TWENTY-EIGHTH JUDICIAL CIRCUIT OF VIRGINIA

SAGE B. JOHNSON, JUDGE
DEANIS L. SIMMONS, JUDGE
ERIC R. THIESSEN, JUDGE
JEFFREY L. CAMPBELL, JUDGE
C. RANDALL LOWE, RETIRED

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June 29, 2026

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In Re: Santolla, et al v. Katz, et al
Washington County Circuit Court Case No. CL26-1139

Gentlemen:

This matter was before the Court on June 25, 2026, upon the Motion for Preliminary Injunction filed by the Plaintiffs. Plaintiffs seek to enjoin the Defendants from enforcement of certain provisions of a newly enacted, broad-reaching and comprehensive law, Senate Bill 749, commonly referred to as the "Firearms Ban" and House Bill 217, commonly referred to as the "Magazine Ban," duly passed by the General Assembly and signed into law by Governor Spanberger on May 14, 2026, on the grounds that the same are violative of Article 1, Section 13, of the Constitution of the Commonwealth of Virginia. Although not unprecedented, the request of a Circuit Court to enjoin the enforcement of an enactment by the General Assembly is truly an extraordinary request. This Court inquired of the parties during hearing if they were aware of any petitions to the Virginia Supreme Court for a direct writ under its original jurisdiction, upon which the parties expressed no knowledge of the same at this time. Although this Court believes that the Supreme Court would be the more appropriate forum for such a challenge, given the absence of such a petition and given the fact that these laws are scheduled to become effective July 1, 2026, this Court finds that it is in the public interest for a Court of competent jurisdiction to provide a timely ruling regarding the same to provide adequate notice and clarity to the

citizens and, in particular, the law enforcement agencies that are charged with enforcing the same.

Rule 3:26 of the Rules of the Supreme Court of Virginia govern the issuance of Preliminary Injunctions. When determining whether to grant a preliminary injunction a plaintiff must demonstrate that they more likely than not suffer irreparable harm without the preliminary injunction. If the irreparable-harm threshold has been met, the court must determine whether the following factors support the issuance of a preliminary injunction:

i. whether the movant has asserted a legally viable claim based on credible facts (not mere allegations) demonstrating that the underlying claim will more likely than not succeed on the merits;
ii. whether the balance of hardships—that is, the harm to the movant without the preliminary injunction compared with the harm to the nonmovant with the preliminary injunction—favors granting the preliminary injunction; and
iii. whether the public interest, if any, supports the issuance of a preliminary injunction.

A preliminary injunction may be issued only if it is supported by factors (i) and (ii), and it is not contrary to the public interest in factor.

As a threshold matter, the Commonwealth argues that the Plaintiffs lack standing to bring such a challenge for reasons articulated in its brief in opposition previously filed with the Court. Plaintiffs are comprised of two separate classes. Some are private individuals who currently own some of the firearms and firearm components that, allegedly, the scope of this newly enacted law will ban. The remainder are businesses or organizations that engage in the sale of firearms or the shooting sports industry and allege that the impact of this law will cause them direct pecuniary loss. "Without a statutory right, a citizen or taxpayer does not have standing to seek mandamus relief unless he or she can demonstrate a direct interest, pecuniary or otherwise, in the outcome of the controversy that is separate and distinct from the interest of the public at large. These general requirements of standing apply to applications for writs of mandamus and prohibition." See Howell v. McAuliffe, 292 Va. 320. Clearly, the Plaintiffs have shown, should this law be enforced, that they will suffer direct pecuniary loss or a high probability of an extreme impairment of the free transferability of these firearms which, logically, would affect their right to use and enjoyment of the same. Accordingly, the Court finds that they would suffer direct injury should the Bans be enforced.

A secondary threshold question to be answered regarding standing is whether an actual case or controversy exists for purposes of a declaratory judgment action such as this matter. Typically, pre-enforcement challenges to legislative acts cannot be utilized to challenge an enactment of law under the guise that they do not present an actual case or controversy for the court to consider. See Daniels v. Mobley, 285 Va. 402. In the case before the bar, this Court is persuaded by the holding and analysis in Hyland v. City of Winchester, 115 Va. Cir. 86 that provisions of the Constitution are considered self-executing and alleged violations of the same present a justiciable controversy for purposes of "as applied, pre-enforcement challenges." Accordingly, the Court finds that each of the Plaintiffs have standing to bring these challenges.

