

No. 20-1639

In the
Supreme Court of the United States

GEORGE YOUNG, JR.,
Petitioner,

v.

STATE OF HAWAII, ET AL.,
Respondents.

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

**BRIEF OF *AMICUS CURIAE*
HAWAII FIREARMS COALITION
SUPPORTING PETITIONER**

DONALD L. WILKERSON
ATTORNEY AT LAW
P.O. Box 42
Laupahoehoe, HI 95764
(808) 533-4447
don@allislandslaw.com

AMY BELLANTONI
Counsel of Record
BELLANTONI LAW FIRM, PLLC
2 Overhill Road, Suite 400
Scarsdale, NY 10583
(914) 367-0090
abell@bellantoni-law.com

*Counsel for Amicus Curiae
Hawaii Firearms Coalition*

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I. INTEREST OF AMICUS CURIAE¹

Amicus Curiae Hawaii Firearms Coalition (HFC), is a non-profit, member driven organization incorporated under the laws of the State of Hawaii with its principal place of business in Honolulu, Hawaii. HFC's mission is to protect and extend the “right of the people to keep and bear arms” and take all legitimate action in furtherance of that mission. HFC promotes legislative and legal action, research, publishing, and advocacy in support of civil liberties. HFC litigates firearm-regulation cases, and consistently advocates for principled interpretation of the United States Constitution.

HFC members have provided informed analysis in a variety of firearm-related cases, including *Fisher vs. Louis Kealoha, et al.*, 855 F. 3d 1067 (9th Cir. 2017), *Roberts vs. City and County of Honolulu*, Civ. No. 15-00467 ACK-RLP, and *Roberts vs. Ballard, et al.*, Civ. No. 18-00125.

INTRODUCTION

Petitioner has persuasively demonstrated that there is a deep split among the circuits regarding Second Amendment protections outside the home. It is imperative that this Court resolve that split.

¹ This brief was not authored in whole or in part by any party's counsel. No party, counsel, or other person — other than amicus curiae and its counsel — contributed money intended to fund the preparation or submission of this brief. Counsel of record for all parties received notice of intent to file this brief and consent was granted by all parties under Rule 37.2(a).

Amicus Curiae HCF presents this Court with information about Hawaii County's unique environment that contributes to the need for its citizens to keep and bear handguns outside the home.

II. SUMMARY OF ARGUMENT

Hawaii County, Hawaii is comprised entirely of Hawaii Island. Hawaii Island's rural environment coupled with its dynamic weather and volcanic lava flows create situations where its citizens cannot dependably rely on Hawaii County Police for protection and must rely on self-defense.

Hawaii Island is a sprawling, rural, 4,028.4 square mile county² located in the southeast corner of the Hawaiian Archipelago³, the most remote island chain in the world. Hawaii County is made up entirely of Hawaii Island, also aptly known as the, "Big Island" or just "Hawaii Island". Hawaii Island is very unique and unlike anywhere else in the world, boasting 10 of the

²This figure is approximate, Hawaii County is the only county in the United States that continues to grow. In 2018, a 6.9 magnitude earthquake precipitated the eruption of Kilauea Volcano on Hawaii Island's east side. Over several months these vents sent molten lava roaring through villages and destroying more than 700 homes in Leilani Estates, Kapoho, and neighboring communities before dumping into the Pacific Ocean. 850 acres, or 1.36 square miles of new land were created along the southeastern coast.

³The Hawaiian Island archipelago stretches some 1,500 miles from South Point, on Hawaii Island, northwest to Kure Island, which is located just northwest of the most northwest inhabited Hawaiian Island, Midway Island.

world's 14 climate zones.⁴ One would have to travel from Alaska to Costa Rica to find the same number of climatic zones found within Hawaii Island. It is located 214 miles by air from the state capital, Honolulu, and approximately 2,400 miles by air from the continental United States.⁵ Hawaii Island has the one of the world's most active volcanoes, Kilauea; so barren and unforgiving that NASA chose Hawaii Island volcanoes for training to simulate the surface of the moon and the isolation of Mars.⁶ Hawaii has two seasonally snow-capped mountains, both over 13,500 feet high, and 266 miles of rugged, remote coastline.

