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NCLA Asks Supreme Court to Hear Case and Backtrack from Broad Application of Qualified Immunity

National Rifle Association of America v. Maria T. Vullo

Washington, DC (November 19, 2025) – The New Civil Liberties Alliance filed an *amicus curiae* [brief](#) today urging the U.S. Supreme Court to hear *NRA v. Vullo* and reexamine the Court’s qualified immunity doctrine, which frequently protects state officials from liability for violations of constitutional rights. NCLA asks the Justices to abolish the standard for qualified immunity invented by the Supreme Court’s 1982 *Harlow v. Fitzgerald* decision shielding state officials from liability for actions that have not been “clearly established” as constitutional violations in prior court precedents. The Court must at least refine the perilously pro-government “clearly established law” standard and clarify that government officials who have time to reflect and make calculated choices before acting should not receive the same protection as a police officer making a split-second decision to use force.

New York Department of Financial Services Superintendent Maria Vullo issued statements effectively threatening to punish banks and insurers via regulatory action if they kept doing business with the National Rifle Association, targeting the organization’s pro-Second Amendment viewpoint. As NCLA advised in a previous *amicus* brief, the Supreme Court revived the NRA’s lawsuit against Vullo last year, finding that the organization plausibly accused her of violating its rights to free speech and association. But Vullo argues she is immune to the lawsuit as a government official, claiming that her conduct did not violate “clearly established” law.

Federal law (42 U.S.C. § 1983) provides that state actors may be held liable for “every” violation of constitutional rights they commit—with no exceptions. But the court-created qualified immunity doctrine—particularly the “clearly established law” standard—tells officials like Vullo they may violate constitutional rights with impunity. The Court inappropriately took a legislative role when it balanced policy concerns to establish the standard, instead of simply applying the statute’s text as written.

NCLA also urges the Supreme Court to take account of recent scholarship (and common sense), which concludes that qualified immunity has lacked any basis in the law’s text or history from the start. To enforce the Fourteenth Amendment, Congress passed a law to provide individuals with a remedy for all violations of constitutional rights by state actors. The Court should recognize that the doctrine has failed to fulfill any of the public policy objectives used to justify it, and that this shield against liability for state actors has inflicted (and continues to inflict) grave harm on Americans and their constitutional rights.

NCLA released the following statements:

“Federal law promises Americans relief every time a state official violates their constitutional rights. The Supreme Court’s made-up doctrine of qualified immunity—which lets officials off the hook if their constitutional violation was not ‘clearly established’ as unlawful in a previous case with nearly identical facts—has long denied too many Americans the justice they deserve, and it has sent the message that officials can violate people’s rights with impunity. This case gives the Court an opportunity to correct its mistake.”

— **Jacob Huebert, Senior Litigation Counsel, NCLA**

“The qualified immunity doctrine insulates state officials from liability for violating people’s constitutional rights. In 1982, the *Harlow* case widened the doctrine’s application beyond reason, and it is high time for the Supreme Court to clean up the mess left in *Harlow*’s wake. Here’s hoping that new scholarship, which shows the original codification of Section 1983 should not be read to embrace any exceptions, will spur the Court to backtrack.”
— **Mark Chenoweth, President, NCLA**

For more information visit the *amicus* page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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