No. 127201

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the Second Judicial Circuit, White County, Illinois
Plaintiff-Appellant,	)	
v.	)	No. 17 CM 60
VIVIAN BROWN,	)	The Honorable Mark R. Stanley,
Defendant-Appellee.	)	Judge Presiding.

REPLY BRIEF OF PLAINTIFF-APPELLANT PEOPLE OF THE STATE OF ILLINOIS

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ARGUMENT

Defendant Vivian Brown was charged with possession of a firearm without a firearm owner's identification (FOID) card under 430 ILCS 65/2(a)(1) (the "FOID Card Act" or "Act"). The People's opening brief established that the FOID Card Act, which is this State's chosen method of ensuring that individuals who are at higher risk of misusing firearms do not possess them, regulates conduct outside the scope of the Second Amendment. Both the United States Supreme Court and this Court have held that a State may constitutionally prohibit certain groups of people (such as felons and the mentally ill) from possessing firearms; accordingly, the State must be allowed to establish a process to determine whether individuals fall into the prohibited categories. In addition, the People's opening brief demonstrated that even if the FOID Card Act regulates activity protected by the Second Amendment, the Act survives means-end scrutiny.

Nothing in defendant's brief suggests a contrary outcome.

I. The FOID Card Act Regulates Activity Falling Outside the Scope of the Second Amendment.

As the People detailed in their opening brief, a two-step framework governs the analysis of a Second Amendment challenge to a restriction on firearm possession. *In re Jordan G.*, 2015 IL 116834, ¶ 22. First, the Court must determine whether the regulated activity is protected by the Second

Amendment. *Id*. If the regulated activity falls outside the scope of the Second Amendment, then the conduct is categorically unprotected, and no further review is necessary. *Id*.

Contrary to defendant's argument, Def. Br. 6-12, this Court can uphold the FOID Card Act as applied to defendant at the first step. There can be no debate, and defendant does not attempt to dispute, that the restrictions identified by the United States Supreme Court as valid, including prohibitions on the possession of firearms by felons and the mentally ill, align with the restrictions imposed by the FOID Card Act. *Heller v. District of Columbia,* 554 U.S. 570, 626 (2008) (cautioning that "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill"). For this reason, state and federal courts have upheld analogous licensure or registration requirements imposed as prerequisites to possessing a firearm, including inside the home. *See, e.g.*, *Kwong v. Bloomberg*, 723 F.3d 160, 168-69 (2d Cir. 2013) (New York City's licensure fee for handgun possession, including within home, did not violate Second Amendment); *Heller v. District of Columbia* (*Heller II*), 670 F.3d 1244, 1254-55 (D.C. Cir. 2011) (requirement to register firearm did not violate Second Amendment); *Delgado v. Kelly*, 127 A.D.3d 644 (N.Y. App. Div. 2015) (New York licensing requirement for handgun possession in home did

not violate Second Amendment); *Commonwealth v. McGowan*, 982 N.E.2d 495, 501 (Mass. 2013) ("We have consistently held . . . that the decisions in *Heller* and *McDonald* did not invalidate laws that require a person to have a firearm identification card to possess a firearm in one's home or place of business, and to have a license to carry in order to possess a firearm elsewhere.").

So, rather than focusing on the substantive regulations embodied in the FOID Card Act, defendant challenges the mechanism by which Illinois enforces these regulations. Defendant asserts that at the time of the framing "there were *almost no* laws requiring one to first possess a license in order to have a long gun in her home." Def. Br. 9 (emphasis in original). Relatedly, defendant cites *Heller II* for the proposition that registration requirements for long guns are not presumptively valid at the first step because they are of "newer vintage." Def. Br. 8 (citing *Heller II*, 670 F.3d at 1253). This argument is misplaced for several reasons.

