No. 132015

IN THE
SUPREME COURT OF ILLINOIS

MALIK CEDRICK BRIGHT, Plaintiff-Appellee, v. JEFFREY YENCHKO, in his official capacity as Chief of the Firearm Services Bureau, Defendant-Appellant, and VICTOR JURADO, HANNAH GOLDSTEIN, and GABRIEL RUVALCAHA, Defendants.	)	Direct Appeal from the Circuit Court of the Twenty-Fourth Judicial Circuit, Randolph County, Illinois No. 23-LA-12 The Honorable JEREMY R. WALKER, Judge Presiding.

BRIEF AND APPENDIX OF DEFENDANT-APPELLANT

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NATURE OF THE ACTION

In 2023, Plaintiff-Appellee Malik Cedric Bright was charged with felony aggravated unlawful use of a weapon in Cook County, Illinois. While the charges were pending, the Illinois State Police ("ISP") suspended his Firearm Owners Identification ("FOID") card. After the charges were dismissed, Bright filed a complaint in the circuit court of Randolph County, Illinois, challenging the constitutionality of section 8(n) of the Firearm Owners Identification Act ("FOID Act"), 430 ILCS 65/8(n) (2024), and seeking his FOID card's reinstatement. Later that month, ISP reinstated Bright's FOID card.

On cross-motions for summary judgment, the circuit court held that, although the reinstatement of Bright's FOID card mooted his claims, the public interest exception to mootness applied and section 8(n) was facially unconstitutional under the Second Amendment of the United States Constitution to the extent it allowed ISP to suspend the FOID cards of those facing felony charges. Defendant-Appellant Jeffrey Yenchko, in his official capacity as Chief of ISP's Firearm Services Bureau ("Bureau Chief"), appealed the circuit court's order directly to this Court. No questions are raised on the pleadings.

ISSUES PRESENTED FOR REVIEW

1. Whether the circuit court erred in applying the public interest exception to mootness.

2. Whether the circuit court erred in concluding that section 8(n) of the FOID Act is facially unconstitutional under the Second Amendment with respect to anyone facing felony charges.

3. Whether the temporary suspension of Bright's FOID card based on pending felony charges was constitutional under the Second Amendment.

JURISDICTION

On July 7, 2025, the circuit court entered a final order declaring section 8(n) of the FOID Act unconstitutional and permanently enjoining its enforcement against anyone charged with a felony. C339-46; *see Skolnick v. Altheimer & Gray*, 191 Ill. 2d 214, 222 (2000) ("a permanent injunction is a final order" under Ill. Sup. Ct. R. 301).[1] Later that day, the Bureau Chief filed a notice of appeal from the circuit court's order to this Court, C347, which was timely because it was filed within 30 days of the circuit court's judgment. This Court, therefore, has jurisdiction over this direct appeal under Ill. Sup. Ct. R. 302(a)(1).

[1] This brief cites the one-volume common law record as "C__," the one-volume report of proceedings as "R___," the one volume of exhibits as "E__," the one volume of impounded exhibits as "EI__," the one-volume supplemental report of proceedings as "SUP R___," and the appendix to this brief as "A___."

STATUTES INVOLVED

Section 8 of the FOID Act provides, in relevant part:

> The Illinois State Police has authority to deny an application for or to revoke and seize a Firearm Owner's Identification Card previously issued under this Act only if the Illinois State Police finds that the applicant or the person to whom such card was issued is or was at the time of issuance:
>
> * * *
>
> (n) A person who is prohibited from acquiring or possessing firearms or firearm ammunition by any Illinois State statute or by federal law[.]

430 ILCS 65/8(n) (2024).

18 U.S.C. § 922(n) provides:

> It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

STATEMENT OF FACTS

Bright's Felony Charges and the Suspension of His FOID Card

On February 25, 2023, Bright was charged by criminal complaint with aggravated unlawful use of a weapon under 720 ILCS 5/24-1.6(a)(1) (2024) in the circuit court of Cook County, Illinois. C210, C213, EI42. The same day, the circuit court found that there was "probable cause to detain" Bright, appointed the public defender to represent him, and held a bond hearing. C213, EI50. The same day, Bright demanded trial. *Id.*[2]

Aggravated unlawful use of a weapon is a Class 4 felony, 720 ILCS 5/24-1.6(d) (2024), punishable by up to three years' imprisonment, 730 ILCS 5/5-4.5-45(a) (2024). Federal law prohibits individuals charged with "a crime punishable by imprisonment for a term exceeding one year" from "receiv[ing]" certain "firearm[s] or ammunition." 18 U.S.C. § 922(n).

