

No. 22-915

In the Supreme Court of the United States

UNITED STATES, PETITIONER

v.

ZACKEY RAHIMI

*ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT*

**BRIEF OF THE DOMESTIC VIOLENCE LEGAL
EMPOWERMENT AND APPEALS PROJECT, THE
NATIONAL FAMILY VIOLENCE LAW CENTER AT
GW LAW, THE NATIONAL EDUCATION
ASSOCIATION, THE FAMILY VIOLENCE
APPELLATE PROJECT, THE CHILD WELFARE
LEAGUE OF AMERICA, THE FIELD CENTER FOR
CHILDREN'S POLICY, PRACTICE & RESEARCH,
KATHRYN J. SPEARMAN, AND THE WOMEN'S BAR
ASSOCIATION OF THE DISTRICT OF COLUMBIA AS
AMICI CURIAE IN SUPPORT OF PETITIONER**

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INTEREST OF *AMICI CURIAE*¹

The Domestic Violence Legal Empowerment and Appeals Project (“DV LEAP”) makes the law work for survivors of domestic violence through expert appellate advocacy, training on best practices to protect survivors’ rights, and leading policy initiatives to strengthen domestic violence laws. A project of the Network for Victim Recovery of D.C., whose crime victim services span acute response through litigation, DV LEAP is the only national-level program providing pro bono appellate representation to domestic violence survivors. DV LEAP has extensive experience filing *amicus* briefs in both state and federal courts. It has provided a voice for survivors as *amicus* in the U.S. Supreme Court on multiple issues, including specifically on the extreme danger presented by abusers’ access to firearms. The risks that abusers pose to their children is also a long-standing focus of DV LEAP’s trainings and appellate advocacy.

The National Family Violence Law Center at GW Law (“NFVLC”) serves as the preeminent home for national research and expert support for the growing movement to better protect children in contested custody cases. It provides pioneering quantitative and qualitative research, training and education, state and federal policy development, and high-impact litigation services. Drawing on its own ground-breaking quantitative and qualitative research along with that of other top researchers, the Center provides training, education and evidence-based solutions for policymakers, professionals, advocates, media, and the public. Founded by Professor of Law Joan S. Meier, a leader in Supreme Court litigation

¹ No counsel for any party authored this brief in whole or in part, and no entity or person, aside from *amici curiae*, its members, or its counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

on behalf of domestic violence survivors, in partnership with GW Law School, the Center files amicus briefs in high-profile cases consistent with its mission.

The National Education Association (“NEA”) is the nation’s largest professional association, representing over three million members, the vast majority of whom serve as educators, counselors, and education support professionals in our nation’s public schools. The NEA has a deep and longstanding commitment to ensuring that every child has access to a high-quality public education. The provision of a quality education depends on many factors, but most fundamentally on student safety. All students and education employees must be able to learn, work, and live in environments free of the threats posed by gun violence.

The Family Violence Appellate Project (“FVAP”) is a California and Washington state non-profit legal organization whose mission is to ensure the safety and well-being of survivors of domestic violence and other forms of intimate partner, family, and gender-based abuse by helping them obtain effective appellate representation. FVAP provides legal assistance to survivors of abuse at the appellate level through direct representation, collaborating with pro bono attorneys, advocating for survivors on important legal issues, and offering training and legal support for legal services providers and domestic violence, sexual assault, and human trafficking counselors. FVAP’s work contributes to a growing body of case law that provides the safeguards necessary for survivors of abuse and their children to obtain relief from abuse through the courts.

The Child Welfare League of America (“CWLA”) is a coalition of hundreds of private and public agencies that since 1920 has worked to serve children and families who are vulnerable. The organization’s expertise, leadership, and innovation on policies, programs, and

practices helps improve the lives of millions of children across the country. In 2020, CWLA celebrated 100 years of leadership in creating and advancing standards of practice, advocacy, and information sharing to enhance the well-being of families, children, and youth.

The Field Center for Children’s Policy, Practice & Research brings together experts in child welfare to affect the lives of vulnerable children and families. Our leaders, the visionary faculty, staff, students and fellows from the University of Pennsylvania’s renowned Schools of Social Policy & Practice, Law, Medicine, Nursing, the Graduate School of Education, Arts and Sciences, and the Children’s Hospital of Philadelphia, collaborate on reforming the systems that are responsible for protecting children. The Field Center’s interdisciplinary initiatives promote best practices in creating and sustaining a child and family welfare and support system that is responsive to the needs of diverse families and communities.