First, firearms regulations do not need to date to the time of the framing to be longstanding for purposes of the first step of the Second Amendment analysis. *See, e.g.*, *People v. Aguilar*, 2013 IL 112116, ¶ 27 (prohibitions on possession of firearms by juveniles, which date to the nineteenth century, are longstanding); *Friedman v. City of Highland Park*,

784 F.3d 406, 408 (7th Cir. 2015) ("*Heller* deemed a ban on private possession of machine guns to be obviously valid," even though "states didn't begin to regulate private use of machine guns until 1927" and "regulating machine guns at the federal level" did not begin until 1934); *United States v. Skoien*, 614 F.3d 638, 641 (7th Cir. 2010) (en banc) (prohibitions on possession of firearms by felons and mentally ill, which originated in twentieth century, are sufficiently longstanding).

Second, the question is not whether the precise regulation traces to the time of the framing, but rather "whether a particular *type* of regulation has been a 'longstanding' exception to the right to bear arms." *United States v. Class*, 930 F.3d 460, 465 (D.C. Cir. 2019) (emphasis in original). As noted, the specific type of regulations enforced by the FOID Card Act — primarily restrictions on possession of firearms by felons and the mentally ill — was recognized as longstanding by the Supreme Court in *Heller* and this Court in *Aguilar*.

Moreover, a variety of laws were on the books at the time of the framing that allowed States to keep track of who had guns, inspect gun owners' qualifications for firearm possession, and impose penalties on those who did not comply. *See* Peo. Br. 9-10. At the time of the Second Amendment's adoption, *see Mosley*, 2015 IL 115872, ¶ 34 ("the court first

conducts a textual and historical inquiry to determine whether the challenged law imposes a burden on conduct that was understood to be within the scope of the second amendment's protection at the time of ratification"), laws existed that "allow[ed] government not only to keep track of who had firearms, but require[ed] them to report for a muster or face stiff penalties." Saul Cornell & Nathan DeDino, *A Well Regulated Right: The Early American Origins of Gun Control*, 73 Fordham L. Rev. 487, 505 (2004). Defendant dismisses these historical analogues as purportedly "ill-fitting," Def. Br. 10, but this is incorrect: what matters here is that this *type* of regulation — establishing comparable, if not greater, burdens on gun owners than the Act does to enable the States to ensure that guns remained out of the hands of those unfit to possess them — traces to the framing. And, in any event, even if licensing schemes like the Act were not a common method for implementing firearm regulations in the framers' era, this particular method of regulation trace back more than a century. *See, e.g.*, Peo. Br. 11-12 (citing 1918 Mont. Laws 6–9; 1911 Laws of N.Y., ch. 195, § 1, at 443; M.G.L.A. 140 § 129C); *see also* Amicus Brief of Everytown for Gun Safety 7-11 (detailing more than a century of licensing schemes analogous to the FOID Card Act that imposed minimal requirements on gun owners so that the State could ensure that only those legally permitted to possess firearms did so).

Third, the United States Court of Appeals for the District of Columbia Circuit ultimately upheld the long gun registration requirement at issue in *Heller II* at the first step of the Second Amendment analysis. To be sure, as defendant points out, in *Heller II*, the court found that while laws requiring the registration of handguns were longstanding, laws requiring the registration of long guns were not. Def. Br. 8 (citing *Heller II*, 670 F.3d at 1253, 1255). But that was not the end of the court's analysis. The court went on to reject an argument, like defendant makes here, that a law requiring the registration of long guns kept in the home failed at the first step of the Second Amendment analysis. *See Heller v. District of Columbia* (*Heller III*), 801 F.3d 264, 273-74 (D.C. Cir. 2015) (holding that application of registration requirement to both long guns and handguns did not implicate the Second Amendment). As the court explained, "requiring the registration of handguns is legally different from requiring the registration of long guns only in that basic registration of handguns is deeply enough rooted in our history to support the presumption that it is constitutional"; by contrast, "the registration requirement for long guns lacks that historical pedigree." *Id.* at 273 (cleaned up). But, the court concluded, the registration requirement for long guns still did not implicate the Second Amendment right because the burden it created is de minimis. *Id.* at 273-74. In other words, the District of

Columbia Circuit upheld the District's licensing regime at the first step of the Second Amendment analysis even though it also applied to long guns.

