

APPEAL TO THE SUPREME COURT OF ILLINOIS

FROM THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
 MACON COUNTY, ILLINOIS

DAN CAULKINS; PERRY LEWIN;)	
DECATUR JEWELRY & ANTIQUES)	
INC; and LAW-ABIDING GUN OWNERS)	
OF MACON COUNTY, a voluntary)	
unincorporated association,)	
)	
Plaintiffs-Appellees,)	
)	No. 2023-CH-3
v.)	
)	
Governor JAY ROBERT PRITZKER,)	
in his official capacity; KWAME RAOUL,)	
in his capacity as Attorney General;)	
EMANUEL CHRISTOPHER WELCH, in)	
his capacity as Speaker of the House; and)	
DONALD F. HARMON, in his capacity as)	
Senate President,)	The Honorable
)	RODNEY S. FORBES,
Defendants-Appellants.)	Judge Presiding.

NOTICE OF APPEAL

Under Illinois Supreme Court Rule 302(a)(1), Defendants Governor Jay Robert Pritzker and Attorney General Kwame Raoul, in their official capacities, by their attorney, Kwame Raoul, Attorney General of the State of Illinois, hereby appeal directly to the Illinois Supreme Court from the final order entered by the Honorable Judge Rodney S. Forbes of the Circuit Court for the Sixth Judicial Circuit, Macon County, Illinois, on March 3, 2023, in which the circuit court granted defendants' motion for summary judgment on counts I, II, III, and VI of the complaint, but as to counts IV and V of the complaint ruled that sections 24-1.9 and 24-1.10 of the

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 CYNTHIA A. GRANT
 SUPREME COURT CLERK

Criminal Code of 2012, 720 ILCS 5/24-1.9 and 720 ILCS 5/24-1.10, on their face violate the equal protection clause in Article I, Section 2 of the Illinois Constitution and the special legislation clause in Article IV, Section 13 of the Illinois Constitution. A copy of the circuit court's March 3, 2023 order is attached hereto as Exhibit A.

By this appeal, Defendants Governor Jay Robert Pritzker and Attorney General Kwame Raoul, in their official capacities, request that the Illinois Supreme Court reverse and vacate the circuit court's order to the extent it is adverse to them, and grant any other appropriate relief.

Respectfully submitted,

KWAME RAOUL
Attorney General
State of Illinois

By: /s/ Leigh J. Jahnig
LEIGH J. JAHNIG
ARDC No. 6324102
Assistant Attorney General
100 West Randolph Street
12th Floor
Chicago, Illinois 60601
(312) 793-1473 (office)
(773) 590-7877 (cell)
CivilAppeals@ilag.gov (primary)
Leigh.Jahnig@ilag.gov (secondary)

March 3, 2023

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IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
 MACON COUNTY, ILLINOIS

SHERRY A. DOTY
 CIRCUIT CLERK

DAN CAULKINS et al.,

Plaintiffs,

v.

No. 2023 CH 3

JB PRITZKER et al.,

Defendants.

FINAL JUDGMENT

1. For the reasons set forth below, the Court enters final judgment in favor of defendants on counts I, II, III, and VI of the complaint and in favor of plaintiffs on counts IV and V of the complaint.
2. Plaintiffs allege in counts I, II, and III of the complaint that Public Act 102-1116 violates the single subject and three readings rules in article IV, section 8(d) of the Illinois constitution and that the method by which it was passed violates the due process clause in article I, section 2 of the Illinois constitution. *Accuracy Firearms, LLC v. Pritzker*, 2023 IL App (5th) 230035, ¶¶ 21-47, holds identical claims fail as a matter of law. In addition, plaintiffs allege in count VI that they are entitled to an injunction. *Kopnick v. JL Woode Management Co.*, 2017 IL App (1st) 152054, ¶ 34, holds an injunction is not a separate cause of action. The Court is bound to apply the appellate court's holdings to plaintiffs' claims in this case. *People v. Carpenter*, 228 Ill. 2d 250, 259-60 (2008). For these reasons, the Court enters final judgment in favor of defendants on plaintiffs' single subject, three readings, and due process claims in counts I, II, and III, and the claim for an injunction in count VI, of the complaint.
3. Plaintiffs allege in counts IV and V of the complaint that exceptions to the prohibitions on assault weapons and large capacity ammunition feeding devices in sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 violate the equal protection clause in article I, section 2 of the Illinois constitution and the special legislation clause in article IV, section 13 of the Illinois constitution. Plaintiffs further allege sections 24-1.9 and 24-1.10 infringe on their fundamental rights to bear arms, under article I, section 22 of the Illinois constitution and U.S. Constitution, Second Amendment and therefore that to resolve plaintiffs' equal protection claim under article I, section 2 of the Illinois constitution (Count IV) and plaintiffs' special legislation claim under article IV, section 13 of the Illinois constitution (Count V), the Court must subject the challenged exceptions to strict scrutiny. Complaint ¶¶ 2, 128-136, 153, 157. *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶¶ 48-62, considered an equal protection challenge to the exceptions to sections 24-1.9 and 24-1.10. The appellate court held the right to bear arms under article I, section 22 of the Illinois constitution is fundamental for equal protection purposes, that the

