Deputy Attorney General

Michelle S. Kallen
Acting Solicitor General

Brittany M. Jones
Deputy Solicitor General

Jessica Merry Samuels
Counsel to the Attorney General

Rohiniyurie Tashima
John Marshall Fellow

Brian E. Frosh
Attorney General of Maryland

Steven M. Sullivan
Solicitor General

James N. Lewis
Assistant Attorney General

Office of the Attorney General
200 St. Paul Place
Baltimore, Maryland 21202
(410) 576-6427 – Telephone
(410) 576-6955 – Facsimile
ssullivan@oag.state.md.us

Counsel for the State of Maryland

Office of the Attorney General
202 North Ninth Street
Richmond, Virginia 23219
(804) 786-7704 – Telephone
(804) 371-0200 – Facsimile
SolicitorGeneral@oag.state.va.us

*Counsel for the Commonwealth of
Virginia*

September 3, 2021

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
INTEREST OF AMICI CURIAE	1
INTRODUCTION	2
ARGUMENT	3
I. The militia minimum age has changed frequently over time	4
A. Virginia and Maryland common law consistently maintained that 21 was the age of majority.....	5
B. Legislatures altered the minimum age for militia service	6
II. Militias as a source of exclusion and social dysfunction	8
CONCLUSION	12
CERTIFICATE OF COMPLIANCE	14
CERTIFICATE OF SERVICE.....	15

TABLE OF AUTHORITIES

	<u>Page</u>
CASES	
<i>Allen v. Minor</i> , 2 Call. 70 (Va. 1799)	5
<i>Belt v. Hepburn</i> , 4 H. & McH. 512 (Md. Prov. Ct. 1769)	6
<i>Browne v. Browne</i> , 1 H. & J. 430 (Md. 1803)	6
<i>Carter v. Webb</i> , Jeff. 123 (Gen. Ct. Va. 1772)	5
<i>District of Columbia v. Heller</i> , 554 U.S. 570 (2008)	3, 7
<i>Everson v. Board of Educ.</i> , 330 U.S. 1 (1947)	1
<i>Fulton v. City of Phila.</i> , 141 S. Ct. 1868 (2021)	1
<i>Furman v. Georgia</i> , 408 U.S. 238 (1972)	1
<i>McDonald v. City of Chi.</i> , 561 U.S. 742 (2010)	1
<i>McGowan v. Maryland</i> , 366 U.S. 420 (1961)	1
<i>Mercer v. Walmsley</i> , 5 H. & J. 27 (Md. 1820)	6
<i>Morgan’s Lessee v. Davis</i> , 2 H. & McH. 9 (Md. Gen. Ct. 1781)	6
<i>National Rifle Ass’n v. ATF</i> , 700 F.3d 185 (5th Cir. 2012)	4, 5

<i>Parker v. District of Columbia</i> , 478 F.3d 370 (D.C. Cir. 2007)	7
<i>Paul v. Paul</i> , 214 Va. 651 (1974).....	6
<i>Ross v. Gill</i> , 4 Call. 250 (Va. 1794).....	5
<i>Sprecher v. Sprecher</i> , 206 Md. 108 (1955).....	6
<i>Trammel v. United States</i> , 445 U.S. 40 (1980)	7
<i>Wainwright v. Wilkinson</i> , 62 Md. 146 (1884).....	6

CONSTITUTIONAL PROVISIONS

U.S. Const. amend. II	passim
-----------------------------	--------

STATUTORY AUTHORITIES

18 U.S.C. § 922(b)(1)	2
18 U.S.C. § 922(c)	2
1973 Md. Laws ch. 651, § 1	6
Act X of June 8, 1680, 1680 Va. Acts 481	9
Md. Code Ann., Gen. Prov. § 1-401(a).....	6
Md. Code Ann., Pub. Safety § 5-118(b)(3)(i)	1
Md. Code Ann., Pub. Safety § 5-133(d).....	1
Md. Code Ann., Pub. Safety § 5-134	1
Va. Code Ann. § 18.2-308.2:5(A)	1
Va. Code Ann. § 44-1 (2015).....	8