Irreparable Harm.

The Plaintiffs have alleged that they will suffer irreparable harm if the subject laws are allowed to be enforced beginning July 1, 2026. In support of their argument, they proffer that they will be forced to labor under an otherwise unconstitutional law if the same is not enjoined. It is generally understood that "the temporary violation of a constitutional right itself is enough to establish irreparable harm." Lynchburg Range & Training, L.L.C. v. Northam, 105 Va. Cir. 159 (Lynchburg 2020) (citing Elrod v. Burns, 427 U.S. 347, 373, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976). Having found a likelihood of the Plaintiffs prevailing on the merits, this Court finds that the Plaintiffs have met their burden with respect to showing of irreparable harm.

Likelihood of Plaintiff's Success on the Merits.

There should be little doubt that the intent and purpose of these laws are reflective of a laudable goal. That of curtailing the ever-escalating problem of gun violence across America and its attendant costly impacts. One would have to be living in complete denial not to recognize this modern fact. The perspective a trial judge gains from watching the impact and cost imposed on families of both gun violence victims and their perpetrators is profound. Futures cut short, lives shattered and survivors haunted by grief and financial strain. These compelling stories are played out in vibrance in courtrooms all across the Commonwealth and it is difficult to believe that it doesn't leave those viewing the same greatly impacted by its disturbing affect. The patrons of these laws are, to be sure, no different and it is wrong to criticize their efforts to address this tragedy. Gun control laws have long created strongly divisive views about their efficacy and furious debate about these will, no doubt, also ensue. It is this Court's opinion that well-intentioned legislative efforts to curtail what many characterize as a problem of epidemic proportions should not be derided by anyone. However, as is oftentimes said, and dubiously attributed to the Cistercian monk St. Bernard, "the pathway to Hell is often paved with good intentions."

Without question, the effectiveness of a proposed law with respect to its intent isn't a question that a Court has a general right to disturb. Our system of government is founded upon the concept of separate and co-equal branches and the charge of enacting laws rests squarely with the legislature and the duty to enforce the same lies within its executive branch. The function of a court is to interpret laws and not to write them. However, the power of the legislature to enact laws is not without limits. This Court, indeed any court, should be reluctant to flippantly undertake an interference with these separate, but co-equal, functions, absent a clear and unequivocal showing of constitutional infirmity. But, upon a sufficient showing of the same, it is the Court's long-standing duty to lift the clouds of unconstitutionality from above the heads of our citizens. The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection. See Marbury v. Madison, 5 U.S. 137 holding "it is a proposition too plain to be contested, that the Constitution controls any legislative act repugnant to it; or, that the legislature may alter the Constitution by an ordinary act."

And the Court notes, as the Commonwealth argued at hearing, "A presumption of validity attaches to every statute enacted into law by the General Assembly. Coleman v. Pross, 219 Va. 143, 246 S.E.2d 613 (1978). A reasonable doubt as to the constitutionality of a legislative enactment must be resolved in favor of its validity. The courts will declare the legislative [***22] judgment null and void only when the statute is plainly repugnant to some provision of the state or federal constitution."
Blue Cross of Virginia v. Commonwealth, 221 Va. 349, 358.

The Plaintiffs argue that certain provisions of these laws should be enjoined from enforcement because they run afoul of Article 1, Section 13, of the Constitution of the Commonwealth of Virginia. Notably, Plaintiffs do not raise any challenges premised upon direct violations to the 2nd Amendment of the United States Constitution. Accordingly, this is a pure question of state law.

Article 1, Section 13, of the Virginia Constitution provides en toto,

> "That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state, therefore, the right of the people to keep and bear arms shall not be infringed; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power."

Plaintiffs argue that the plain text of this provision grants to the people the right to keep and bear arms. They concede that this is not an unfettered right and that the government does possess the right to restrict and prohibit certain types of firearms and certain persons from owning or possessing the same as well as manner of usage. The crux of their argument appears to be that the newly enacted laws operatively are bans with respect to the certain class of firearms and magazines that they allege to be in widespread common use and are protected conduct under the 2nd Amendment pursuant to decisions of the United States Supreme Court. Consequently, they urge this Court to consider them the same under Article 1, Section 13 of the Constitution of Virginia. Conversely, the Commonwealth argues that these firearms and magazines are of a type of "weapon of war" upon which the 2nd Amendment has historically allowed for regulation of such and that various courts across the country have found not to fall within the ambit of the 2nd Amendment.