challenged exceptions are subject to strict scrutiny as a result, and that the challenged exceptions did not satisfy strict scrutiny. The Court is bound to apply the appellate court's holdings to plaintiffs' identical equal protection claim in this case. *Carpenter*, 228 Ill. 2d at 259-60. Further, equal protection and special legislation claims "are judged by the same standard," *In re Estate of Jolliff*, 199 Ill. 2d 510, 520 (2002), so the Court is also bound to apply those holdings to plaintiffs' special legislation claim in this case. Defendants argue that *Accuracy Firearms* is wrongly decided for multiple reasons but acknowledge that the Court is bound to apply it. For these reasons, the Court enters final judgment in favor of plaintiffs on their equal protection and special legislation claims in counts IV and V of the complaint.

4. Pursuant to Illinois Supreme Court Rule 18, and in accordance with the Court's findings above, the Court further finds that:
 - a. Sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 violate the equal protection clause in article I, section 2 of the Illinois constitution and the special legislation clause in article IV, section 13 of the Illinois constitution.
 - b. Sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 are facially unconstitutional under these provisions of the Illinois constitution;
 - c. Sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 cannot reasonably be construed in a manner that would preserve their validity;
 - d. the finding of unconstitutionality is necessary to the Court's decision and judgment; and
 - e. this decision and judgment cannot rest upon an alternative ground.

Dated: March 3, 2023



Honorable Rodney S. Forbes
Associate Judge

CERTIFICATE OF FILING AND SERVICE

I certify that on March 3, 2023, I electronically filed the foregoing Notice of Appeal with the Clerk of the Circuit Court of the Sixth Judicial Circuit, Macon County, Illinois by using the Odyssey eFileIL system.

I further certify that the other participants in this case, named below, are not registered service contacts on the Odyssey eFileIL system, and that they will thus be served on March 3, 2023, by transmitting a copy from my e-mail address to the primary and secondary e-mail addresses designated by that participant.

Jerrold H. Stocks
jstocks@Decatur.legal

Brian D. Eck
beck@Decatur.legal

Michael J. Kasper
mjkasper60@mac.com

Luke A. Casson
lcasson@andreou-casson.com

Adam R. Vaught
avaught@kilbridevaught.com

Devon C. Bruce
dbruce@powerrogers.com

Thomas G. DeVore
tom@silverlakelaw.com

Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

/s/ Leigh J. Jahnig
LEIGH J. JAHNIG
ARDC No. 6324102
Assistant Attorney General
100 West Randolph Street
12th Floor
Chicago, Illinois 60601
(312) 793-1473 (office)
(773) 590-7877 (cell)
CivilAppeals@ilag.gov (primary)
Leigh.Jahnig@ilag.gov (secondary)

2023CHC000039 001
CAULKINS, DAN ET AL
VS.

