

**IN THE CIRCUIT COURT FOR THE TWELFTH JUDICIAL DISTRICT
WILL COUNTY, ILLINOIS**

IAN D. REECE,)
)
Plaintiff,)
v.)
)
KWAME RAOUL, in his Official Capacity) Case No. 2023CH000242
as Attorney General of the State of Illinois;)
and BRENDAN F. KELLY, in his Official)
Capacity as Director of the Illinois State)
Police,)
)
Defendant.)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, IAN D. REECE, by and through undersigned counsel, as and for his Complaint against Defendants KWAME RAOUL, in his Official Capacity as Attorney General of the State of Illinois; and BRENDAN F. KELLY, in his Official Capacity as Director of the Illinois State Police, alleges as follows:

1. IAN D. REECE is a natural person who resides in the Village of Channahon, County of Will, State of Illinois. Reece possesses an Illinois Firearm Owners Identification Card ("FOID card") pursuant to the Firearm Owners Identification Card Act (430 ILCS 65/1, *et seq.*) and is subject to the State of Illinois's Protect Illinois Communities Act, PA 102-116, which is codified at 720 ILCS 5/24-1.9 and 1.10 (hereinafter "PICA"). Reece is harmed by the Defendants in Will County, Illinois.

2. Defendant Attorney General KWAME RAOUL is sued in his official capacity as the Attorney General of the State of Illinois, responsible for executing

JUDGE ANDERSON - ROOM 905

Initial case management set for
04/16/2024 at 9:00 a.m.

and administering the laws of the State of Illinois, including Section 5/24-1.9(d) of PICA. Defendant Attorney General Raoul has enforced the challenged laws, customs and practices against Reece and is in fact presently enforcing the challenged laws, customs and practices against Reece. He is sued in his official capacity.

3. Defendant BRENDAN F. KELLY is the Director of the Illinois State Police, and is the person ultimately responsible for executing and administering the laws of the State of Illinois, including Section 5/24-1.9(d) of PICA. Defendant Illinois State Police Director Kelly has enforced the challenged laws, customs and practices against Reece and is in fact presently enforcing the challenged laws, customs and practices against Reece. He is sued in his official capacity.

STATE LAW

4. On January 10, 2023, Illinois enacted PICA, which implemented a ban on “assault weapons,”¹ and criminalized any act to “manufacture, deliver, sell, import, [] purchase,” or “possess” such firearms in Illinois. 720 ILCS 5/24-1.9(b) and (c).

5. This criminal prohibition applies to “any person within [the State of Illinois]” and excepts from its ambit only peace officers, current and retired law enforcement officers, government agencies, prison officials, members of the military, and certain private security contractors. 720 ILCS 5/24-1.9(e)(1)-(7).

¹ 720 ILCS 5/24-1.9(a)(1).

6. Any ordinary person in Illinois who legally possessed an assault weapon before the law's enactment now must register the firearm with the Illinois State Police, can only possess it on a very limited set of locations, and may transport them only to and from those locations, unloaded and in a case. 720 ILCS 5/24-1.9(d).

7. A first-time violation of the prohibition on possession constitutes a Class A misdemeanor, while a first-time violation of the prohibition on manufacture, sale, deliver, import, and purchase constitutes a Class 3 felony. 720 ILCS 5/24-1(b). Class A misdemeanors carry "a determinate sentence of less than one year" and "[a] fine not to exceed \$2,500". 730 ILCS 5/5-4.5-55(a) and (e). Class 3 felonies carry "a determinate sentence of not less than 2 years and not more than 5 years," 730 ILCS 5/5-4.5-40(a), and "a fine not to exceed, for each offense, \$25,000." 730 ILCS 5/5-4.5-50(b).

8. All Illinois residents who possess firearms or "assault weapon attachments" to be registered with the Illinois State Police must do so by January 1, 2024. *See* 720 ILCS 5/24-1.9(d).

9. Any Illinois resident registering an assault weapon or assault weapon attachment pursuant to 720 ILCS 5/24-1.9(d) must check a box on the web page with the following affirmation:

I affirm that I either possessed or initiated a purchase for the assault weapon, assault weapon attachment, . . . endorsed within this affidavit before January 10, 2023; inherited such items from a person with an endorsement under Section 24-1.9 of the Criminal Code of 2012 [720 ILCS 5/24-1.9] or from a person authorized under Section 24-1.9(e)(1) through (5) of the Criminal Code of 2012 [720 ILCS 5/24-1.9(e)(1)-(5)] to possess

such items; moved into Illinois after January 10, 2023 with such items; or am filing this endorsement affidavit voluntarily. . . .

See <https://www.ispfsb.com/LH/Disclosure/EditDisclosure.aspx> (last viewed December 26, 2023).

10. However, on April 28, 2023, the District Court for the Southern District of Illinois entered a preliminary injunction against PICA. Specifically, the Order stated that

Defendants are ENJOINED from enforcing Illinois statutes 720 ILCS 5/24-1.9(b) and (c), and 720 ILCS 5/24-1.10, along with the PICA amended provisions set forth in 735 ILCS 5/24-1(a), including subparagraphs (11), (14), (15), and (16), statewide during the pendency of this litigation until the Court can address the merits.