Hawaii County's 4,028 square miles are made up of 9 districts; South Kona, North Kona, South Kohala, North Kohala, Hamakua, North Hilo, South Hilo, Puna, and Ka'u.⁷ Despite its size, Hawaii County has no freeways and relies almost entirely on two lane

⁴ D. Paiva, "Hawaii has 10 of the world's 14 climate zones: An explorer's guide to each of them," hawaiimagazine.com, Nov. 10, 2015 (<https://www.hawaiimagazine.com/content/hawaii-has-10-worlds-14-climate-zones-explorers-guide-each-them>) (accessed 6/23/21).

⁵ "Hilo to ..." timeanddate.com (<https://www.timeanddate.com/worldclock/distances.html?n=1083>) (accessed 6/23/21).

⁶ AP, "Mars mission isolation simulation on Hawaii volcano ending," cbsnews.com, Sept. 15, 2015 (<https://www.cbsnews.com/news/mars-mission-isolation-simulation-hawaii-volcano-ending/>) (accessed 6/23/21).

⁷ "Big Island of Hawaii Districts," (<https://www.to-hawaii.com/big-island/districts.php>) (accessed 6/23/21).

highways⁸. Three state routes, State route 11, State route 19, and State route 190 almost encircle Hawaii Island. These routes are known by various names, which adds confusion to emergency calls requiring the caller to identify their location. Collectively, these individual routes are known as “Hawaii Belt Road”, while some stretches are known as Mamaloahoa Highway. Adding to the confusion, sections of an older parallel highway are known as Old Mamalahoa Highway. Life long citizens often confuse these highways and are unable to quickly communicate their location to emergency responders.

Tropical storms and hurricanes cause flooding and winds that block roads with downed trees, flooded streams, and landslides, preventing emergency access to damaged areas and isolating citizens from police protection. Repairs of these roads sometimes proceed at a snail’s pace. In 2018, Hurricane Lane dropped over four feet of rain in forty eight hours in some areas of Hawaii Island, causing flooding and landslides that blocked roads and prevented police access to isolated locations. Old Mamalahoa Highway was damaged by Hurricane Lane in 2018 and, three years later, has not been completely repaired and remains closed in some areas.

Volcanic lava flows can block roads and isolate entire neighborhoods, which must be evacuated and are then subject to looting. Fumes from these volcanoes can pollute the air with noxious gases and create health hazards, isolating citizens in their homes or requiring

⁸ State route 11 near the Kona Airport is being widened.

evacuation. Puna District lost over 700 homes in 2018 to lava flows.

A relatively large segment of the population lives “off grid” in geographically large, isolated, sparsely populated areas with very few police officers available to service large geographic areas. Many homes in these areas lack county water and rely entirely on filtered rainwater catchment, lack electricity and rely on solar energy, and lack telephone service and rely on cell phone services, or no service at all.

Many populated and unpopulated areas of Hawaii Island, including large neighborhoods, sections of major highways, and recreational areas, have spotty or non-existent cellphone coverage preventing immediate contact with emergency services. If police are contacted, police response times to a neighborhood may take over one hour.

Hawaii County is a unique, rural, outlier jurisdiction. Hawaii County citizen’s live in a unique environment where dangerous situations must be addressed quickly and government emergency assistance is not readily available. Hawaii Island citizens cannot adequately rely on police protection and must always be prepared to defend themselves, their families, and their property.

We agree with Petitioner Young that HRS §134-9 is not properly tailored to the unique needs of the citizens of Hawaii County and cannot pass any type of scrutiny, including intermediate scrutiny. Plaintiff’s Petition for Writ of Certiorari should be granted.

III. ARGUMENT

1. Hawaii Island's Citizens Live in a Unique Environment That Requires They Be Ready to Act in Self-Defense

A. Hawaii Island is Big with Many Remote Areas

Hawaii Island's 4,028 square miles account for almost two thirds⁹ of Hawaii State's 6,422¹⁰ square miles. This means that Hawaii Island is almost twice the size of all the other Hawaii islands combined. Hawaii Island is the largest island in the United States, even larger than Kodiak Island, Alaska,¹¹ and has five active volcanoes.¹²

Rising 13,803 feet above sea level, Mauna Kea is slightly taller than Mauna Loa and is the State's

⁹ "Big Island of Hawaii Travel Guide," to-hawaii.com, (<https://www.to-hawaii.com/big-island/>) (last accessed 6/23/21).