STOCKS, JERROLD H
KINKEAD, DARREN

PRITZKER, JAY ROBERT ET AL

ENTERED	USER	JDG	CR	TEXT	CHANGED	USER
1/26/2023	CRF			Complaint Filed by Stocks, Jerrold.		
1/27/2023	KNE	RSF		Motion hearing set for 02/03/2023 at 1:30 in courtroom 5A.		
1/27/2023				Combined Motion for Declaratory Judgment filed by STOCKS, JERROLD.		
	SED					
1/30/2023	SED			Notice of Hearing filed by STOCKS, JERROLD. Amended Filing filed by STOCKS, JERROLD. Appearance filed by CASSON, LUKE.		
	SLN			Notice of Filing filed by CASSON, LUKE. Petition to Intervene by Putative Members of Law-Abiding Gun Owners of Macon County filed by DEVORE, THOMAS. Limited Entry of Appearance filed by DEVORE, THOMAS.		
1/31/2023	SLN					
2/01/2023	SED			Certificate of Service filed by SULLIVAN, PATRICK.		
2/02/2023	SED			Response to Application to Intervene and Petition for Injunction filed by STOCKS, JERROLD. Notice of Hearing filed by DEVORE, THOMAS. Memorandum in Support of Plaintiff's Combined Motion for Declaratory or Injunctive Relief filed by STOCKS, JERROLD.		
	KNE					
2/02/2023	RSF			Clerk presents file this date, the Court finds that Attorney Devore sent a Notice of Hearing on his Application to Intervene without first scheduling the matter for hearing with the Court and in violation of Circuit Court Rule 2.1(f) which requires 14 days notice. The Court has not had an opportunity to review the Application and issues in detail as the focus of the Court has been on the issues presented in Plaintiff's Motion which was properly set for a quick hearing date due to the emergency nature of the motion, upon request of counsel. Accordingly, the Court will not hear the Petition to Intervene on February 3rd, 2023. Parties are directed to contact Judge Forbes' Judicial Clerk to obtain a date and time for hearing on that application. CLERK DIRECTED TO SEND COPY OF THIS DOCKET ENTRY TO COUNSEL OF RECORD.		
2/02/2023	SED			Appearance filed by KINKEAD, DARREN. Memorandum filed by KINKEAD, DARREN.		
2/03/2023	SED			Notice of RS Entry for 02/02/2023 emailed to CASSON, LUKE. Notice of RS Entry for 02/02/2023 emailed to DEVORE, THOMAS. Notice of RS Entry for 02/02/2023 emailed to STOCKS, JERROLD H. Notice of RS Entry for 02/02/2023 emailed to DEVORE, THOMAS. Notice of RS Entry for 02/02/2023 emailed to STOCKS, JERROLD H. Notice of RS Entry for 02/02/2023 emailed to SULLIVAN, PATRICK.		
				Rebuttal Memorandum on Association Standing and Scope of Restraint filed by STOCKS, JERROLD.		
2/03/2023	KNE					
	RSF	GKJ		Plaintiffs present by counsel Mr. Stocks and Mr. Eck. Defendants Governor Jay Robert Pritzker, in His Official Capacity as Governor and Kwame Rasul, in His Official Capacity as Attorney General present by counsel Mr. Kinkead. No appearance by Defendants Emanuel Christopher Welch, in His Capacity as Speaker of the House, or Donald F. Harmon, in His Capacity as Senate President. Cause called for hearing on Plaintiff's Combined Motion for Declaratory Judgment. Arguments heard. Motion taken under advisement Parties are given leave to submit proposed orders by the close of business on February 6th, 2023.		
2/03/2023	RSF					

2023CHE00003D 001
CAULKINS, DAN ET AL
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STOCKS, JERROLD H

PRITZKER, JAY ROBERT ET AL

KINKEAD, DARREN

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2/08/2023 KNH RSF Clerk presents file this date. Court reviews Plaintiffs' proposed order. Finding that the proposed order is unopposed by Defendants Pritzker and Raoul. Court adopts the finding and order as presented. Plaintiffs' combined motion is granted in part and denied in part. A temporary restraining order is entered enjoining Defendants and their officers, agents, employees, and attorneys from enforcing 720 ILCS 5/24-1.9 and 720 ILCS 5/24-1.10 against Plaintiffs Dan Caulkins, Perry Lewin, Decatur Jewlery and Antiques Inc., and the members of the Law Abiding Gun Owners of Macon County as identified in Exhibit A attached to the written order. In all other respects, the combined motion is denied without prejudice. On court's motion, cause is continued for status.

2/08/2023 SED Status hearing set for 03/20/2023 at 10:30 in courtroom 5A.
CLERK DIRECTED TO SEND A COPY OF THIS DOCKET ENTRY AND NOTICE TO COUNSEL OF RECORD.

Notice of RS Entries for 02/08/2023 emailed to KINKEAD, DARREN.
Notice of RS Entries for 02/08/2023 emailed to CASSON, LUKE.
Notice of RS Entries for 02/08/2023 emailed to DEVORE, THOMAS.
Notice of RS Entries for 02/08/2023 emailed to STOCKS, JERROLD H.
Notice of RS Entries for 02/08/2023 emailed to SULLIVAN, PATRICK.
Notice of RS Entries for 02/08/2023 emailed to DEVORE, THOMAS.
Notice of RS Entries for 02/08/2023 emailed to STOCKS, JERROLD H.
CIVIL- PROOF OF MAILING GENERAL generated on 02/08/2023.
CIVIL- PROOF OF MAILING GENERAL generated on 02/08/2023.

2/14/2023 SLN Notice of Rule 384 Motion filed by DEVORE, THOMAS.

2/15/2023 SLN
KNH

Status hearing reset to 03/03/2023 at 1:30 in courtroom 5A.

2/15/2023 RSF Representation by agreement, the allotment of 03/20/2023 at 10:30 a.m. in courtroom 5A is VACATED. The allotment of 03/03/2023 at 1:30 p.m. in courtroom 5A is confirmed.
CLERK DIRECTED TO SEND NOTICE TO ALL COUNSEL OF RECORD.