See *Barnett v. Raoul*, 3:23 CV 209, Dkt. #99 at p.29 (excerpt attached hereto as Exhibit “A”).²

11. The Seventh Circuit Court of Appeals stayed the District Court’s injunction on May 4, 2023. See *Barnett v. Raoul*, 23-1825, Dkt. #9 (attached hereto as Exhibit “B”). This action is not to challenge such a stay or relitigate that issue in any way.

12. During that interim period, however, on April 29, 2023, Reece purchased a firearm covered by PICA. He would register such firearm as lawfully possessed, but there is no mechanism on the Illinois State Police website to do so,

² *Barnett* was consolidated with three other cases: *Harrel v. Raoul*, 3:23 CV 141, *Langley v. Kelly*, 3:23 CV 192, and *Federal Firearm Licensees of Illinois v. Pritzger*, 3:23 CV 215. Though there is much litigation regarding the constitutionality of PICA, both in state and federal courts throughout the State, this action does not involve such issues.

and indeed there is no provision in PICA itself nor the subsequent rules adopted by the Illinois State Police that allow Reece to lawfully possess and register the subject firearm.

13. Also during the interim period, on May 3 and 4, 2023, Reece purchased various “assault weapon attachments” covered by PICA. He would register such attachments lawfully possessed, but there is no mechanism on the Illinois State Police website to do so, and indeed there is no provision in PICA itself nor the subsequent rules adopted by the Illinois State Police that allow Reece to lawfully possess and register the subject attachments.

14. Reece therefore must store his property out-of-state, in order to be in compliance with PICA and avoid violating the law.

15. Reece seeks a declaration that the Defendants are required to comply with the dictates of the United States District Court’s Order entering a preliminary injunction against PICA’s enforcement dated April 28, 2023, and allow lawful purchases of covered items - made before the Seventh Circuit’s stay of said injunction on May 4, 2023 - to be possessed and registered.

16. A controversy exists pursuant to 735 ILCS 5/2-701 as to whether the prohibition on registering firearms and attachments which were purchased during a period when PICA was not in effect, and the concurrent inability to register such items, are unconstitutional.

17. A declaration from this Court would settle this issue.

18. A declaration would also serve a useful purpose in clarifying the legal issues in dispute.

19. Reece seeks a declaration that the prohibition on registering firearms and attachments which were purchased during a period when PICA was not in effect, and the concurrent inability to lawfully register such items, are unlawful and improper.

20. In the absence of such a declaration and concurrent judgment, the prohibition on possessing covered firearms and attachments which were purchased during a period when PICA was not in effect, and the concurrent inability to lawfully register such items, would continue to be enforced and would subject Reece to the deprivation of his property and potential criminal liability.

WHEREFORE, the Plaintiff, IAN D. REECE, requests this honorable court to enter judgment in his favor and against the Defendants, and to grant Reece the following relief:

A. Enter a declaratory judgment that the prohibition on possessing covered firearms and attachments which were purchased during the injunction period when PICA was not in effect, and the concurrent inability to lawfully register such items, is improper and unlawful and are therefore unenforceable;

B. Issue a permanent injunction, without bond required of Reece, enjoining the Defendants from enforcing the prohibition on possessing and

registering firearms and attachments which were purchased during the injunction period when PICA was not in effect;

C. Grant Reece a recoupment of the costs expended prosecuting this action and

D. Grant Reece any and all further relief as this court deems just and proper.

Date: December 28, 2023

/s/ David G. Sigale
Attorney for Plaintiff

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**CALEB BARNETT, *et al.*,
Plaintiffs,**

v.

**KWAME RAOUL, *et al.*,
Defendants.**

No. 3:23-cv-00209-SPM (Lead Case)

**DANE HARREL, *et al.*,
Plaintiffs,**

v.

**KWAME RAOUL, *et al.*,
Defendants.**

No. 3:23-cv-00141-SPM

**JEREMY W. LANGLEY, *et al.*,
Plaintiffs,**

v.

**BRENDAN KELLY, *et al.*,
Defendants.**

No. 3:23-cv-00192-SPM

**FEDERAL FIREARMS LICENSEES
OF ILLINOIS, *et al.*,
Plaintiffs,**

v.

**JAY ROBERT "J.B." PRITZKER, *et al.*,
Defendants.**

No. 3:23-cv-00215-SPM

MEMORANDUM AND ORDER

McGLYNN, District Judge:

Before the Court are consolidated cases with requests for the imposition of a preliminary injunction under Federal Rule of Civil Procedure 65(a) to prevent the enforcement of Illinois’ Protect Illinois Communities Act (“PICA”), until there can be a final determination of the merits as to the law’s constitutionality. Lead Plaintiffs Caleb Barnett, Brian Norman, Hoods Guns & More, Pro Gun and Indoor Range, and National Shooting Sports Foundation, Inc., along with Plaintiffs from companion cases (hereinafter collectively referred to as “Plaintiffs”), filed motions for preliminary injunction. (Doc. 10).¹ The Illinois Attorney General’s Office, representing Attorney General Kwame Raoul, Governor Jay Robert Pritzker, and the Director of Illinois State Police, Brendan F. Kelly, (hereinafter collectively referred to as “Defendants”) filed an extensive response to the respective motions that included 14 exhibits. (Doc. 37).