Defendant's reliance on the dissent in *Heller II* for the proposition that "the constitutionality of gun bans and regulations — is determined by references to text, history, and tradition," Def. Br. 7 (citing *Heller II*, 670 F.3d at 1272-73 (Kavanaugh, J., dissenting)), rather than the familiar two-step framework, is also misplaced. This Court and every federal circuit court to have considered the matter follow the two-step framework. *See, e.g.*, *Mosely*, 2015 IL 115872, ¶ 34 (applying two-part approach); *Fyock v. City of Sunnyvale*, 779 F.3d 991, 996 (9th Cir. 2015) (same); *Heller II*, 670 F.3d at 1252 (same).

In any event, even the dissenting judge in *Heller II* recognized that his preferred approach required "reason[ing] by analogy from history and tradition." *Heller II*, 670 F.3d at 1275 (Kavanaugh, J., dissenting). As explained, licensing regimes like the Act are within a type of regulation that existed at the time of the framing, because licensing regimes provide a mechanism for States to determine whether gun owners are fit to possess firearms that operates much like earlier laws requiring gun owners to present themselves (or "muster") for inspection. Licensing regimes like the Act are therefore analogous to framing-era laws. Applying the "text, history,

and tradition" approach, then, even if licensing regimes are a relatively new means of enforcing longstanding prohibitions on gun possession by individuals likely to abuse firearms, they would still fall outside the scope of the Second Amendment's protections. *See* J. Blocher & D.A.H. Miller, *The Positive Second Amendment* 136 (2018) (when applying two-step approach to Second Amendment challenges, "lower courts have used analogy to extend *Heller*'s exclusions beyond those specifically identified in the case").

Defendant is also wrong in her assertion that this Court somehow abandoned the two-step approach in *People v. Chairez*, 2018 IL 121417. *See* Def. Br. 11 (citing *Chairez*, 2018 IL 121417, ¶ 30). On the contrary, the Court explicitly reiterated that the two-step approach applies to Second Amendment challenges. *Chairez*, 2018 IL 121417, ¶ 21 (citing *People v. Mosley*, 2015 IL 115872, ¶ 34 (adopting two-step analysis)). The Court merely advanced to the second step because the constitutionality of the regulation in question was not readily decided at the first step. This is clear from the cases the Court cited in support of its reasoning. In *Woollard v. Gallagher*, 712 F.3d 865 (4th Cir. 2013), the Fourth Circuit noted that it was not "obliged to impart a definitive ruling at the first step," and "deemed it prudent" to resolve a challenge to a firearms regulation at the second step. *See Chairez*, 2018 IL 121417, ¶ 30 (citing *Woollard*, 712 F.3d at 875).

Similarly, in *National Rifle Ass'n of America, Inc. v. Bureau of Alcohol, Tobacco, Firearms, & Explosives*, 700 F.3d 185 (5th Cir. 2012), the Fifth Circuit reasoned that "[a]lthough we are inclined to uphold the challenged federal laws at step one of our analytical framework, in an abundance of caution, we proceed to step two." *See Chairez*, 2018 IL 121417, ¶ 30 (citing *NRA*, 700 F.3d at 204). In other words, *Chairez* reflects not an abandonment of the two-step framework, but a recognition that the constitutionality regulation at issue in that case could be more readily resolved at the second step than at the first.