Kathryn J. Spearman, MSN, RN is a pediatric nurse and a PhD candidate at the Johns Hopkins University School of Nursing whose dissertation and doctoral training is funded by the National Institute of Child Health and Development (NICHD) (she is signing this brief in her personal capacity). Ms. Spearman’s research focuses on the intersection of intimate partner violence (IPV) and child maltreatment, firearm injury prevention, IPV-related homicides of women and children, and risk-assessment tools and interventions that promote safety, resiliency, and recovery from trauma for children who have experienced family violence. Her scientific inquiry is informed by clinical experience working as a pediatric nurse with abused children, child survivors of intimate partner homicide, child survivors of firearm injury, and their mothers impacted by IPV. She is currently working as a graduate research associate with principal investigator Dr. Jacquelyn Campbell, PhD, RN, FAAN,

creator of the Danger Assessment, on *A Comparison of Firearm-Related Intimate Partner Homicide in Texas and Maryland: Prevalence, Identification of Those at Risk and the Effect of Firearm Regulations* (“PAIR Studies”) funded by NIH/NICHHD.

The Women’s Bar Association of the District of Columbia (“WBA”), founded in 1917, is one of the oldest and largest voluntary bar associations in metropolitan Washington, D.C. Today, as in 1917, the Association continues to pursue the mission of maintaining the honor and integrity of the profession; promoting the administration of justice; advancing and protecting the interests of women lawyers; promoting their mutual improvement; and encouraging a spirit of friendship among the members. The WBA fosters the protection and rights of women and their children, as women are often the target of domestic abuse and more often have primary custody over children who are present when abuse occurs.

SUMMARY OF ARGUMENT

Prohibiting the possession of firearms by persons subject to domestic violence restraining orders does not violate the Second Amendment to the United States Constitution. *See* 18 U.S.C. § 922(g)(8). As the Supreme Court has explained, restrictions on gun possession are constitutional so long as they are “consistent with the Nation’s historical tradition of firearm regulation.” *New York State Rifle & Pistol Association v. Bruen*, 142 S. Ct. 2111, 2130 (2022). While the Fifth Circuit’s opinion below required that the modern regulation be all but identical to a historical one, the law at issue need only be “comparably justified”; it need not be a “twin.” *Id.* at 2133. To accept the Fifth Circuit’s reasoning would impose the very “regulatory straightjacket” that *Bruen* soundly rejected. *Id.*

The purpose of this brief is to describe and summarize academic research on the horrific harms inflicted on children by domestic abusers armed with guns. As explained in detail below, hundreds of children are murdered each year in gun violence committed by domestic abusers, and thousands more suffer severe trauma by either witnessing or experiencing threats of gun violence. *Amici* respectfully submit that this research supports the conclusion that Section 922(g)(8) fits squarely within our Nation’s longstanding tradition of disarming dangerous individuals who pose a credible threat to the safety of others.² This research also demonstrates that the burden imposed on domestic violence offenders subject to restraining orders (after notice and a hearing) is amply justified and, in fact, vital to protecting the safety of children.

Because Section 922(g)(8) is constitutional under this Court’s precedents, the Fifth Circuit’s decision should be reversed.

ARGUMENT

I. Domestic Violence with Firearms is a Public Health Crisis for Children

A. Children are Frequently Murdered by Abusers with Guns

The number of children who are murdered each year by firearms is staggering. “Nearly 1300 children die and

² See *District of Columbia v. Heller*, 554 U.S. 570, 635 (2008) (explaining that the right to keep and bear arms belongs to “law-abiding, responsible citizens”); *Bruen*, 142 S. Ct. at 2122 (stating that the Second Amendment protects the right to possess and carry arms for self-defense of “an ordinary, law-abiding citizen”); Petition for Certiorari at 8-10 (describing colonial and early state laws that “disarmed individuals who ‘posed a potential danger’ to others”).