At the time he was charged, Bright possessed a valid FOID card. C210. On March 20, 2023, ISP temporarily suspended Bright's FOID card under section 8(n) of the FOID Act, C211, which authorizes ISP to suspend the FOID card of a "person who is prohibited from acquiring . . . firearms or firearm ammunition by any . . . federal law," 720 ILCS 430/8(n) (2024); *see id.* § 8.3 (ISP "may suspend the [FOID] Card of a person whose [FOID] Card is subject

[2] The circuit court's docket is unclear as to whether it held a preliminary hearing or Bright waived a preliminary hearing. *See* SUP R26-28.

to revocation and seizure under this Act for the duration of the disqualification if the disqualification is not a permanent ground for revocation").

On April 20, 2023, the Cook County State's Attorney dismissed the criminal charges against Bright. C211, C215, EI64. The next day, Bright appealed the suspension of his FOID card to ISP under section 10 of the FOID Act, 430 ILCS 65/10 (2024). C211, EI51-52.

Bright's Complaint and the Reinstatement of His FOID Card

On May 16, 2023, Bright initiated this action in the circuit court of Randolph County, Illinois, under 42 U.S.C. § 1983, C9, C12, seeking an injunction prohibiting the Bureau Chief from "continuing to hold as suspended [his] FOID card," or suspending his FOID card "in the future, based on a mere criminal charge, as opposed to a conviction," C11. According to Bright, the suspension of his FOID card based solely on a felony charge violated his right to keep and bear arms under the Second Amendment to the United States Constitution. *Id.* Bright also brought claims against the three Chicago police officers who arrested him for aggravated unlawful use of a weapon. C11-13.

On May 31, 2023, before the Bureau Chief had been served with summons in this action, *see* EI70, ISP approved Bright's administrative appeal and reinstated his FOID card, C211, EI9.

The Bureau Chief's Motion to Dismiss

In November 2023, the Bureau Chief filed a motion to dismiss under section 2-619(a)(9) of the Code of Civil Procedure, 735 ILCS 5/2-619(a)(9)

(2024), arguing that the reinstatement of Bright's FOID card mooted his claim against the Bureau Chief. C64, C66-67. After Bright failed to appear on the date the court scheduled the motion to dismiss for hearing, the circuit court granted the Bureau Chief's motion, but noted that the claims against the Chicago police officers remained pending. C81, C94, C117.

In September 2024, Bright filed a motion to reconsider the dismissal of his claim against the Bureau Chief, arguing that his counsel had missed the hearing "due to oversight" and, although his claim was moot, the court should hear it under the public interest exception to mootness. C117-18. A month later, Bright and the Chicago police defendants agreed to the dismissal of the claims against them pursuant to a settlement agreement. C121-23.

In response to the motion to reconsider, the Bureau Chief argued that Bright had not adequately explained his failure to appear at the hearing or his nine-month delay in seeking reconsideration. C124, C127-30. As for the public interest exception, the Bureau Chief argued that Bright's "as-applied challenge" did not present a question of public concern that was likely to recur, any facial challenge also would not raise a question affecting the public as a whole, and "no conflict among the courts" existed that would require the court's guidance. C134-36.

The circuit court granted Bright's motion to reconsider, vacated its dismissal order, and set argument on the Bureau Chief's motion to dismiss. C170. The Bureau Chief then withdrew the motion to dismiss, noting that it

intended to raise mootness "at a later time in a different posture." C183, C185. The Bureau Chief simultaneously filed an answer, raising mootness as an affirmative defense. C181.

The Parties' Cross-Motions for Summary Judgment

The parties then filed cross-motions for summary judgment on Bright's claim against the Bureau Chief. C186-216, C274-80. The Bureau Chief again argued that the reinstatement of Bright's FOID card mooted his claim and no mootness exception applied. C189-95. Specifically, the Bureau Chief argued, the public interest exception to mootness was inapplicable because there was no need for the circuit court to offer guidance on the constitutionality of section 8(n), as federal courts had repeatedly upheld a similar prohibition in 18 U.S.C. § 922(n). C190-95. The Bureau Chief also argued that the capable-of-repetition-but-evading-review exception was inapplicable because many other plaintiffs had been able to bring challenges to similar statutes. C195. Finally, the collateral consequences exception did not apply because Bright could not identify any ongoing consequences of the past suspension of his FOID card. *Id.*

Furthermore, the Bureau Chief argued, the merits of Bright's Second Amendment claim failed under the two-step analysis set forth in *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022). C195-208, C283-90. Under the first step, the Bureau Chief argued that the Second Amendment's plain text did not apply to Bright while he was facing felony charges because it only

extends to law-abiding individuals. C196-97. And under the second step, numerous historical laws — such as laws authorizing the pretrial detention (and, consequently, disarmament) of those charged with serious crimes, founding-era laws categorically disarming those deemed dangerous or unlikely to obey the law, and surety laws restricting the liberty of those accused of posing threats to others — established a historical tradition of firearms restrictions analogous to section 8(n). C197-208, C284-89.