On June 23, 2022, the United States Supreme Court issued its opinion in *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022). Amongst other things, the *Bruen* Court reaffirmed that “the right to ‘bear arms’ refers to the right to ‘wear, bear, or carry . . . upon the person or in the clothing or in a pocket, for the purpose . . . of being armed and ready for offensive or defensive action in a case of conflict with another person.’” 142 S. Ct. at 2134 (quoting *D.C. v. Heller*, 554 U.S. 570, 584 (2008)).

¹ This Court consolidated the following cases: 23-cv-141, 23-cv-192, 23-cv-209, and 23-cv-215 for purposes of discovery and injunctive relief, with the Barnett case designated as the lead case. Because the respective cases all have similar Motions for Preliminary Injunction pending, this Order carries over to those cases as well. (Doc. 16 in 22-cv-00141, Doc. 6 in 22-cv-00192, and Doc. 28 in 22-cv-00215, respectively).

grips, protruding grips, flash suppressors, and shrouds, have legitimate purposes that assist law-abiding citizens in their ability to defend themselves. The other side is less clear – there is no evidence as to how PICA will actually help Illinois Communities. It is also not lost on this Court that the Illinois Sheriff's Association and some Illinois States Attorneys believe PICA unconstitutional and cannot, in good conscience, enforce the law as written and honor their sworn oath to uphold the Constitution.

In no way does this Court minimize the damage caused when a firearm is used for an unlawful purpose; however, this Court must be mindful of the rights guaranteed by the Constitution. While PICA was purportedly enacted in response to the Highland Park shooting, it does not appear that the legislature considered an individual's right under the Second Amendment nor Supreme Court precedent. Moreover, PICA did not just regulate the rights of the people to defend themselves; it restricted that right, and in some cases, completely obliterated that right by criminalizing the purchase and the sale of more than 190 "arms." Furthermore, on January 1, 2024, the right to mere possession of these items will be further limited and restricted. *See* 735 ILCS 5/24-1.9(c). Accordingly, the balance of harms favors the Plaintiffs.

CONCLUSION

Plaintiffs have satisfied their burden for a preliminary injunction. They have shown irreparable harm with no adequate remedy at law, a reasonable likelihood of success on the merits, that the public interest is in favor of the relief, and the balance of harm weighs in their favor. Therefore, the Plaintiffs' motions for preliminary

injunction are **GRANTED**. Defendants are **ENJOINED** from enforcing Illinois statutes 720 ILCS 5/24-1.9(b) and (c), and 720 ILCS 5/24-1.10, along with the PICA amended provisions set forth in 735 ILCS 5/24-1(a), including subparagraphs (11), (14), (15), and (16), statewide during the pendency of this litigation until the Court can address the merits.

The Court recognizes that the issues with which it is confronted are highly contentious and provoke strong emotions. Again, the Court's ruling today is not a final resolution of the merits of the cases. Nothing in this order prevents the State from confronting firearm-related violence. There is a wide array of civil and criminal laws that permit the commitment and prosecution of those who use or may use firearms to commit crimes. Law enforcement and prosecutors should take their obligations to enforce these laws seriously. Families and the public at large should report concerning behavior. Judges should exercise their prudent judgment in committing individuals that pose a threat to the public and imposing sentences that punish, not just lightly inconvenience, those guilty of firearm-related crimes.

IT IS SO ORDERED.

DATED: April 28, 2023

s/ Stephen P. McGlynn
STEPHEN P. McGLYNN
U.S. District Judge

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



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ORDER

May 4, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

No. 23-1825	CALEB BARNETT, et al., Plaintiffs - Appellees v. KWAME RAOUL and BRENDAN F. KELLY, Defendants - Appellants
Originating Case Information:	
District Court No: 3:23-cv-00209-SPM Southern District of Illinois District Judge Stephen P. McGlynn	

The following is before the court: **STATE DEFENDANTS' EMERGENCY MOTION TO STAY THE DISTRICT COURT'S PRELIMINARY INJUNCTION ORDER PENDING APPEAL**, filed on May 2, 2023, by counsel for the appellants.

The motion for a stay of the district court's preliminary injunction is **GRANTED**, pending further order of the court. Any response to the motion for a stay must be received by the close of business on May 9, 2023. Any response should discuss the bearing of *Friedman v. Highland Park*, 784 F.3d 406 (7th Cir. 2015), and *Wilson v. Cook County*, 937 F.3d 1028 (7th Cir. 2019), in addition to any other matters the appellees deem pertinent.