ADMINISTRATIVE PROVISIONS

Code of Md. Reg. 29.03.01.03.B.....	1
-------------------------------------	---

Code of Md. Reg. 29.03.01.14 1

OTHER AUTHORITIES

3 William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619* (1823)..... 7

4 William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619* (1820)..... 7

5 William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619* (1819)..... 7

9 William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619* (1821)..... 8

Adam Winkler, *MLK and His Guns*, Huffpost (Jan. 17, 2011) 10

Carol Anderson, *The Second: Race and Guns in a Fatally Unequal America* (2021) 9

City of Charlottesville v. Pennsylvania Light Foot Militia, Amended Complaint, Case No. CL 17000560-00 (Charlottesville Cir. Ct. Jan. 4, 2018) 10, 11

David B. Kopel & Joseph G.S. Greenlee, *The Second Amendment Rights of Young Adults*, 43 S. Ill. U. L.J. 495 (2019) 8

Garrett Epps, *Constitutional Myth #6: The Second Amendment Allows Citizens to Threaten Government*, *The Atlantic* (Jun. 30, 2011) 12

Joe Helm, *Recounting a day of rage, hate, violence and death*, *Wash. Post* (Aug. 14, 2017) 10

Kayla Ruble et al., <i>Whitmer plotters also discussed kidnapping Virginia Gov. Ralph Northam, FBI agent testifies</i> , Wash. Post (Oct. 13, 2020).....	11
Lauren Yerkes & Rosie Hobron, <i>Gun Violence in Virginia</i> , Va. Dep't of Health (2018)	2
Letter from George Washington to John Hancock (Sept. 25, 1776)	9
Mallory Simon et al., <i>Some of his followers are being sought by the FBI. It's not stopping the leader of the Oath Keepers</i> , Rich. Times-Dispatch (Mar. 25, 2021).....	11
<i>Maryland—Gun Facts, Figures and the Law</i> , GunPolicy.org (Feb. 22, 2021)	2
Michael Lee Lanning, <i>African Americans and the American Revolution</i> , The Routledge Handbook of the History of Race and the American Military (2016).....	10
Nora Rhein, <i>Black Americans Have Always Been Excluded from the Second Amendment, Says Author Carol Anderson</i> , Detroit Today (June 8, 2021)	9
The Honorable Charniele L. Herring, Official Op. 19-039 (Va. Att'y Gen. 2019).....	11
William Blackstone, 1 Commentaries on the Laws of England (St. George Tucker ed. 1803)	5

INTEREST OF AMICI CURIAE

Courts have long looked to the Commonwealth of Virginia and the State of Maryland to understand the meaning of the United States Constitution.¹ Given both States' deep connection to this country's founding, Virginia and Maryland's experience offers unique insight into the meaning of the Second Amendment.

Virginia and Maryland also have historical perspective on the status of militias in early America. Both possessed militia statutes that pre- and post-date the Constitution. States, moreover, have relied on longstanding federal law in enacting and defending their own legislation. Maryland law establishes 21 as the minimum age for gun ownership. Md. Code Ann., Pub. Safety § 5-118(b)(3)(i); *id.* § 5-133(d); *id.* § 5-134; Code of Maryland Regulations (COMAR) 29.03.01.03.B; COMAR 29.03.01.14 (same). Virginia law relies on the federal background check system. Va. Code Ann. § 18.2-308.2:5(A).

¹ *McGowan v. Maryland*, 366 U.S. 420, 437 (1961); *Fulton v. City of Phila.*, 141 S. Ct. 1868, 1899 and n.36, 1905 (2021) (Alito, J., concurring in the judgment); *Everson v. Board of Educ.*, 330 U.S. 1, 11 (1947); *Furman v. Georgia*, 408 U.S. 238, 320 (1972); *McDonald v. City of Chi.*, 561 U.S. 742, 816 (2010) (Scalia, J., concurring).

More than a thousand Virginians and more than 750 Marylanders are killed each year by gunfire.² Throughout both States, families and communities know the pain of firearms-related suicides, accidental fatal shootings, mass shootings, and interpersonal, workplace, or intimate-partner violence that claim lives in urban, suburban, and rural communities. The challenged laws have helped prevent gun violence for over half a century and remain an important part of the federal and state gun laws on which Virginia and Maryland rely in keeping their citizens safe.