¹⁰ Hawaii State also includes 4,508 square miles of water, for total area of 10,931 square miles. But the land mass of the islands is 6,423 square miles, approx. "Hawaii," worldatlas.com, (<https://www.worldatlas.com/webimage/countrys/namerica/usstates/hilandst.htm>) (last accessed 6/23/21).

¹¹ https://en.wikipedia.org/wiki/List_of_islands_of_the_United_States_by_area, (last accessed 6/23/21).

¹² Kilauea, Mauna Loa, Hualalai, Mauna Kea and Lo'ihi. Between 1912 and 2018, there have been at least 50 Kilauea eruptions, 12 Mauna Loa eruptions, and one Hualalai intrusion of magma. Mauna Kea most recently erupted only about 4,000 years ago. Lo'ihi, the submarine volcano is located off the south coast of Kilauea, erupted twice between 1950 and 1996.

highest point.¹³ Mauna Kea is dormant. With its remote, high elevation, dry environment, and stable airflow, Mauna Kea's summit is one of the best sites in the world for astronomical observation.¹⁴ Mauna Loa and Mauna Kea are frequently snow-capped in the winter months.



13,803 foot snow-capped Mauna Kea, from Kona¹⁵

¹³ Mauna Kea Visitor Information Center, "Visiting the Summit", ifa.hawaii.edu, (<http://www.ifa.hawaii.edu/info/vis/visiting-mauna-kea/visiting-the-summit.html>) (accessed 11/17/2018).

¹⁴ Mauna Kea Visitor Information Center, "Visiting the Summit", ifa.hawaii.edu, (<http://www.ifa.hawaii.edu/info/vis/visiting-mauna-kea/visiting-the-summit.html>) (accessed 11/17/2018).

¹⁵ C. Herreria, "Hawaii Had More Snow This Week Than Denver Or Chicago Has Had All Year" huffingtonpost.com, Mar. 4, 2017 (https://www.huffingtonpost.com/entry/hawaii-snow-denver-chicago_us_58ba1e31e4b05cf0f400c753) (accessed 11/18/18).



Mauna Kea snow and observatories, Kilauea Volcano erupting in background.¹⁶

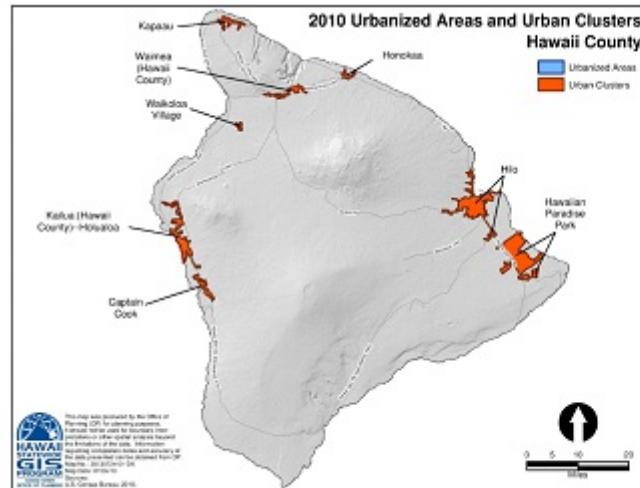
B. Hawaii Island is 98% Rural

According to the State of Hawaii, Hawaii County has, “3,942 square miles of rural land where 70,300 people reside [with] an average of 18 people ... in every square mile”, and “87 square miles of urban land where 114,800 people reside, [with] an average of 1,300 people live in every square mile”.¹⁷ Hawaii County’s rural areas have fewer persons per square mile than any other state in the 9th Circuit, except Alaska (one person per square mile) and Montana (seven persons per

¹⁵ D. Rice “Flake news: It’s snowing in Hawaii” *usatoday.com*, Feb. 6, 2018 (<https://www.usatoday.com/story/weather/2018/02/06/snow-hawaii/312741002/>) (accessed 11/18/18).

¹⁷ Urban and Rural Areas in the State of Hawaii, by County: 2010, Hawaii State Data Center, https://files.hawaii.gov/dbedt/census/Census_2010/Other/2010urban_rural_report.pdf (accessed 6/23/21).

square mile).¹⁸ Yet, fifty-nine years after statehood, the State of Hawaii and Hawaii County still refuse to issue permits to carry in Hawaii County.



