

IN THE SUPREME COURT OF FLORIDA

TASHARA LOVE

Petitioner,

v.

Case No. SC18-747

STATE OF FLORIDA,

Respondent.

MOTION FOR LEAVE TO FILE AMICUS CURIAE
BRIEF IN SUPPORT OF PETITIONER BY
UNIFIED SPORTSMEN OF FLORIDA, INC.

Pursuant to Florida Rule of Appellate Procedure 9.370, Unified Sportsmen of Florida, Inc., moves for leave to appear as amicus curiae and to file its brief in support of the Petitioner Tashara Love.

1. Interest. Unified Sportsmen of Florida, Inc. (“USF”) is a non-profit membership organization incorporated under the laws of Florida with its principal place of business in Tallahassee, Florida. The purpose of USF is to promote and support the legitimate ownership and use of firearms, hunting, and related sports; the conservation of our natural resources; and the firearms rights of all law-abiding citizens in Florida as guaranteed in the United States and Florida Constitutions.

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USF has members throughout Florida who exercise the right to keep and bear arms for defense of self and others. Along with the citizenry in general, such members have a strong interest in recognition by the courts of the procedural guarantees established by law to promote fairness in the courts when persons charged with crimes have legitimate claims of lawful defense of self and others. USF Executive Director Marion Hammer testified in support of Senate Bill 128, the enactment that is at issue before this Court, and in support of its predecessor legislation.

USF's interest in this case is solely to uphold the constitutionality of the law at issue, including its retroactive application to pending cases, and USF seeks to file its brief in support of Petitioner Tashara Love only to that extent. USF takes no position on the factual merits of the case.

2. Issue. The issue is whether newly-enacted Fla. Stat. § 776.032(4), Laws 2017, c. 2017-72, § 1, effective June 9, 2017, which provides for certain evidentiary burdens for pretrial hearings where lawful defense of self or others is at issue in prosecutions alleging unlawful use of force, is retroactive to cases pending on the date of enactment. USF supports Petitioner's position that it does so apply. In particular, USF maintains that such retroactive application would not violate Florida Constitution, Art. X, § 9, which provides: "Repeal or amendment of a

criminal statute shall not affect prosecution or punishment for any crime previously committed.”

The issue has also been raised as to whether § 776.032(4) violates the Florida Constitution, Art. V, § 2(a), which provides that the Supreme Court shall adopt procedural rules for courts. Both Petitioner Love and Respondent State of Florida reject that position, as did the Court below. However, at least one amicus has stated that it will argue such constitutional violation in this case. See Motion for Leave to File Amicus Brief by the League of Prosecutors – Florida.

3. Assistance by USF. USF has long-term experience in seeking to protect the rights of lawful gun owners in legislation such as that before this Court. It has also done so in litigation both as a party, *see National Rifle Ass’n v. City of South Miami*, 774 So. 2d 815 (2000), *later proceeding*, 812 So. 2d 504 (Fla. 3rd DCA 2002), and as an amicus curiae, *e.g.*, *Rodriguez v. State*, 239 So.3d 147 (Fla. 3rd DCA 2018) (also involving Fla. Stat. § 776.032(4)); *Wollschlaeger v. Florida*, 848 F.3d 1293 (11th Cir. 2017) (*en banc*).

4. Consent of the Parties. Both Petitioner Love and Respondent State of Florida have consented to the filing of this brief pursuant to Rule 9.370(a).

WHEREFORE, Unified Sportsmen of Florida, Inc., respectfully requests that this Court grant its Motion for Leave to File Amicus Brief in Support of

Petitioner, and that such brief be filed, pursuant to Rule 9.370(c), no later than 10 days after Petitioner files her opening brief.

Dated this 24th day of July, 2018.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via e-service to the following this 24th day of July, 2018.

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