INTRODUCTION

Relying heavily on militia history during the Founding Era, the decision by a divided panel struck down a more than fifty-year-old legislative enactment, 18 U.S.C. § 922(b)(1) and (c), which limits sales of a category of firearms (handguns) to a category of people (those under

² Lauren Yerkes & Rosie Hobron, *Gun Violence in Virginia*, Va. Dep't of Health (2018), [http://vscc.virginia.gov/OCME%20VDH%20Gun%20Violence%20in%20Virginia%20\(Non-Fatal%20and%20Fatal\).pdf](http://vscc.virginia.gov/OCME%20VDH%20Gun%20Violence%20in%20Virginia%20(Non-Fatal%20and%20Fatal).pdf) (last visited Sept. 3, 2021) (presenting data from 2016–2018); *Maryland—Gun Facts, Figures and the Law*, GunPolicy.org (Feb. 22, 2021), <https://www.gunpolicy.org/firearms/region/maryland> (last visited Sept. 3, 2021).

age 21). The majority’s opinion attempts to justify invalidating this legislation by referring to the various minimum ages for state militia service as determined by past state legislatures. Slip op. at 3, 19–21. But the age for militia service was not uniform and varied over time. The age for militia service is a poor guide for determining the contours of the Second Amendment. And, to the extent militia service is relevant, historical militia laws support the conclusion that the challenged law is constitutional.

ARGUMENT

The Second Amendment states that “[a] well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” U.S. Const. amend. II. Notwithstanding the Supreme Court’s admonition that militia history is unhelpful in evaluating the scope of individual rights under the Second Amendment,³ the majority relied extensively on militia laws to conclude

³ *District of Columbia v. Heller*, 554 U.S. 570, 593 (2008) (the Second Amendment “was clearly an individual right, having nothing whatever to do with service in a militia”); *id.* at 605 (post-ratification scholars understood the Second Amendment “to protect an individual right unconnected with militia service”).

that Second Amendment rights calcified beyond legislative reach at age 18. Slip op. at 29–49.

Historical regulation of militia service in Virginia and Maryland, however, reveals that legislatures had flexibility in regulating the age of militia participation. In any event, the majority’s use of militia service as a proxy to identify individual rights was itself misguided. The one feature of militias that was truly uniform in the early history of the Nation was not any age requirement, but militias’ exclusively white male membership. State militias were often intended to and did serve as instruments of oppression inflicted on people of color. Sadly, the historic correspondence between militias and iniquity continues as demonstrated by so-called militias’ recent efforts to overthrow the very Constitution of which the Second Amendment is a part.

I. The militia minimum age has changed frequently over time

As the Fifth Circuit recognized in rejecting a constitutional challenge to the same federal law at issue here, Founding regulations “target[ing] particular groups for public safety reasons” were commonplace. See *National Rifle Ass’n v. ATF*, 700 F.3d 185, 200 (5th Cir. 2012). “These categorical restrictions,” the court explained, “may

have been animated by a classical republican notion that only those with adequate civic virtue could claim the right to arms,” which, in turn, suggests that “the Founders would have supported limiting or banning the ownership of firearms by minors, felons, and the mentally impaired.” *Id.* at 201 (internal quotation marks and citation omitted).

Virginia and Maryland’s experiences support this reasoning.

A. Virginia and Maryland common law consistently maintained that 21 was the age of majority

“The age of majority at common law was 21” and, at the time of the Founding, “the term ‘minor’ or ‘infant’” was “historically . . . applied to persons under the age of 21.” *ATF*, 700 F.3d at 201; accord William Blackstone, 1 Commentaries on the Laws of England 463 (St. George Tucker ed. 1803) (“[F]ull age . . . is twenty-one years”; “till that time [one] is an infant, and so stiled in law”).