U.S. Census Bureau, 2010.

Many homes on Hawaii Island are “off grid”. Most off grid homes on Hawaii Island rely on water catchment, solar electricity, and septic tanks. Most rural areas have no postal delivery and no telephone service. Cellphone coverage across the entire island can be spotty or non-existent. Off grid homes with no cellphone coverage are completely isolated from the outside world.

¹⁸ “50 States Populations (2010 Census)”, netstate.com, (http://www.netstate.com/states/tables/state_population_2010.htm) (accessed 6/23/21).

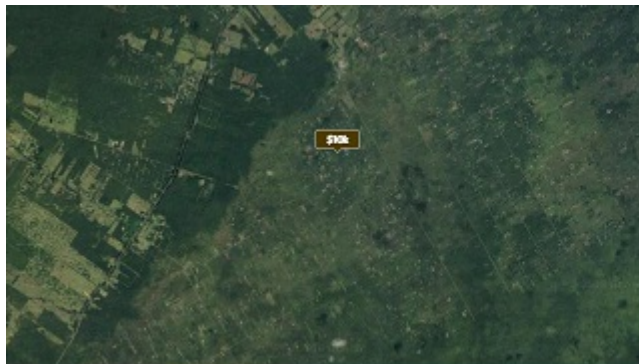
A few geographically large neighborhoods consist entirely of poorly maintained dirt or gravel roads narrowly cut through dense ohia¹⁹ and fern forests, with no street lighting. The rough gravel roads are narrowly cut through dense Ohia and fern forests.



Amakihi Street, Typical Rural Street, Mountain View, Hawaii Island.²⁰

¹⁹ Ohia is a species of flowering evergreen tree in the myrtle family that is endemic to Hawaii. Its height varies, 65 to 80 ft tall in favorable situations, and is a much smaller shrub when growing in boggy soils

²⁰ F. Bertram, HawaiiLife.com (<https://www.hawaiilife.com/fawnbertram/listings/>) (accessed 6/23/21).



Satellite view of Amakihi St., with realty sales marker.
See footnote 21.

These neighborhoods are sporadically populated with small to medium sized homes or shacks, usually on one to twenty acre lots. Homes can be very difficult for police officers and emergency personnel to locate, more so at night. One lane, gravel roads are often the norm. Most lots in these neighborhoods are unoccupied and have never been cleared or developed and remain in their natural, densely forested state. Other lots were developed, then abandoned, and are now overgrown with vegetation and occupied by squatters. Most often, the dense forest has tall, spindly ohia trees that are surrounded by thick, impassable ferns. Many homes are set back in these tropical forests and cannot be seen from the road. The distance between occupied lots may be a quarter mile or more. These areas have few, if any, street lights and have no mail boxes to mark the location of driveways. Small, unmarked dirt driveways cut into the forest are very difficult for police officers to find, especially on dark, rainy nights. Citizens living in these neighborhoods and in need of assistance must

somehow describe the location of their property to 911 dispatch.

Many recreational areas on Hawaii Island are very remote and accessible only by foot or four wheel drive. These remote areas can be found in the mountains and along the coast. It can be impossible for a citizen to obtain adequate police protection in these areas because there is often no cellphone reception and no means to contact the police. Even if there is cellphone coverage, it may take hours after the need arises for a police officer to get the call, drive to the District's main station, obtain a four wheel drive, drive to the general location, find a passable four wheel drive road, and then travel slowly to the location, if the officer can find it.

C. Hawaii Island's Active Volcanoes Create Lava Flows That Isolate Communities and Prevent Police Protection

Kilauea Volcano is the world's most active volcano and erupted almost continuously from 1983 through 2018. Kilauea's eruptions and lava flows physically isolated citizens by surrounding inhabited areas with impassable lava. The 2018 eruption covered 13 square miles of land, destroyed over 700 homes and added 850 acres (1.36 square miles) of new coastal land to the island.²¹

²¹ J. Magin, "Number of homes destroyed by Kilauea eruption reaches 700, Hawaii County officials say," bizjournals.com, July 9, 2018 (<https://www.bizjournals.com/pacific/news/2018/07/09/number-of-homes-destroyed-by-kilauea-eruption.html>) (accessed 6/23/21); E. Klemmeti, "Kilauea's Summit Collapsed Into Itself" blogs.discoverymagazine.com, Oct. 17, 2018