5790 are treated for gunshot wounds each year.”³ Guns kill more children in the United States each year “than cancer, pneumonia, influenza, asthma, HIV/AIDS, and opioids combined.”⁴

Contrary to widespread assumptions, domestic violence⁵ is a leading cause of this carnage. While school shootings receive the most significant press coverage, many more children are murdered each year in domestic-violence related shootings. From 2018 to 2022, “three times as many children were shot in domestic violence incidents as in school shootings and eight times as many died.”⁶ This Court previously recognized the increased risk that guns pose in the context of domestic violence, observing that “[f]irearms and domestic strife are a potentially deadly combination.” *United States v. Hayes*, 555 U.S. 415, 427 (2009). The problem is only getting worse, as the number of children who were killed in

³ Katherine A. Fowler, et al., *Childhood Firearm Injuries in the United States*, 140(1) *Pediatrics* (July 2017), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6488039/>.

⁴ *The State of America’s Children 2020*, Children’s Defense Fund 30, available at <https://www.childrensdefense.org/wp-content/uploads/2020/02/The-State-Of-Americas-Children-2020.pdf> (citing Centers for Disease Control and Prevention 2019 mortality tables).

⁵ For purposes of this brief, “domestic violence” refers solely to adult intimate partner violence. The brief will specify child abuse or assault when it addresses children.

⁶ Jennifer Mascia, *Dangerous Homes: Guns and Domestic Violence Exact a Deadly Toll on Kids*, *The Trace* (June 2, 2023), available at <https://www.thetrace.org/2023/03/guns-domestic-violence-child-deaths/>. Shootings (particularly of children) in domestic violence-related events are more likely to be fatal than other types of gun violence due to (i) the close proximity of the victim to the abuser (often in the same house) and (ii) the fact that the perpetrator specifically selects the victim as opposed to opening fire indiscriminately. *Id.*

domestic violence shootings increased by 50% from 2019 to 2022.⁷

While it is known that an abuser's access to a firearm increases a female intimate partner's risk of being killed five-fold,⁸ it is less well understood that those risks also extend to the abuser's entire family.⁹ Perpetrators of domestic violence who possess and use guns are far more likely to kill or harm multiple victims, including children.¹⁰ According to one study analyzing data from 2003-2013, 31% of children aged 12 or younger who were victims of a firearm-related homicide were killed in an intimate-partner related shooting.¹¹ This is particularly true in cases involving multiple murder victims, as such cases are overwhelmingly committed in families with children.¹² The majority of multiple homicide events that involve a family member or intimate partner are committed by a perpetrator who kills his intimate partner as well as one or more children.¹³ In fact, "[o]f the family members who die in an IPV-related conflict, over a third (38%) are

⁷ Jennifer Mascia, *supra* note 6.

⁸ Jacquelyn C. Campbell, et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93(7) *Am. J. of Pub. Health* 1089, 1092 (2003).

⁹ Aaron J. Kivisto and Megan Porter, *Firearm Use Increases Risk of Multiple Victims in Domestic Homicides*, 48(1) *J. Am. Acad. Psychiatry Law* 26, 26-27 (2020).

¹⁰ *Id.* (abusers who use a firearm in a domestic violence homicide are nearly twice as likely to kill at least one additional victim). See also Joshua Abolarin, et al., *Family Can Hurt You the Most: Examining Perpetrators in Multiple Casualty Events*, 242 *J. of Surgical Research* 172, 174 (2019) (the majority of family homicides—including those that target children—are perpetrated by firearms).

¹¹ Katherine A. Fowler et al. at 7, *supra* note 3.

¹² Joshua Abolarin et al. at 174, *supra* note 10.

¹³ *Id.*

children aged 11 or younger.”¹⁴ For this reason, the home is the most dangerous place for American children—over 85% of firearm homicides of children 12 years and younger occur in the home.¹⁵

The case of Leah Moses demonstrates the profound risks posed by domestic abusers armed with guns.¹⁶ Ms. Moses suffered physical and sexual abuse at the hands of her abuser for years before giving birth to two children in 2006 and 2008. In 2009, she filed for divorce and was granted a temporary restraining order, which prohibited her abuser from possessing a firearm. The court, however, dismissed the restraining order, and Ms. Moses ultimately withdrew her petition for divorce. In 2011, she filed for divorce again and sought another restraining order. Despite evidence that her abuser had threatened to kill her, the request for a restraining order was denied.

