

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

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,

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March 3, 2023

**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.

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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.

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