Hawaii Island lava flows are a recurrent problem, blocking roads and isolating communities and residents

(<https://www.discovermagazine.com/planet-earth/klaueas-summit-collapsed-into-itself>) (accessed 6/23/21).

from emergency assistance. Gas masks can be needed to protect residents from toxic fumes. *See photos.*²²

Rising approximately 13,380 feet above sea level, Mauna Loa is the world's largest active volcano.²³ By adding another 16,400 feet from the sea bed to sea level²⁴, at 30,085 feet, Mauna Loa is the tallest mountain on earth.²⁵ Mauna Loa has erupted 33 times since its first well-documented historical eruption in 1843. Mauna Loa produces large, voluminous flows that have reached the ocean eight times since 1868. Mauna Loa is certain to erupt again with large, voluminous flows. Mauna Loa's 1984 lava flow came within four miles of Hilo, the county seat.²⁶

²² CNN, "In pictures: Hawaii's Kilauea volcano erupts," [cnn.com, \(https://www.cnn.com/interactive/2018/05/us/hawaii-kilauea-volcano-eruption-cnnphotos/\)](https://www.cnn.com/interactive/2018/05/us/hawaii-kilauea-volcano-eruption-cnnphotos/) (accessed 6/23/21).

²³ United States Geological Survey, "Mauna Loa", [volcanoes.usgs.gov, \(https://volcanoes.usgs.gov/volcanoes/mauna_loa/\)](https://volcanoes.usgs.gov/volcanoes/mauna_loa/) (accessed 6/23/21).

²⁴ The islands rise directly from deep ocean water. The Pacific Ocean is 16,000 feet deep just 16 miles from the area where Kilauea's lava entered the ocean in 2018.

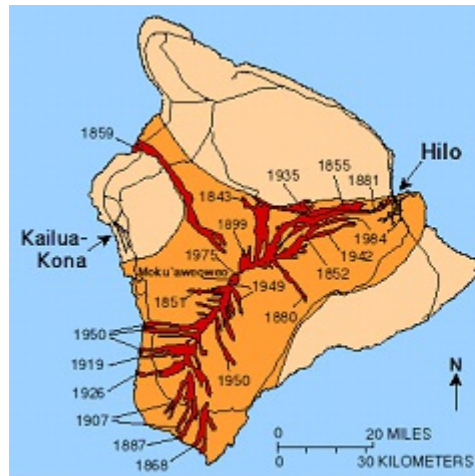
²⁵ Combining the volcano's extensive submarine flanks 16,400 ft to the sea floor and 13,680 ft subaerial height, Mauna Loa rises 30,085 ft from sub marine base to summit, greater than the 29,029 ft elevation of Mount Everest from sea level to its summit.

²⁶ J. Burnett, "Recalling 1984, when lava nearly reached Hilo," [westhawaii.com, September 18, 2015 \(http://www.westhawaii.com/2015/09/18/hawaii-news/recalling-1984-when-lava-nearly-reached-hilo/\)](http://www.westhawaii.com/2015/09/18/hawaii-news/recalling-1984-when-lava-nearly-reached-hilo/) (accessed 6/23/21).



1984 Mauna Kea lava flowing toward Hilo.²⁷

²⁷ J. Burnett, "Recalling 1984, when lava nearly reached Hilo," westhawaii.com, September 18, 2015 (<http://www.westhawaii.com/2015/09/18/hawaii-news/recalling-1984-when-lava-nearly-reached-hilo/>) (accessed 6/23/21).



Simplified map of historical lava flows at Mauna Loa volcano.²⁸

Over the past 50 years, lava flows have cut off roads and isolated communities. According to the Hawaii Volcanoes National Park website,

“... [T]ens of thousands of [] archeological sites have been buried under lava since 1969.

Since 1986, lava has flowed repeatedly over Chain of Craters Road/Highway 130. The Park’s acreage has been increased by hundreds of acres and nearly 9 miles (14.5 km) of road have been inundated by the flows. In June 1989, Waha’ula Visitor Center and associated buildings were

²⁸ Hawaii Center for Volcanology, “General Info,” (<http://www.soest.hawaii.edu/gg/HCV/mloa-eruptions.html>) (accessed 6/23/21).

burnt and covered by lava. The Waha'ula Heiau was surrounded by lava more than once and finally buried entirely in August 1997. The Kamoamoā village site, heiau, campground, picnic area, and black sand beach were covered by lava in November 1992.”