2/17/2023 KNH RSF Representation the parties have represented an agreement as to a briefing schedule. Agreed Order entered and placed on file today's date. On motion of the Plaintiff, Count 7 is voluntarily dismissed.
CLERK DIRECTED TO SEND NOTICE TO COUNSEL OF RECORD.

2/17/2023 CRH

Notice of RS Entry for 02/15/2023 emailed to KINKEAD, DARREN.
Notice of RS Entry for 02/15/2023 emailed to CASSON, LUKE.
Notice of RS Entry for 02/15/2023 emailed to DEVORE, THOMAS.
Notice of RS Entry for 02/15/2023 emailed to STOCKS, JERROLD H.
Notice of RS Entry for 02/15/2023 emailed to SULLIVAN, PATRICK.

Notice of RS Entry for 02/17/2023 emailed to KINKEAD, DARREN.
Notice of RS Entry for 02/17/2023 emailed to CASSON, LUKE.
Notice of RS Entry for 02/17/2023 emailed to DEVORE, THOMAS.
Notice of RS Entry for 02/17/2023 emailed to STOCKS, JERROLD H.
Notice of RS Entry for 02/17/2023 emailed to SULLIVAN, PATRICK.

2/21/2023 SLN

Defendants' motion for summary judgment filed by KINKEAD, DARREN.
Motion for Declaratory Judgment filed by STOCKS, JERROLD.
Notice of Appearance filed by KASPER, MICHAEL.

2/22/2023 SED

Supreme Court Of Illinois- Caulkins, Et AL, Response To Motion To Transfer and Consolidate Cases Under Illinois Court Rule 384 filed.
{cc}

Supreme Court Of Illinois- Amended Certificate of Filing and Service filed. {cc}

2023CH000003D 001
CAULKINS, DAN ET AL
VS.

STOCKS, JERROLD H

PRITZKER, JAY ROBERT ET AL

KINKEAD, DARREN

ENTERED USER JDG CR TEXT CHANGED USER

Supreme Court Of Illinois- Motion to Transfer and Consolidate Cases Under Illinois Supreme Court Rule 384 filed as of 2/14/2022. (cc)

Supreme Court of Illinois- Emergency Motion to Stay filed as of 2/17/2023. (cc)

Supplemental Record filed as of 2/17/2023. (cc)

2/27/2023 SED

Correspondence from Supreme Court of Illinois filed (cc)

Supreme Court of Illinois Certified Copy of Order to Consolidate filed. (cc)

2/28/2023 SLN

Defendants' Response to Plaintiffs' Motion filed by KINKEAD, DARREN. Response to Defendants' Motion for Summary Judgment on Counts I, II, III, VI of Complaint filed by STOCKS, JERROLD.

3/01/2023 SLN

3/03/2023 KNE RSP GKJ

Plaintiffs are present by counsel Mr. Stocks and Mr. Eck. Governor Jay Robert Pritzker, in His Official Capacity as Governor and Kwame Raoul, in His Official Capacity as Attorney General present by counsel Mr. Kinkead. Motion to Dismiss the Petition to Intervene. No objection by any party. Motion is taken under advisement. Cause is continued for further order.

3/03/2023 RSP

Court removes file from advisement. Court reviews the Proposed Final Judgment which has been presented to the court as a matter of resolving all claims at the circuit court level, while preserving the parties individual rights to appeal. The Final Judgment is approved as to form by Plaintiffs and Defendants Governor Pritzker and Attorney General Raoul in Their Official Capacities. Representation that Speaker of the House Welch and Senate President Harmon also approve the Final Judgment as to form and wish to proceed in this manner. Final Judgment entered and on file today's date. The Petition to Intervene is dismissed as there is no other pending matter before the court. CLERK IS DIRECTED TO SEND A COPY OF THIS DOCKET ENTRY AND A COPY OF THE FINAL JUDGMENT TO COUNSEL OF RECORD.

3/03/2023 SED

Notice of RS Entry for 03/03/2023 emailed to KINKEAD, DARREN.
Notice of RS Entry for 03/03/2023 emailed to KASPER, MICHAEL.
Notice of RS Entry for 03/03/2023 emailed to CASSON, LUKE.
Notice of RS Entry for 03/03/2023 emailed to DEVORE, THOMAS.
Notice of RS Entry for 03/03/2023 emailed to STOCKS, JERROLD H.
Notice of RS Entry for 03/03/2023 emailed to SULLIVAN, PATRICK.
Notice of RS Entry for 03/03/2023 emailed to DEVORE, THOMAS.
Notice of RS Entry for 03/03/2023 emailed to STOCKS, JERROLD E.
CIVIL- PROOF OF MAILING GENERAL generated on 03/03/2023.

Notice of Appeal filed by JAHNIG, LEIGH.