In 2021, the court-appointed evaluator decided to recommend divided custody of the two children—Ms. Moses’s ex-husband was granted custody over their son, and Ms. Moses retained custody over her daughter. By March 2023, the custody evaluator had reconsidered this decision after evaluating evidence of the abuser’s substance abuse and violent and unstable behavior; she changed her recommendation to full custody to Ms. Moses. However, shortly after the abuser received this recommendation, and before Ms. Moses could schedule a hearing or mediation date, her abuser purchased a

¹⁴ See Julie M. Kafka, et al., *Fatalities Related to Intimate Partner Violence: Towards a Comprehensive Perspective*, 27(2) *Inj. Prev.* 137, 137-144 (Apr. 2021).

¹⁵ Katherine A. Fowler et al. at 5, *supra* note 3; see also, Jennifer Mascia, *supra* note 6.

¹⁶ National Family Violence Law Center, *Surviving Parent Narratives -- Filicide by Firearm* (Aug. 2023), available at <https://www.nfvlc.org/supreme-court>.

handgun at a pawn shop. He murdered their sixteen year old son, Om, and killed himself.

B. Children are Traumatized When a Parent is Murdered by an Intimate Partner with a Gun

Gun violence in the home also leaves behind child survivors who suffer immeasurable grief and trauma. In the United States alone, it is estimated that over 3,000 children are affected by intrafamilial homicide every year.¹⁷ This is unsurprising, given that rates of intimate partner violence are highest for households that consist of one adult female and children.¹⁸ In fact, rates of intimate partner violence are six times higher in households with one adult female and children than in households with just one adult female.¹⁹

¹⁷ Linda Lewandowski, et al., “*He Killed My Mommy!*” *Murder or Attempted Murder of a Child’s Mother*, 19 *J. Fam. Violence* 211, 212 (2004).

¹⁸ Shannon Catalano, *Intimate Partner Violence, 1993-2010*, U.S. Department of Justice, Bureau of Justice Statistics (NCJ Publication No. 239203) 1, 7, <https://bjs.ojp.gov/content/pub/pdf/ipv9310.pdf>. See also Kathryn J. Spearman, et al., *Post-Separation Abuse: A Literature Review Connecting Tactics to Harm*, *J. of Fam. Trauma, Child Custody & Child Dev.* 1, 2 (2023).

¹⁹ Shannon Catalano at 7, *supra* note 18. Additionally, “[p]regnancy and the postpartum period are times of elevated risk for homicide among all females of reproductive age.” Maeve Wallace, et al., *Homicide During Pregnancy and the Postpartum Period in the United States, 2018-2019*, 138(5) *Obstet. Gynecol.* 1, 1 (Nov. 2021). In fact, “[h]omicide during pregnancy or within 42 days of the end of pregnancy exceeds all the leading causes of maternal mortality by more than twofold.” *Id.*; see also Jeani Chang, et al., *Homicide: A Leading Cause of Injury Deaths Among Pregnant and Postpartum Women in the United States, 1991-1999*, 95 *Am. J. Pub. Health* 471, 471-477 (2005) (finding a strong relationship between pregnancy and intimate-partner homicide risk).

Some of the most significant traumatic effects are seen among children who either witness a homicide or find a parent's body. This happens more frequently than one might expect. Statistics show that two-thirds of female victims of domestic violence-related murders had children—of those children, over 70% either witnessed the homicide or found their mother's body afterwards.²⁰ Most of these children suffer dramatic and enduring symptoms of post-traumatic stress disorder.²¹ Preschool-age children may experience night terrors, screaming or crying, and extraordinary fear of separation. School-age children may suffer insomnia or nightmares, anxiety or fear, feelings of guilt or shame, and difficulty concentrating at school. Teenagers may self-harm, feel depressed or alone, abuse alcohol or drugs, and engage in isolating behaviors.²²

Research has also revealed the long-term psychological and physical trauma that intrafamilial homicide can have on children, regardless of whether a child was actually present during their parent's murder. When one parent kills the other, the child loses both parents—one is dead and, in most cases, the other “is detained, has fled, or has committed suicide.”²³ And not only is the child exposed to “all the risks associated with violent loss, [they must] process complex feelings and

²⁰ Linda Lewandowski et al. at 216, *supra* note 17.