Defendant's dismissal of *Commonwealth v. McGowan*, 982 N.E.2d 495 (Mass. 2013), *see* Def. Br. 11, is baseless for a similar reason. In upholding the firearm regulation at issue there, the Massachusetts Supreme Court reasoned that it had "consistently held, without applying any level of heightened scrutiny, that the decisions in *Heller* and *McDonald* did not invalidate laws that require a person to have a firearm identification card to possess a firearm in one's home," *McGowan*, 982 N.E.2d at 501, because these laws do not "interfere with the ability of a licensed gun owner to carry or keep a loaded firearm under his immediate control for self-defense," *id.* at 502-03. Defendant contends that because the Massachusetts court admittedly did not apply means-end scrutiny, *McGowan* is inconsistent with the two-step

framework. On the contrary, the *McGowan* court followed exactly the same approach advanced by the People here: because the challenged regulation did not infringe on conduct protected by the Second Amendment, the court held that the case could be resolved at the first step, without application of means-end scrutiny.

McGowan thus comports with the People's argument in this case. Like the regulation at issue in *McGowan*, the FOID Card Act in no way limits the ability of a licensed gun owner to keep a loaded firearm in her immediate control for self-defense in her own home. Instead, the Act merely restricts the ability to possess a firearm *without a license*. The distinction between substantive prohibitions on firearm possession and the requirement that a gun owner obtain a license to possess is dispositive. In fact, the Seventh Circuit recognized as much when it held that "[i]f the state may set substantive requirements for ownership, which *Heller* says it may, then it may use a licensing system to enforce them." *Berron v. Ill. Concealed Carry Licensing Rev. Bd.*, 825 F.3d 843, 847 (7th Cir. 2016).

Defendant argues that the People's reliance on *Berron* is misplaced because *Berron* involved a challenge to a requirement that individuals obtain a license to carry a concealed handgun in public. Def. Br. 10. But a careful reading of *Berron* shows that the Seventh Circuit would have reached the

same result in this case. In *Berron*, the court set forth its reasoning as follows:

> When holding in [*Heller*] that the Second Amendment establishes personal rights, the Court observed that only law-abiding persons enjoy these rights, even at home. 554 U.S. at 626-28, 635. We concluded in *United States v. Skoien*, 614 F.3d 638 (7th Cir. 2010) (en banc), that under *Heller* a person convicted of domestic violence may be barred from firearm ownership, and in *United States v. Meza-Rodriguez*, 798 F.3d 664 (7th Cir. 2015), that an alien not authorized to be in the United States similarly is not entitled to own a gun. Other decisions have approved additional substantive limits. Licensure is how states determine whether the requirements have been met.

825 F.3d at 847. In other words, the court's analysis flowed not from Illinois's requirement that individuals seeking to carry a concealed handgun in public obtain a concealed carry permit, but from the utility of licensing requirements to enforce substantive restrictions on gun ownership. *Id.* Thus, *Berron*'s reasoning — that a State may use a licensing system to enforce its constitutional substantive limitations on gun ownership without raising Second Amendment concerns—is just as applicable to the FOID Card Act as to the concealed carry permit system at issue in that case.

II. Alternatively, the FOID Card Act Survives Intermediate Scrutiny.

As the People demonstrated in their opening brief, Peo. Br. 21-27, even if the FOID Card Act regulates protected activity, it survives means-end

scrutiny. Defendant argues that strict, or "near-strict," scrutiny should apply. Def. Br. 12-13. But, as this Court explained in *Chairez*, when assessing a firearms regulation for compliance with the Second Amendment, "the argument is not strict versus intermediate scrutiny but rather how rigorously to apply intermediate scrutiny." 2018 IL 121417, ¶ 35.

Moreover, contrary to defendant's argument, ordinary, as opposed to heightened, intermediate scrutiny should apply. Defendant emphasizes language from a federal district court decision stating: "The more law-abiding people it affects or the heavier the burden on a right close to the core, the stricter the scrutiny the regulation receives." Def. Br. 12-13 (citing *Solomon v. Cook Cty. Bd. of Comm'rs*, 21 U.S. Dist. LEXIS 173175, *53-54 (N.D. Ill. 2021)). But *Solomon*'s description of the means-end scrutiny applicable in Second Amendment challenges is fully consistent with this Court's approach in *Chairez*. Indeed, this Court in *Chairez* explicitly adopted the Seventh Circuit's approach to determining how rigorously to apply intermediate scrutiny. *Chairez*, 2018 IL 121417, ¶ 35. And, plainly, the *Solomon* court was bound to follow the Seventh Circuit's approach, as well. Under that approach, "laws that merely regulate rather than restrict, and modest burdens on the right," such as the FOID Card Act, can be justified

under ordinary intermediate scrutiny. *Ezell v. City of Chicago*, 651 F.3d 684, 708 (7th Cir. 2011).