The lone case that the Virginia Supreme Court appears to have been called upon to interpret Article 1, Section 13, is the case of Digiacinto v. Rector & Visitors of George Mason Univ., 281 Va. 127. The plaintiff in this case challenged the constitutionality of the attempted prohibition of him from carrying his firearm onto the campus of George Mason University in violation of 8 Va. Admin. Code § 35-60-20. Specifically, Digiacinto alleged that this provision was violative of both Article 1, Section 13 of the Constitution of Virginia and the 2nd Amendment to the U.S. Constitution. The Supreme Court found that the rights provided by the 2nd Amendment to individuals were co-extensive with the rights provided by Article 1, Section 13, although the Court's ruling limited this finding to the specific facts of that case. Only two

Circuit Courts have entertained cases asking them to construe the rights provided by Article 1, Section 13, and determine whether the same were co-extensive of the rights provided to individuals under the 2nd Amendment. Those courts have split on the decision. In the case of Lafave v. County of Fairfax, 2023 Va. Cir. LEXIS 203 the Circuit Court did not find the rights to be coextensive, although it limited its holding to only the facts of that particular case. In Stickley v. City of Winchester, 110 Va. Cir. 300 the Court ruled that the rights were co-extensive in granting injunctive relief to the plaintiffs. Following a thorough and exhaustive review of case law regarding the same, this Court believes that the framers of the Virginia Constitution intended the rights to be coextensive to the rights provided to individuals pursuant to the 2nd Amendment and relies upon the rationale in the *Stickley* case coupled with the striking similarities in the language of Article 1, Section 13 and the 2nd Amendment. Indeed, when asked at hearing by the Court the hypothetical question of whether a student writing a thesis paper in college who posited the language in Article 1, Section 13 as an original thought without giving proper attribution to the author of the 2nd Amendment might well be brought up on plagiarism charges, the Commonwealth conceded they might well be.

Both the Commonwealth and the Plaintiffs have urged that the Court should look to case law interpreting the 2nd Amendment and, particularly, the case of N.Y. State Rifle & Pistol Ass'n v. Bruen, 597 U.S. 1 in developing an analytical framework to decide this case, although the parties disagree how much weight should be afforded the same. The Plaintiffs argue that it is mandatory authority. The Commonwealth urges that it is only persuasive. Given that this Court is only being called upon to decide this case upon adequate and independent state grounds under Article 1, Section 13, this Court finds that *Bruen* is persuasive authority only and will afford it the same.

Bruen arose out of a challenge to the State of New York's law prohibiting a person from possessing a firearm whether inside their home or outside their home, without a license. Consistent with the Roberts Court originalist methodology, the Supreme Court ruled such was a violation of the 2nd Amendment and set forth a landscape changing analytical framework from which firearm regulations should be interpreted within the context of the 2nd Amendment's coverage. The ruling requires a reviewing court to undertake a two-prong analysis. The first prong requires the court to make a determination as to whether the plain text of the Constitution covers the conduct contemplated by the regulation. If the court so finds, then it is presumed that the Constitution protects that conduct. The burden then shifts to the government to "demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command." Konigsberg v. State Bar of Cal., 366 U. S. 36, 50, n. 10, 81 S. Ct. 997, 6 L. Ed. 2d 105 (1961).

In application to the case at bar, the Court would find that the plain text of Article 1, Section 13, would provide for the clear and unequivocal right of the Plaintiffs to keep and bear arms, without infringement, and that the challenged laws as enacted would apply to this Constitutionally protected conduct. The Court makes note of the fact that the plain text of the enacted Firearms Ban would establish broad ranging prohibitions on the Plaintiff dealers with respect to an entire class of firearms and, without question, in historical common usage, specifically that of semi-automatic centerfire rifles with a second hand grip, comprising virtually

all semi-automatic centerfire rifles including the AR-15 style rifles and others that Plaintiffs possess.