²¹ Pietro Ferrara, et al., *Femicide and Murdered Women's Children: Which Future for these Children Orphans of a Living Parent?*, Italian J. of Pediatrics 1, 4-5 (2015).

²² See Matthew Tull, *Understanding PTSD in Children*, Verywell Mind (July 25, 2019).

²³ Eva Alisic, et al., *Children's Mental Health and Well-Being After Parental Intimate Partner Homicide: A Systematic Review*, Clin. Child. Fam. Psychol. Rev. 328 (2015).

familial dynamics toward the perpetrator.”²⁴ Most child survivors also lose the familiar living environment they once knew. After the murder of one parent by the other, children are typically taken from their homes and removed from their neighborhood, school, friends, and their usual routine.²⁵ It is thus not surprising that, “[c]ompared to survivors of other types of traumatic loss, intrafamilial homicide child survivors experience greater problems with academic performance, truancy, drop-out, and social functioning.”²⁶

A different but no less troubling impact on child survivors of intrafamilial homicides concerns their own development. Such children may become perpetrators in the future—several studies have indicated that “violence observed by children has a high probability of being reenacted later in life.”²⁷ This is in part because “[c]hildren exposed to family violence tend to become involved in more negative interactions with peers, teachers, and others in their social contexts at a very young age.”²⁸ Accordingly, these children are at an “increase[d] risk for aggression and hostile actions.”²⁹ There is also empirical evidence that women who witnessed intimate partner violence in childhood are three times as likely to experience their own intimate partner

²⁴ Freddie Pastrana, et al., *Interventions for Child and Adolescent Survivors of Intrafamilial Homicide a Review of the Literature*, 46 *Death Studies* 1206, 1207 (2022).

²⁵ Freddie Pastrana et al., *supra* note 24; Linda Lewandowski et al. at 218, *supra* note 17.

²⁶ Linda Lewandowski et al. at 218, *supra* note 17.

²⁷ Pietro Ferrara et al. at 5, *supra* note 21; *see also* Linda Lewandowski et al. at 217, *supra* note 17.

²⁸ Linda Lewandowski et al. at 217, *supra* note 17.

²⁹ Linda Lewandowski et al. at 218, *supra* note 17.

violence in adulthood.³⁰ The cycle of devastating loss and trauma may therefore continue across generations.

C. Non-Fatal Firearm Abuse Also Causes Children Severe Trauma

Guns are not only used in domestic violence incidents that result in murder. They are also used by abusers to “control, denigrate, intimidate, monitor, and restrict” intimate partners and children.³¹ One community-based sample from 2020 showed that 13.6% of women reported experiencing non-fatal firearm abuse from an intimate partner in their lifetimes; nearly half of the respondents, 49.2%, also reported having a child at home.³² These percentages indicate that approximately 12 million children reside in homes affected by non-fatal firearm abuse.³³

Moreover, the results of a nationwide survey conducted around 2011 by the National Survey of Children’s Exposure to Violence revealed the extent to which incidents of family violence affects children living in the same household. The results found that: (1) about 11%, of children in the United States were exposed to some sort of family violence in the past year; (2) about 25% of children in the United States were exposed to at least one form of family violence in their lifetime; and (3) about

³⁰ Robert S. Thompson, et al., *Intimate partner violence: prevalence, types, and chronicity in adult women*, 30 *Am. J. of Preventative Med.* 447-457 (2006).

³¹ Kathryn J. Spearman et al., *supra* note 18; *Beyond Bullet Wounds: Guns in the Hands of Domestic Abusers*, Brady: United Against Gun Violence, 4 (2021); Susan Sorenson, et al., *Non-Fatal Gun Use in Intimate Partner Violence: A Systematic Review and the Literature*, 19 *Trauma, Violence and Abuse* 431 (2016).

³² Avanti Adhia, et al., *Nonfatal Use of Firearms in Intimate Partner Violence: Results of a National Survey*, 147 *Prev. Med.* 1, 5-6 (June 2021).