Hawaii Volcanoes National Park, “Drive Chain of Craters Road,” nps.gov, (https://www.nps.gov/havo/planyourvisit/ccr_tour.htm) (accessed 6/23/21).



In 2018, Caterpillar high sprocket D-10 bull dozers attempting to clear Chain of Craters Road covered by a pre-2018 lava flow to create escape route for Hawaii Island communities isolated by the 2018 lava flow. Built in 1965, Chain of Crater Road has had segments

blocked by Kilauea lava flows 43 of the past 55 years.²⁹ Started in May, 2018, the reinvigorated project to clear Chain of Craters Road and create an emergency escape route for Puna residents is not complete.

D. Police Protection Is Insufficiently Responsive

Only 200,381 people live on Hawaii Island's 4,030 square miles, many in remote, rural areas. The population density is only 46 persons per square mile.³⁰ This compares with 1,586.7 persons per square mile on Oahu³¹ and 2,419.9 persons per square mile³² in Los Angeles County. While L.A. is a great big freeway, there are no freeways on Hawaii Island. For the most part, a single two-lane highway encircles the island, and a two-lane highway bisects the island.

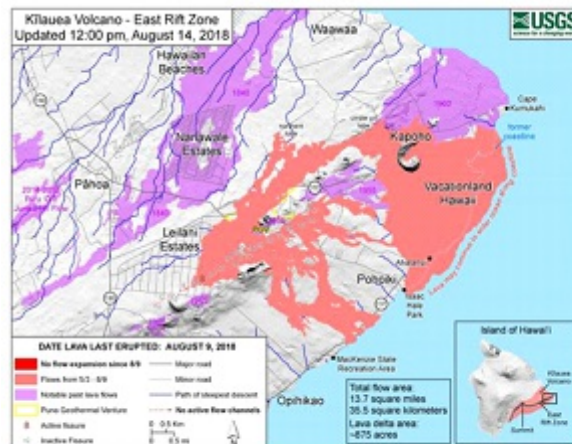
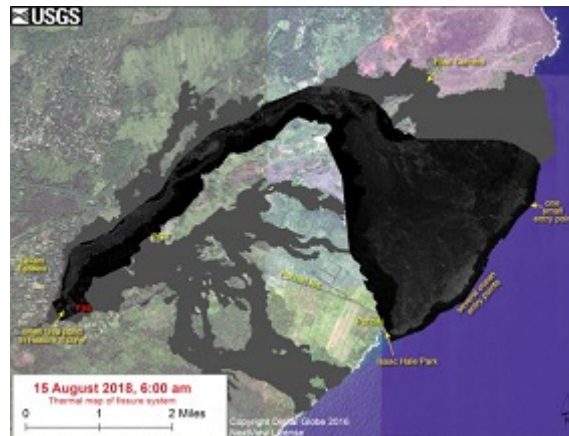
²⁹ State of Hawaii, Department of Transportation, "WORK BEGINS ON CHAIN OF CRATERS-KALAPANA ROAD EVACUATION ROUTE", hidot.hawaii.gov, May 30, 2018 (<http://hidot.hawaii.gov/blog/2018/05/30/work-begins-on-chain-of-craters-kalapana-road-evacuation-route/>) (accessed 6/23/21).

³⁰ U.S. Census Bureau QuickFacts: Hawaii County, Hawaii, <https://www.census.gov/quickfacts/hawaiicountyhawaii>.

³¹ United States Census Bureau, "Quick Facts, Honolulu County" (<https://www.census.gov/quickfacts/honolulucountyhawaii>) (accessed 11/18/19).

³² United States Census Bureau, "Quick Facts, Los Angeles County" (<https://www.census.gov/quickfacts/fact/table/losangelescountycalifornia/PST045217#PST045217>) (accessed 11/18/19).

When landslides, flooding, lava, or an auto accident block a main thoroughfare, alternate routes are sometimes not available and police cannot respond to calls for help, leaving citizens unprotected and vulnerable.