See SB 749 language amending Section 18.2-308.2:2 definition of assault firearm:

2. A semi-automatic center-fire rifle that has the ability to accept a detachable magazine, not including an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition, and that has one or more of the following characteristics: (i) a folding, telescoping, or collapsible stock; (ii) a thumbhole stock or pistol grip that protrudes conspicuously beneath the action of the rifle; (iii) a second handgrip…

The highest court in the land has made a finding that "The AR-15 is the most popular semi-automatic rifle" in America and is therefore undeniably "in common use today." Heller v. District of Columbia, 670 F. 3d 1244, 1287, 399 U.S. App. D.C. 314 (CADC 2011). In the *Bruen* case, the U.S. Supreme Court held that the Second Amendment protects only the carrying of weapons that are those "in common use at the time."

Turning to the second prong of the Bruen analysis, the Commonwealth has urged this Court to look to the both the history of firearm regulation in the Commonwealth as well as the history of firearm regulation across the country in support of the Firearms Ban and the Magazine Ban. Specifically, they point to illustrations of the same in the case of Bianchi v. Brown, 111 F.4th 438 in which the 4th U.S. Circuit Court of Appeals upheld the Maryland Firearms Safety Act of 2013 and Duncan v. Bonta, 133 F.4th 852 where the 9th U.S. Circuit Court of Appeals ruled that a ban of large capacity magazines of the type the subject matter law seeks to ban was upheld against a 2nd Amendment challenge. Additionally, the Commonwealth introduced Commonwealth Exhibit 2 at hearing listing cases that have reviewed and upheld various state bans similar to the one before the Court. This Court is unpersuaded by these cases because the determination in all matters involved findings that would conflict with this Court's finding that these types of firearms and their component magazines are in common use and presumptively covered by the 2nd Amendment or, in the alternative, they remain pending in various states of unresolved appeals.

During the hearing, the Commonwealth additionally introduced Commonwealth's Exhibit 1 in support of its proposition that there has existed substantial history of relevant firearm regulation in the Commonwealth of Virginia as a matter of state law. A review of the same would reflect that arguably there is only one historical analogue to the types of firearms and their component magazines that the Firearms Ban and the Magazine Ban would apply to and that is an attempt in 1934 to preemptively regulate automatic weapons during the 1930s "Public Enemy" era through an attempt to define the same. *1934 Acts Ch. 137.* A review of this Act by the Court would reveal that Congress later that year rendered obsolete and preempted this Act through enactment of the National Firearms Act of 1934. The Court finds this analogy inapplicable in as much as the subject firearms herein are not defined as automatic weapons. All other listed Acts dealt only with use restrictions or class of person restrictions. Accordingly, I find that the Commonwealth has failed to meet its burden of showing an applicable historical analogue as a basis to support its burden under the *Bruen* analysis.

Because the newly enacted Firearms Ban and Magazine Ban would likely run afoul of the protections of the Second Amendment with respect to the types of firearms and components the Plaintiffs possess as enunciated in both *Heller* and *Bruen*, I find that the Plaintiffs are likely to prevail on the merits of their claims.

Balance of Hardships.

The Plaintiffs have shown that enforcement of the subject Bans would likely amount to a deprivation of their Constitutionally protected rights. While this Court respects and recognizes that the citizens of the Commonwealth have a right to the coverage of the duly enacted laws of the General Assembly, given the likelihood of the Plaintiffs prevailing on the merits of their claims, this Court finds that the harm occasioned to the Plaintiffs and the citizens of the Commonwealth in being subject to an unconstitutional law would weigh in favor of the Plaintiffs.

Public Interest.

"[T]he public interest favors enjoining a constitutional violation, not allowing the unconstitutional application of a statute to perpetuate." Elbert v. Settle, 105 Va. Cir. 326 (Lynchburg 2020). Therefore, it is not adverse to the public interest to grant a preliminary injunction in order to preserve a constitutional right pending trial.

For the foregoing reasons, the Motion for Preliminary Injunction enjoining the Defendants from enforcing the subject Firearms Ban and Magazine Bans as contemplated by the recently enacted Senate Bill 749 and House Bill 217 is GRANTED. This injunction shall remain in effect until further Order of this Court or no later than July 1, 2027, consistent with the Governor's recently passed budget amendment, and this matter is continued on the docket of this Court for any additional proceedings as the parties may so advise. Plaintiffs' counsel are directed to prepare an Order Granting Preliminary Injunction and incorporating this letter opinion therein. The same shall be circulated to Defendant's counsel for any exceptions or objections they may so desire before July 15, 2026.

Sincerely,

Jeffrey L. Campbell, Judge

cc: Clerk of Court
Counsel of record