³³ *Id.*

90% of the children exposed to family violence were direct eyewitnesses to the violence.³⁴

This is illustrated in the examples below. The survivors here were part of a study in which they each reported that their co-parent had threatened them or their children with a firearm:

“He loaded [the gun], and like pointed at the wall. But it was like the wall to the kids’ bedroom.”³⁵

“He brought one [firearm] home when he bought it and pointed it at my forehead. He put loaded guns on the counters, and we had a 5 year old running around. . . . He was paranoid, and so I felt like I was in danger, and my daughter was in danger.”³⁶

“He started using a gun to intimidate her. He would threaten to shoot himself or her, sometimes in front of her two children.”³⁷

Exposure to threatened and non-fatal violence also affects children psychologically, mentally and emotionally, often with long-term effects.³⁸ These children suffer higher rates of post-traumatic stress disorder, depression, anxiety, and alcohol and drug abuse, and they are more

³⁴ Sherry Hamby, et al., *Children’s Exposure to Intimate Partner Violence and Other Family Violence*, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (Oct. 2011); *Beyond Bullet Wounds: Guns in the Hands of Domestic Abusers*, Brady: United Against Gun Violence, 6 (2021).

³⁵ Kathryn J. Spearman, et al., *Firearms and Post-Separation Abuse: Providing Context Behind the Data on Firearms and Intimate Partner Violence*, J. Advanced Nursing (Under Review).

³⁶ *Id.*

³⁷ See Everytown for Gun Safety, *Guns and Violence Against Women* (updated Apr. 10, 2023).

³⁸ Sherry Hamby et al., *supra* note 34.

likely to commit an offense with a weapon as an adult.³⁹ Children who are exposed to threats of gun violence generally also spend less time playing and being physically active, and have lower grades, more absences, lower test scores, and lower rates of high school graduation.⁴⁰

II. Limiting Domestic Violence Offenders' Access to Firearms Protects Children

There is no question that domestic violence and child abuse are public health crises, or that these crises are exacerbated by the widespread possession of guns. Limiting the possession of guns by those who have committed domestic violence offenses and who are subject to domestic violence restraining orders is therefore an urgently needed intervention to protect children.

Such limits are crucial in part because the remedies available through civil and family courts often do not sufficiently protect children from an abusive parent. Substantial research has shown that separating from or leaving an abusive partner is itself a risk factor for “lethality, continued or worsened [violence], and the occasional initiation of [violence].”⁴¹ For this reason, many child homicides occur even *after* separation, “motivated by revenge against the mother for leaving the abusive

³⁹ Sherry Hamby et al., *supra* note 34; Everytown for Gun Safety, *The Impact of Gun Violence on Children and Teens* (updated Feb. 20, 2023).

⁴⁰ Everytown for Gun Safety, *supra* note 39.

⁴¹ Kathryn J. Spearman et al., *supra* note 18; *see also* Ruth E. Fleury, et al., *When Ending the Relationship Does Not End the Violence: Women's Experiences of Violence by Former Partners*, 6(12) *Violence Against Women* (Dec. 2000); Caroline M. Clements, et al., *Methodological Issues in Assessing Psychological Adjustment in Child Witnesses of Intimate Partner Violence*, 9(2) *Trauma, Violence, & Abuse* 114-12 (2008).

relationship.”⁴² Indeed, data from the Center for Judicial Excellence show that more than half of child homicides reported in the media and committed in the context of parental separation, divorce, and domestic violence involved family courts in some way, such as child custody disputes and divorce proceedings.⁴³ A firearm was used to murder the children in over half of such cases.⁴⁴

Notwithstanding this fact, in most jurisdictions, domestic abusers’ access to their children is not restricted.⁴⁵ Moreover, family court orders on their own typically do not contain provisions on firearm removal or

⁴² Peter G. Jaffe, et al., *Paternal Filicide in the Context of Domestic Violence: Challenges in Risk Assessment and Risk Management for Community and Justice Professionals*, 23(2) *Child Abuse Rev.* 142-153 (Apr. 2014); *see also* Kristin M. Holland, et al., *Circumstances Preceding Homicide-Suicides Involving Child Victims: A Qualitative Analysis*, 33(3) *J. Interpersonal Violence* 379-401 (2018) (in 17% of analyzed cases involving filicide-suicides, the motivation was to deprive one parent of custody of a child).