Virginia courts historically used the term “infant” for anyone younger than 21. See, e.g., *Carter v. Webb*, Jeff. 123, 125 (Gen. Ct. Va. 1772) (describing an “infant of eighteen years”); *Ross v. Gill*, 4 Call. 250, 252 (Va. 1794); *Allen v. Minor*, 2 Call. 70, 70–71 (Va. 1799). Virginia followed the common-law age of majority until 1972, when it lowered

the age of legal adulthood to 18. See, *e.g.*, *Paul v. Paul*, 214 Va. 651, 652 (1974).

Similarly, at the Founding, the age of majority in Maryland was 21 and anyone younger than 21 was an “infant.” *Belt v. Hepburn*, 4 H. & McH. 512, 513 (Md. Prov. Ct. 1769); *Morgan’s Lessee v. Davis*, 2 H. & McH. 9, 11 (Md. Gen. Ct. 1781); *Browne v. Browne*, 1 H. & J. 430, 432 (Md. 1803). Like Virginia, Maryland for more than two centuries consistently adhered to its common-law rule setting 21 as the age of majority. *Mercer v. Walmsley*, 5 H. & J. 27, 32 (Md. 1820); *Wainwright v. Wilkinson*, 62 Md. 146, 147–48 (1884); *Sprecher v. Sprecher*, 206 Md. 108, 113 (1955). Maryland enacted legislation in 1973 lowering the age of majority from 21 to 18. 1973 Md. Laws ch. 651, § 1, now at Md. Code Ann., General Provisions § 1-401(a). This consistent and uniform age of majority in Virginia and Maryland contrasts starkly with the history of age requirements for militia membership.

B. Legislatures altered the minimum age for militia service

Recognizing that “Founding-era militia laws provide powerful historical evidence,” the majority stated, “[n]ear the time of ratification, the federal government and every state required 18-year-old men to be

part of the militia and bring their own arms.” Slip op. at 29. That assertion is demonstrably false, as indicated by the history of militias in Virginia and Maryland.

Virginia’s legislature varied the age at which a boy might be mustered into a militia, dipping as low as 16 and rising as high as 21.⁴ For example, in 1705, the minimum age for militia service was 16, but by 1723 the age was raised to 21 with 16 year-olds permitted as substitutes.⁵ That minimum was 21 in 1738, and 18 in 1755, and 16 in 1775.⁶ In Maryland, the minimum age for militia service was 16 and

⁴ Girls, who were essentially viewed as property, were neither required nor welcome to join the militia. Accord *Trammel v. United States*, 445 U.S. 40, 52 (1980); *Parker v. District of Columbia*, 478 F.3d 370, 399 (D.C. Cir. 2007), *aff’d sub nom. District of Columbia v. Heller*, 554 U.S. 570 (2008).

⁵ See An act for settling the Militia, 3 William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619*, at 335 (1823) (minimum age sixteen as of 1705); An Act for the settling and better Regulation of the Militia, 4 William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619*, at 118, 125 (1820) (minimum age 21 as of 1723).

⁶ An Act, for the better Regulation of the Militia, 5 William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619*, at 16 (1819) (minimum age twenty-one as of 1738); An ordinance for

the maximum 60 throughout much of the 18th century.⁷ In 1793, the age range was changed to 18 through 45, and a select militia was created for men between the ages of 21 and 30.⁸

Thus, legislatures changed the militia age over time. Though the age for militia service fell as low as 16, even the plaintiffs do not contend that 16-year-olds have a blanket constitutional right to purchase firearms from federally licensed firearms dealers. What the legislature sets, the legislature can change.

II. Militias as a source of exclusion and social dysfunction

Consideration of militia in an analysis of the Second Amendment should, at a minimum, acknowledge its painful history and the dangerous realities of today's so-called "militia."

raising and embodying a sufficient force, for the defense and protection of this colony, 9 William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619*, at 27 (1821) (minimum age sixteen in 1775); Va. Code Ann. § 44-1 (2015) (minimum age for Virginia's unorganized militia is 16).

⁷ David B. Kopel & Joseph G.S. Greenlee, *The Second Amendment Rights of Young Adults*, 43 S. Ill. U. L.J. 495, 540–44 (2019).