Indeeed, *Solomon* itself shows why at most ordinary intermediate scrutiny applies here. *Solomon* concerned a challenge to a ban on carrying concealed firearms in the Forest Preserve District of Cook County; because the law at issue categorically prohibited firearms in the Forest Preserve District, the district court applied "stricter" scrutiny. 21 U.S. Dist. LEXIS 173175, *53-57. The FOID Card Act, by contrast, does not function "as a categorical prohibition without providing an exception for law-abiding individuals." *Cf. Chairez*¸ 2018 IL 121417, ¶¶ 48-50 (applying heightened intermediate scrutiny because law banned carriage for self-defense in "a vast number of public areas across the state"). Instead, the Act restricts gun possession only by certain categories of people (primarily felons and the mentally ill). So, at most, ordinary intermediate scrutiny should apply.

And, as the People explained in their opening brief, Peo. Br. 22, under this standard, the FOID Card Act is constitutional because it is substantially related to an important government interest. *See People v. Alcozer*, 241 Ill. 2d 248, 262 (2011); *see also Skoien*, 614 F.3d at 641. Defendant does not appear to dispute that Illinois has a substantial interest in keeping guns out of the hands of dangerous people, nor could she. *See, e.g.*, *United States v.*

Yancey, 621 F.3d 681, 683 (7th Cir. 2010) (Congress permissibly "enacted the exclusions in § 922(g) [including for felons, fugitives, unlawful drug users, and the mentally ill] to keep guns out of the hands of presumptively risky people.").

Instead, defendant argues that the People offered "nothing" to support a "connection between requiring law abiding persons wishing to possess a long gun in their homes for self-defense to also possess a FOID card, and the claimed governmental interest." Def. Br. 16. Not so. The People's opening brief explained that licensure is an effective means of determining whether individuals seeking to possess a firearm are likely to do so in a law-abiding manner, or are instead a felon, mentally ill, or otherwise at risk of abusing firearms. Peo. Br. 23-24; *see also Berron*, 825 F.3d at 847 ("Licensure is how states determine whether the requirements have been met."). Moreover, the People's opening brief presented empirical evidence demonstrating the connection between laws like the Act, on the one hand, and reducing gun violence and protecting public health and safety, on the other, Peo. Br. 24-27, as did the amicus brief of the Giffords Law Center to Prevent Gun Violence, *see* Giffords Br. 11-17.

Defendant identifies studies reaching different conclusions, Def. Br. 20-22, and challenges the validity of the studies supporting the People's

position, *id*. at 26-27. But, as the United States Supreme Court has explained, even when applying intermediate scrutiny, legislatures are "far better equipped than the judiciary to amass and evaluate the vast amounts of data bearing upon legislative questions." *Turner Broad. Sys., Inc. v. FCC*, 520 U.S. 180, 195 (1997). This is especially true in the present circumstances because, "[i]n the context of firearm regulation, the legislature is 'far better equipped than the judiciary' to make sensitive public policy judgments" about safety risks and benefits. *Kachalsky v. County of Westchester*, 701 F.3d 81, 97 (2nd Cir. 2012) (quoting *Turner Broad. Sys.*, 512 U.S. at 665). Thus, "[i]t would be foolhardy—and wrong—to demand that the legislature support its policy choices with an impregnable wall of unanimous empirical studies." *Gould v. Morgan*, 907 F.3d 659, 676 (1st Cir. 2018) (applying intermediate scrutiny to state firearm licensing regime).