⁴³ Kathryn J. Spearman, et al., *An Analysis of Media Reports of Pediatric Homicides in the Context of Parental Separation, Divorce, and Intimate Partner Violence*, Institute on Violence and Trauma (IVAT) 20th Annual Hawai’i International Summit (April 25, 2023), Power Point presentation available at <https://centerforjudicialexcellence.org/resources/ivat-conference-presentation/>.

⁴⁴ *Id.*; *see also* Kristin M. Holland et al., *supra* note 42 (61% of homicide-suicides involving children had intimate partner problems as antecedent, including separation, divorce, and child custody disputes).

⁴⁵ Joan Meier, *U.S. child custody outcomes in cases involving parental alienation and abuse allegations: what do the data show*, 42 *J. of Social Welfare and Fam. Law*, 92-105 (2020). *See also* Joyanna Silberg & Stephanie Dallam, *Abusers gaining custody in family courts: A case series of over turned decisions*, 16(2) *J. of Child Custody: Research, Issues, and Practices*, 140-169 (2019).

relinquishment.⁴⁶ As such, a domestic violence restraining order is often the only way to prevent a known abuser from lawfully possessing a gun.

For example, a mother in Ohio suffered abuse at the hands of the father of her two children.⁴⁷ In 2015, he threatened to kill her with a gun. The mother fled the home to save her life, a neighbor called 911, and her abuser was taken into custody. The mother filed for divorce and sought a restraining order, which the court granted for her and her two children. The mother and the abuser then reconciled for a brief period, when he promised he would change. He completed a one-year alcohol rehabilitation program, which reduced his domestic violence charge to disorderly conduct and gave him the right to again possess a gun. Despite his promises that he had changed, the abuse continued, and tragically extended to their son. The mother filed for divorce again in 2020 and endured a lengthy custody battle. Because the state had dropped her abuser's domestic violence charge, however, he was able to obtain a license to carry a concealed firearm. Days after their custody battle ended, the abuser shot and killed their two children—C.J.E., age 13, and G.E.E., age 10—in their sleep while they were in his home.

This mother's story is one of countless instances where domestic violence offenders use guns to kill their children. Research shows that limiting the ability of abusers to possess firearms can help prevent such tragedies. For instance, state laws that prohibit persons

⁴⁶ Marcia Zug, *Divorcing Guns: How Family Law Could Change Parental Gun Ownership and Save Kids' Lives*, 80(2) Wash. & Lee L. Rev. Online 81-95 (2022).

⁴⁷ National Family Violence Law Center, *Surviving Parent Narratives -- Filicide by Firearm* (Aug. 2023), available at <https://www.nfvlc.org/supreme-court>.

subject to domestic violence-related restraining orders from possessing firearms—and also require them to relinquish firearms in their possession—were associated with a 14% lower rate of firearm-related intimate partner homicides than states without these laws.⁴⁸ Several other studies have reached similar results.⁴⁹ This evidence establishes that disarming known abusers is a vital step to protecting children from gun violence.

CONCLUSION

As described in detail above, Section 922(g)(8) protects children who would otherwise face the very real threat of being murdered or profoundly harmed by domestic abusers armed with guns. Because the Fifth Circuit erred in invalidating this important law, *amici* respectfully submit that this Court should reverse.

⁴⁸ Carolina Diez, et al., *State Intimate Partner Violence-Related Firearm Laws and Intimate Partner Homicide Rates in the United States, 1991 to 2015*, 167 *Annals of Internal Med.* 536-543 (2017).

⁴⁹ See, e.g., April M. Zeoli, et al., *Analysis of the Strength of Legal Firearms Restrictions for Perpetrators of Domestic Violence and Their Associations with Intimate Partner Homicide*, 187(11) *Am. J. of Epidemiology* 2365–2371 (2018) (laws preventing those subject to domestic violence restraining orders from possessing guns are associated with a 10% reduction in the rate of intimate partner homicides); Elizabeth R. Vigdor & James A. Mercy, *Do Laws Restricting Access to Firearms by Domestic Violence Offenders Prevent Intimate Partner Homicide?*, 30(3) *Eval Rev.* 313-346 (2006) (states with laws that restrict access for persons subject to certain domestic violence restraining orders reduce intimate partner homicide rates by 8%).

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