⁸ *Id.*

Militias have long been tools of violence against marginalized communities. The compromise that led to the Second Amendment was born, in part, to allow Southern states to use militias and firearms to maintain the institution of slavery. Carol Anderson, *The Second: Race and Guns in a Fatally Unequal America* 29 (2021). “In the war for independence, the militia was not reliable . . . What the militia did do really well consistently was to put down slave revolts.” Nora Rhein, *Black Americans Have Always Been Excluded from the Second Amendment, Says Author Carol Anderson*, *Detroit Today* (June 8, 2021); see Letter from George Washington to John Hancock (Sept. 25, 1776), <https://founders.archives.gov/documents/Washington/03-06-02-0305> (“If I was called upon to declare upon Oath, whether the Militia have been most Serviceable or hurtful upon the whole[,] I should subscribe to the latter.”).

“The eighteenth-century origins of the ‘right to bear arms’ explicitly excluded Black people.” Anderson, *The Second* at 5; see Act X of June 8, 1680, 1680 Va. Acts 481, *accessible through* Encyclopedia Virginia, <https://encyclopediavirginia.org/entries/an-act-for-preventing-negroes-insurrections-1680/> (prohibiting “any negroe or other slave” to

carry any weapons). Despite helping with the Revolution, many Black Americans were excluded from colonial militias. Michael Lee Lanning, *African Americans and the American Revolution*, The Routledge Handbook of the History of Race and the American Military 28 (2016).⁹

Paramilitary groups now seize onto the “militia” title while terrorizing communities and attempting to overthrow our government. In August 2017, heavily armed “militias” descended on Charlottesville, Virginia for the “Unite the Right Rally.” Three people were killed.¹⁰ Charlottesville sued a group of 23 “militias” who mimicked names from the Revolution, like Pennsylvania Light Foot Militia and Virginia Minutemen Militia. *City of Charlottesville v. Pennsylvania Light Foot Militia*, Amended Complaint at 1, No. CL 17000560-00 (Charlottesville Cir. Ct. Jan. 4, 2018). Yet unlike colonial militias, they took no

⁹ In another example of how Black Americans were denied access to firearms, Martin Luther King, Jr. applied for a concealed carry permit in Alabama in 1956 after his house was bombed. “King, a clergyman whose life was threatened daily, surely met the requirements of the law, but he was rejected nevertheless.” Adam Winkler, *MLK and His Guns*, Huffpost (Jan. 17, 2011), https://www.huffpost.com/entry/mlk-and-his-guns_b_810132.

¹⁰ Joe Helm, *Recounting a day of rage, hate, violence and death*, Wash. Post (Aug. 14, 2017), <https://www.washingtonpost.com/graphics/2017/local/charlottesville-timeline/>.

government oath, had haphazard to no training requirements, and answered to no civil authority. These units destabilized the protest, posed a threat to law enforcement, intimidated citizens, and threatened the government's ability to respond to violence. *Id.* at 81–96. Self-styled militia also participated in the storming of the United States Capitol on January 6, 2021, and sought to kidnap the Governors of Virginia and Michigan.¹¹

Each of these instances involved those who would cloak themselves in the mantle of militia to challenge government or undermine the other nine Amendments in the Bill of Rights. Extremist groups “are trying to plant a parasitic meme in our Bill of Rights: that America is not a self-government republic, but a dark Hobbesian plane

¹¹ Mallory Simon et al., *Some of his followers are being sought by the FBI. It's not stopping the leader of the Oath Keepers*, Rich. Times-Dispatch (Mar. 25, 2021), https://richmond.com/news/national/some-of-his-followers-are-being-sought-by-the-fbi-its-not-stopping-the-leader/article_6b754c68-5bd0-5db9-afeb-27c20504001f.html; Kayla Ruble et al., *Whitmer plotters also discussed kidnapping Virginia Gov. Ralph Northam, FBI agent testifies*, Wash. Post (Oct. 13, 2020), https://www.washingtonpost.com/national-security/ralph-northam-gretchen-witmer-kidnapping-plot/2020/10/13/26b4e31a-0d5f-11eb-b1e8-16b59b92b36d_story.html; see also The Honorable Charniele L. Herring, Official Op. 19-039 at 3 (Va. Att'y Gen. 2019).

where each ‘sovereign citizen’ chooses what laws to obey[.]” Garrett Epps, *Constitutional Myth #6: The Second Amendment Allows Citizens to Threaten Government*, The Atlantic (Jun. 30, 2011).

