

No. 04-26

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**In The  
Supreme Court of the United States**

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SNOWBLEED,  
*Plaintiff-Appellant,*

*v.*

NEVADA HIGHWAY PATROL,  
*Respondent-Appellee.*

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*On Writ of Certiorari to the United States District  
Court for the District of Columbia*

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**BRIEF *AMICUS CURIAE* OF TIMOTHY  
GEITHNER IN SUPPORT OF APPELLANT**

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TIMOTHY F. GEITHNER  
*In Private Capacity*  
*\*Counsel*

1 First Street, N.E.  
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January 6, 2017

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## **QUESTIONS PRESENTED**

1. Does the district court's ruling interfere with Article I, Section 8, Clause 13 of the Constitution?
2. Does the District of Columbia City Council's existence run counter to Article I, Section 8, Clause 13 of the Constitution?
3. May the District of Columbia's Developmental Council grant jurisdiction to law-enforcement bodies?

**INTEREST OF *AMICUS CURIAE*<sup>1</sup>**

Timothy Geithner is a former Member of the Supreme Court, former Vice President of the United States, and author and framer of the Constitution of the United States. His work includes areas of law discussing federalism, contempt citations, the Second Amendment, and many more. He has authored a substantial number of common-law opinions still in use today by the Judiciary of the United States.

Mr. Geithner’s position as framer of the Constitution provides this Court with unique insight into the meanings behind the structure of municipalities and the Federal Government; that insight is the core of this brief.

**ARGUMENT**

Appellant Nevada Highway Patrol and counsel (collectively “Respondent”) contend that the Grandfather Amendment of the Constitution, see Amdt. 29, exists to “preserve . . . institutions . . . existing” during the previous Constitution’s enactment. Brief for Respondents 5. This reading comports with the actual text of the Amendment.

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<sup>1</sup> The parties have consented to the filing of this brief and their letters of consent have been filed with the Clerk. Under Rule 37.6 of the Rules of this Court, *amicus* states no counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae* made a monetary contribution to the brief’s preparation or submission.

The Amendment reads in full—

“No laws of the United States in operation at the time of ratification of this new Constitution shall become inoperable *unless they conflict with this Constitution*, and officeholders of offices which are contained in both the prior and this Constitution shall remain in their offices for the same length of time as would occur under the prior Constitution” (emphasis added).

The text of the Amendment is clear: no laws that conflict with the Constitution from before its ratification may stand. The question the Court must resolve before anything else, therefore, is whether the mere existence of a municipal council, authorized by the City Council Act of 2015, and reinforced by the Fauxtillion Home Office Act of 2017, satisfies the process by which municipalities themselves are created under the Constitution, see Art. IV, § 3, cl. 1. Respondent argues that they do.

This reading, however, does not comport with that process. Furthermore, the primary law in question, the City Council Act of 2015, never actually established municipalities—only their municipal governments, an important distinction. And the Fauxtillion Home Office Act of 2017, which respondent cites to support the assertion that the municipalities were created, see Brief for Respondents 5, was overturned by this Court for an unconstitutional delegation of legislative authority. *Ryan\_Revan v. United States*, 2 U. S. 34, 39 (2017) (“We overturn the [Act].”).

For the argument to be made that the Grandfather Amendment protects the District of Columbia City Council as it existed before the Constitution’s ratification, the municipality in which that Council resides must have been

legislated into existence by Congress lest that Amendment be violated. And there lies the problem: no municipality was ever legislated into existence. That is why the Congress created the Municipality of Las Vegas after the Constitution was ratified. See Admission to the Union, Pub. L. 57–3. If this Court accepts the Respondent’s basis, that the municipalities already existed, then it begs the question: Why did Congress re-establish the Las Vegas Municipality if it already existed? The answer is simple: it never existed.

A municipal government existed, but no municipality itself did; the difference there is important and frames the future of this case. Where developers filled the gap prior to a Constitution touching on the creation of municipalities,<sup>2</sup> now Congress does. This accordingly ends any debate over whether the District of Columbia City Council exists legally: it does not.

For it to exist under the Constitution, it must be a part of a legitimate municipality covering the area of the District of Columbia. No such legitimate municipality exists. Until the Congress legislates one into existence, as it did for the Las Vegas Municipality, that reality will remain. Because of this, the rest of the Respondent’s brief’s contentions of law must be rejected.

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<sup>2</sup> This is because it was the longstanding stance of this Court that prior to the Constitution’s ratification, the existence of municipalities was statutory in nature; there was no creation tract even vested in the previous Constitution for municipalities. See *United States v. Las Vegas*, 2 U. S. 24 (2017) (“There exists serious contention among supporters and doubters about the applicability of [municipalities] in our United States, and whether they can truly be created. Our Constitution is clear: they cannot.”).

This case is not, as the Respondent would have the Court believe, about whether the Petitioner manufactured a controversy “aimed at undermining a legitimate and legal law-enforcement agency,” Brief for Respondent 7; it is instead about whether the jurisdiction exercised by the Respondent’s law-enforcement officers and the mere existence of the body they serve is legitimate. They simply are not. For a Nevada Highway Patrol to exist within the District, a municipality must first, and then a governing document similar to Las Vegas’ charter must be written. Only then may a Nevada Highway Patrol and officers with power to exercise law enforcement be established.

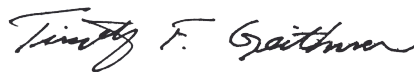
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Because the Constitution requires municipalities to be legislated into existence by the Congress, and because the Congress under the old Constitution only legislated into existence municipal councils, the Nevada Highway Patrol’s existence and jurisdiction cannot stand; correspondingly, the Court should rule on the side of the Petitioner.

### CONCLUSION

For the foregoing reasons, the judgement of the district court should be reversed.

Respectfully submitted.



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TIMOTHY F. GEITHNER