So, to the extent the parties and their amici present conflicting studies, this Court should defer to the legislature's judgment that the FOID Card Act serves its intended purpose of keeping guns out of the hands of people likely to misuse them. *See Kansas v. Hendricks*, 521 U.S. 346, 360 n.3 (1997) (where psychiatric experts joined conflicting *amicus* briefs, their disagreements "do not tie the State's hands" in its policy choices, even under intermediate scrutiny); *People v. Minnis*, 2016 IL 119563, ¶ 41 ("Although we

exercise independent judgment on issues of constitutional law, the legislature is in a better position than the judiciary to gather and evaluate data bearing on complex problems.").

Similarly, while defendant notes that the Madison County State's Attorney opined in an amicus brief that, in his county, "'the FOID requirement is unhelpful to the core public safety interest regarding firearms: preventing lawless gun violence,'" Def. Br. 14-15 (quoting Madison County Br. 1), the experience of Cook County and the City of Chicago is very different. These units of local government—where approximately 5 million (or approximately 40% of the population of Illinois) and approximately 2.7 million people reside, respectively, *see* Chicago and Cook County Br. 1-2—explained in their amicus brief that "the FOID Card Act is a critical tool in the fight against firearms violence in Chicago and Cook County because it serves to keep firearms out of the hands of those whom the General Assembly found are most likely to misuse them," *id.* at 4. To the extent that Madison County's practical experience differs from that of Cook County's or the City of Chicago's, any conflict in this evidence, like any conflict in the studies, should be resolved via deference to the legislature.

Defendant also argues that the purported weakness in the People's evidence is "more egregious" because the FOID Card Act was applied to

defendant in her own home. Def. Br. 16. But, as the People explained in their opening brief, Peo. Br. 13-14, the United States Supreme Court has made clear that the Second Amendment right is subject to meaningful regulation, including in one's home. *See Heller*, 554 U.S. at 627. The examples of valid regulations identified in *Heller*, including prohibitions on the possession of firearms by felons and the mentally ill, are as applicable in the home as in other places. *See id.* at 626 (cautioning that "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill"). Unsurprisingly, then, state and federal courts have upheld licensing and registration requirements imposed as prerequisites to possessing a firearm in the home. *See* Peo. Br. 14 (collecting cases); *see also supra* pp. 2-3.

III. The $10 Licensing Fee Raises No Constitutional Concerns.

Finally, defendant argues that the Act's $10 fee is "unreasonable" because, in her view, the underlying regime is not lawful. Def. Br. 17-18. To be sure, if Illinois cannot adopt a licensing requirement to ensure that guns are kept out of the hands of felons, the mentally ill, and others likely to misuse them, then the $10 fee also cannot stand. But the People have demonstrated that the Illinois legislature's decision to adopt such a requirement is consistent with the Second Amendment, and if it may impose

a licensing system to enforce the substantive limitations on firearm possession found in the FOID Card Act, it may further impose a reasonable fee to defray the cost of that system. *See, e.g.*, *People v. Stevens*, 2018 IL App (4th) 150871, ¶¶ 14, 17 (upholding Illinois's $300 fee associated with applying for concealed carry license, given absence of "evidence the licensing scheme charges more than is necessary for the administration of the licensing statute and maintenance of public order in the matter licensed"); *Kwong*, 723 F.3d at 167 (upholding New York's $100 licensing fee because it imposed no more than "a marginal, incremental or even appreciable" burden on right to keep firearm in home for self-defense). Thus, this Court should uphold the Act's $10 fee along with the licensing regime as a whole.