Images of Recent Lava Flows on Hawaii Island, showing neighborhoods cutoff by lava 20 feet thick.³³

E. Wild Animals

Wild Pigs

Wild pigs are very common in Hawaii and on Hawaii Island and can weigh more than 250 pounds. Boars can have tusks more than five inches long. Wild pigs live in the forest, but are commonly seen on the road and in urban areas.³⁴ They can be very dangerous, and deadly if accidentally cornered. Wild pigs often come into residential property to forage.³⁵

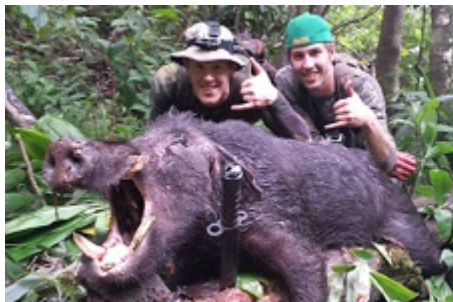


³³ USGS, “Maps,” Aug. 15, 2018. (https://volcanoes.usgs.gov/volcanoes/kilauea/multimedia_maps.html) (accessed 6/23/21).

³⁴ T. Unefuku, “Mililani Mauka residents frustrated over influx of wild pigs,” *khon2.com*, June 4, 2015 (<https://www.khon2.com/news/local-news/mililani-mauka-residents-frustrated-over-influx-of-wild-pigs>) (accessed 6/23/21).

³⁵ M. BRESTOVANSKY, “The problem of feral pigs,” *HawaiiTribune-Herald.Com*, Monday, December 25, 2017 (<https://www.hawaiitribune-herald.com/2017/12/25/hawaii-news/the-problem-of-feral-pigs/>) (accessed 6/23/21).

Wild pig sows and piglets in Hilo³⁶.



This boar photo was taken in Hawaii.³⁷

Pig hunters use dog packs to track and corner the pigs. The pigs are killed by stabbing the pig in the heart while the dogs harass the pig and hold it down. Almost all pig hunters carry permitted handguns for protection from the pigs. Hawaii County residents who are not actively hunting and not a security guard are not permitted to carry firearms for protection against these wild pigs.

³⁶ M. BRESTOVANSKY, "The problem of feral pigs," *HawaiiTribune-Herald.Com*, Monday, December 25, 2017 (<https://www.hawaiitribune-herald.com/2017/12/25/hawaii-news/the-problem-of-feral-pigs/>) (accessed 6/23/21).

³⁷ J. McAdams, "With feral hog populations exploding all over the United States, there are a lot of great places to hunt hogs," *wideopenspaces.com*, January 4, 2018 (<https://www.wideopenspaces.com/top-10-states-to-hunt-hogs-in-the-us/>) (accessed 6/23/21).

Pig hunters and hikers have access to, and often use the same trails. Pig hunters cannot hunt in all areas accessible to hikers, but hikers can usually hike in most areas designated as hunting areas. When the dogs chase a pig, the pig will often run to a trail in order to run faster. Hikers hiking on these trails are in great danger of being attacked by these wild pigs. Workers on Mauna Ranch have been attacked and injured by wild pigs.

Wild Dogs

During the pig hunt, dogs often get lost and are abandoned. These lost dogs become feral and form dangerous packs. Wild and domestic dogs have been known to attack and kill people, older horses, domestic farm sheep, and livestock.

In 2016 a man was killed by dogs in Kalihi, on Oahu.³⁸ A year later, two hunting dogs attacked and nearly killed two dogs on a hike with their owner.³⁹ Just one month before that, a Honolulu Airport security officer shot and killed a dog when the dog

³⁸ B. Namata, "Homeless man killed by dogs owned by Kalihi business," *khon2.com*, August 2, 2016 (<https://www.khon2.com/news/local-news/medical-examiner-says-dog-behind-kalihi-homeless-mans-death/1025878566>) (accessed 6/23/21).

³⁹ M. Miyashima, "Two dogs survive vicious attack by hunting dogs on hiking trail," *kitv.com*, August 14, 2017, updated: Saturday, October 27th 2018, (<http://www.kitv.com/story/36135809/two-dogs-survive-vicious-mauling-by-hunting-dogs-on-hiking-trail>) (accessed 6/23/21).

broke its chain and came after the guard.⁴⁰ Fortunately, the security guard, unlike a private citizen, was armed and able to defend himself. If the security guard had not been armed, he could have been seriously injured, or killed.