* * *

The Second Amendment must be interpreted in a way that does not subvert the fundamental right to an elected democracy, where the ballot box—and not the gun—determines the composition of government, and our elected representatives have the responsibility for enacting laws to provide for the public safety. Any discussion of militia must recognize the painful and divisive use of militia in this country as a means of harming marginalized communities. So, too, is it important to acknowledge current efforts by self-proclaimed “militia” groups to invoke the Second Amendment as a license to undermine the very government the Constitution creates.

CONCLUSION

The panel decision should be vacated and the case should be reheard en banc.

Respectfully Submitted,

THE COMMONWEALTH OF
VIRGINIA

MARK R. HERRING
Attorney General of Virginia

By: /s/ Michelle S. Kallen
MICHELLE S. KALLEN
Acting Solicitor General

Erin Ashwell
Chief Deputy Attorney General

Brittany M. Jones
Deputy Solicitor General

Jessica Merry Samuels
*Counsel to the Attorney
General*

Rohiniyurie Tashima
John Marshall Fellow

Office of the Attorney General
202 North Ninth Street
Richmond, Virginia 23219
(804) 786-7704 – Telephone
(804) 371-0200 – Facsimile
SolicitorGeneral@oag.state.va.us

THE STATE OF MARYLAND

BRIAN E. FROSH
Attorney General of Maryland

By: /s/ Steven M. Sullivan
STEVEN M. SULLIVAN
Solicitor General

James N. Lewis
Assistant Attorney General

Office of the Attorney General
200 St. Paul Place
Baltimore, Maryland 21202
(410) 576-6427 – Telephone
(410) 576-6955 – Facsimile
ssullivan@oag.state.md.us

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the requirements of Fed. R. App. P. 32(a)(5) and (6) because it has been prepared in 14-point Century, a proportionally spaced font, and that it complies with the type-volume limitation of Fed. R. App. P. 29(b), because it contains 2,404 words, excluding the parts exempted by Rule 32(f), according to the count of Microsoft Word.

/s/ Michelle S. Kallen

Michelle S. Kallen

CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2021, I electronically filed the foregoing brief with the Clerk of this Court by using the appellate CM/ECF system. The participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

/s/ Michelle S. Kallen

Michelle S. Kallen

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
APPEARANCE OF COUNSEL FORM

BAR ADMISSION & ECF REGISTRATION: If you have not been admitted to practice before the Fourth Circuit, you must complete and return an Application for Admission before filing this form. If you were admitted to practice under a different name than you are now using, you must include your former name when completing this form so that we can locate you on the attorney roll. Electronic filing by counsel is required in all Fourth Circuit cases. If you have not registered as a Fourth Circuit ECF Filer, please complete the required steps at Register for eFiling.

THE CLERK WILL ENTER MY APPEARANCE IN APPEAL NO. 19-2250 as

- Retained Court-appointed(CJA) CJA associate Court-assigned(non-CJA) Federal Defender
Pro Bono Government

COUNSEL FOR: Commonwealth of Virginia

(party name) as the

- appellant(s) appellee(s) petitioner(s) respondent(s) amicus curiae intervenor(s) movant(s)

/s/ Michelle S. Kallen
(signature)

Please compare your information below with your information on PACER. Any updates or changes must be made through PACER's Manage My Account.

Michelle S. Kallen
Name (printed or typed)

(804) 786-7704
Voice Phone

Office of the Attorney General
Firm Name (if applicable)

(804) 371-0200
Fax Number

202 North Ninth Street

Richmond, Virginia 23219
Address

MKallen@oag.state.va.us
E-mail address (print or type)

CERTIFICATE OF SERVICE (required for parties served outside CM/ECF): I certify that this document was served on by personal delivery; mail; third-party commercial carrier; or email (with written consent) on the following persons at the addresses or email addresses shown:

[Empty box for listing served parties]

[Empty box for listing served parties]

Signature

Date