First, fees on firearm possession and licensing, both in public and in the home, are longstanding and therefore outside the scope of the Second Amendment. Such fees trace back to at least the mid-1800s and were often more burdensome than the FOID Card Act's $10 fee, in that these historic laws in many cases imposed annual or per-gun fees. *See* Everytown Br. 11-12 (collecting historic laws imposing fees for gun possession). Moreover, many States and municipalities currently impose a fee for gun registration, licensing, or mandatory background checks. *Id.* at 12-13 (collecting contemporary laws imposing fees). Therefore, the circuit court's holding

suggesting that imposition of any fee to exercise one's Second Amendment right in the home is unconstitutional, C217-18, is plainly incorrect.

Nor does the FOID Card Act's fee raise any other constitutional concerns. Contrary to defendant's position, *id*. at 24, the $10 fee is not a charge for the exercise of Second Amendment rights, because all of it (as opposed to 30%, as defendant asserts) compensates the State for the costs associated with processing FOID card applications, thus serving the valid purpose of defraying the cost of the licensing regime and otherwise policing the matter licensed. *See Stevens*, 2018 IL App (4th) 150871, ¶ 14 (licensing fees are permissible "when they are designed 'to meet the expenses incident to the administration of the [licensing statute] and to the maintenance of public order in the matter licensed'") (quoting *Cox v. New Hampshire*, 312 U.S.569, 577 (1941)).

The Act expressly provides how the $10 fee is to be distributed: $6 to the Wildlife and Fish Fund, $1 to the State Police Services Fund, and $3 to the State Police Firearm Services Fund. 430 ILCS 65/5(a).[1] Even defendant

[1] Amendments to the FOID Card Act that became effective on January 1, 2022, modify how the $10 fee is distributed. Beginning on that date, $5 goes to the State Police Firearm Services Fund and $5 goes to the State Police Revocation Enforcement Fund. *See* 2021 P.A. 102-237 § 20.

appears to recognize, Def. Br. 24, that the portion allocated to the State Police Firearm Services Fund serves a permissible purpose because it defrays the cost of administering the licensing system. And the portion paid to the Wildlife and Fish Fund also serves a permissible purpose because it is used to pay for courses in firearms safety. 520 ILCS 5/3.2 ("Funds for the conducting of firearms and hunter safety courses shall be taken from the fee charged for the Firearm Owners Identification Card."). Finally, money deposited into the State Police Services Fund is appropriated to the Illinois State Police for the agency's expenses, which include implementation and enforcement of the FOID Card Act. *See* 20 ILCS 2605/2605-400(b); 430 ILCS 65/1, *et seq*. Accordingly, because the $10 fee is used to administer the licensing system and defray the expenses of policing the activities in question, it raises no constitutional concerns.

* * *

Defendant does not dispute that Illinois may impose the substantive restrictions on firearms possession found in the FOID Card Act. And because the State may impose those substantive restrictions, it may implement a licensing system to enforce them. And because Illinois may impose a licensing system, it may also impose a reasonable fee to defray the costs of administering the system and policing gun safety generally.

In the end, then, this case is not about the State preventing a law-abiding citizen from possessing a gun for self-defense. It is about an individual who did not abide by the law. Defendant could have applied for a FOID card. If, as she claims, she is eligible for a FOID card, she would have received one and could have legally kept a loaded, operational firearm in her home for self-defense. But she did not go through the simple and inexpensive process that the Illinois legislature has established to help keep firearms out of the hands of those who are at risk of abusing them. Simply put, it does not violate the Second Amendment to require an individual to comply with Illinois's licensure process before she may possess a firearm. Therefore, this Court should reverse the circuit court's judgment holding that the FOID Card Act is unconstitutional.

CONCLUSION

For these reasons, and those stated in the People's opening brief, this Court should reverse the appellate court's judgment.

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CERTIFICATE OF COMPLIANCE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 4,772 words.

/s/ Garson S. Fischer
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CERTIFICATE OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. The undersigned certifies that on January 14, 2022, the foregoing **Reply Brief of Plaintiff-Appellant** was electronically filed with the Clerk, Illinois Supreme Court, through the Odyssey eFileIL system, which will serve the following, counsel for defendant:

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