2. Hawaii County Has Never Issued an Open Carry Permit

California and Hawaii are the only restrictive “may issue” states in the 9th Circuit. However, “may issue” as applied to Hawaii is a misnomer. In Hawaii, “may issue” actually means “will not and has not issued”. The facts support this.

Carry permits have never been issued in Hawaii County to non security guard citizens. Notwithstanding numerous opportunities to do so, neither the State of Hawaii nor the County of Hawaii has offered a declaration or documentation that a carry permit has ever been issued in the County of Hawaii to anyone other than a security guard. As the 9th Circuit panel opinion pointed out, “[c]ounsel for the County acknowledged as much at oral argument, stating that, to his knowledge, no one other than a security guard—or someone similarly employed—had ever been issued an open carry license.” Panel Opinion at 51. See also, Oral Arg. at 13:18-13:29, 16:30-17:28. Hawaii Attorney General’s Opinion 18-1, issued in response to Petitioner Young’s complaint, utterly fails to provide

⁴⁰ Fox News, “Hawaii woman’s dog shot, killed at Honolulu airport,” [foxnews.com](https://www.foxnews.com), Mar. 31, 2017 (<https://www.foxnews.com/us/hawaii-womans-dog-shot-killed-at-honolulu-airport>) (accessed 6/23/21).

any reference to Hawaii County, or any other county, ever actually issuing an open carry permit to a non-security-guard citizen.

With Opinion 18-1 the State of Hawaii and the County of Hawaii, through the State, deceptively states that HRS §134-9 and Hawaii County Police Department Rules and Regulations Governing the Issuance of Licenses to Carry Concealed and Unconcealed Weapons currently, and historically, allow the issuance of carry permits to non-security-guard citizens. However, curiously, the State fails to include any reference to open carry permits to non-security-guards that were actually issued over the past 20 years. This secret, undisclosed, undocumented number of open carry permits issued in Hawaii County is apparently zero, or so low that divulgence now would undermine their specious argument that HRS §134-9 is not a total ban on the issuance of carry permits to non-security-guard citizens.

3. Even California Issues Carry Permits in Rural Counties

Even under the California scheme, “may issue” really means “will issue” in most rural counties. California allows its individual counties to draft their own policies to implement California’s carry statutes.⁴¹

⁴¹ K.Stone, “Sheriff Gore Aims to Issue More Concealed Gun Permits in San Diego County” [timesofsandiego.com](https://timesofsandiego.com/politics/2017/11/17/sheriff-gore-aims-to-issue-more-concealed-gun-permits-in-san-diego-county/), Nov. 17, 2017 (https://timesofsandiego.com/politics/2017/11/17/sheriff-gore-aims-to-issue-more-concealed-gun-permits-in-san-diego-county/) (accessed 11/17/2018).

In California rural counties an otherwise qualified applicant need only state that the purpose of the carry permit is for self-defense. Of California's 58 counties, 34 counties only require an otherwise qualified applicant to merely "check" "self-defense" on the application form to be issued a carry permit, and nine counties issue carry permits to applicants that show reasonable good cause. Two counties require an applicant to show heightened good cause, four counties require an applicant to show exceptional good cause, and nine counties do not issue carry permits to regular, otherwise qualified applicants. All 43 California counties that routinely issue carry permits could be classified as rural counties.



California CCW/LTC “Good Cause” requirements by County.

Montana, Idaho, Arizona and Alaska are rural and do not require a permit to carry. Washington, Oregon and Nevada are predominately rural and are “shall issue” states. As shown above, most rural California counties, pursuant to county policy, are “shall issue” counties. Hawaii County is also rural; yet, Hawaii County has never issued a carry permit to a non-security-guard.

IV. Conclusion

The Petition for Writ of Certiorari should be granted.

Respectfully submitted, this the 23rd day of June,
2021.

AMY BELLANTONI
Counsel of Record
BELLANTONI LAW FIRM, PLLC
2 Overhill Road, Suite 400
Scarsdale, NY 10583
(914) 367-0090
abell@bellantoni-law.com

DONALD L. WILKERSON
ATTORNEY AT LAW
P.O. Box 42
Laupahoehoe, HI 95764
(808) 533-4447
don@allislandslaw.com

*Attorney for Amicus Curiae
Hawaii Firearms Coalition*