In response, Bright acknowledged that his claim was moot because his FOID card had "been restored, and . . . remains fully valid." C221. But he asserted that two mootness exceptions applied. C221-26. First, he argued that "a constitutional challenge to a state statute" presented "a matter of public importance" that could be reviewed under the public interest exception. C222 (cleaned up). Second, he argued that the capable-of-repetition-yet-evading-review exception applied because no one "could litigate this case in the time a person is likely to remain under mere indictment." C225. Bright added that this issue was likely to recur because, "during the very pendency of this case, he has been again charged with a felony, a charge that again, did not result in any felony conviction," but he did not include any evidence of those charges with his response or say whether his FOID card was suspended as a result of the charges. *Id.*

As to the merits, Bright clarified that he was bringing "an *as applied* challenge," recognizing that a defendant charged with a "serious violent

crime" could be ordered to "refrain from possessing arms" at a "bond hearing." C226 (emphasis in original); *see also* C231 (conceding that "actually dangerous persons can be disarmed in many circumstances"). Bright then argued that, despite his felony charges, the Second Amendment's plain text applied to him. C228, C275-76. As for the Bureau Chief's historical analogues, Bright argued that they only established that individuals could be disarmed if they were "found by a court" to be "genuinely dangerous," not merely charged with a felony. C229.

The Circuit Court's Orders on Mootness and Section 8(n)'s Constitutionality

At a March 11, 2025 hearing on the Bureau Chief's motion for summary judgment, Bright's counsel reiterated that he brought an "as-applied" challenge to section 8(n), R93, and conceded that disarming someone "charged with a violent crime" after a court finds "probable cause . . . that the [d]efendant committed the crime" would "probably be constitutional," R75-76. But when the circuit court asked counsel if his claim solely focused on "Bright and his specific set of facts," counsel responded, "[N]o." R94. At the conclusion of that hearing, the circuit court determined that the public interest exception to mootness applied, R99, but reserved ruling on the merits of Bright's Second Amendment claim, R101; *see also* C270-71 (written order memorializing conclusion that public interest exception applied).

On July 2, 2025, the circuit court heard argument on the parties' cross-motions for summary judgment on the merits of Bright's Second Amendment

claim. SUP R7. When asked if Bright challenged section 8(n) on its face or as applied to him, Bright's counsel responded, "I think it is as applied; but it's such a broad as applied because it's as-applied to every person charged with a felony." SUP R18-19. According to Bright's counsel, this "broad as-applied challenge" could be considered under the public interest exception to mootness "because it applie[d] to such a broad swath" of individuals, it was "*de facto*[ ] a facial challenge." SUP R19. On the merits, Bright's counsel argued that Bright satisfied *Bruen*'s first step because he "is a U.S. [c]itizen" and thus is "one of the people that is protected by the Second Amendment." SUP R9. And at *Bruen*'s second step, counsel claimed that there was "no historical analog[ue] for disarming persons merely charged with a crime." SUP R12.

In response, the Bureau Chief's counsel emphasized that, by applying the public interest exception to mootness, the circuit court necessarily concluded that Bright brought a facial challenge. SUP R24, SUP R35, SUP R57. Accordingly, section 8(n) should be upheld if there was "some circumstance[ ]" in which it could be constitutionally applied. SUP R69. And on the merits, many historical laws allowed for disarming those facing charges of "serious crime[s]" that resembled modern felonies, even if those historical laws were not "twin[s]" of section 8(n). SUP R31-32.

On July 7, 2025, the circuit court entered an order holding that section 8(n) is "facially unconstitutional to the extent it allows ISP to revoke, suspend or otherwise impair the ability of an Illinois citizen to possess firearms while

under indictment (or information) for a felony offense" and permanently enjoining the Bureau Chief from revoking a FOID card under that provision. C345-46. Applying *Bruen*'s two-step analysis, C340-43, the circuit court first concluded that section 8(n) implicated the Second Amendment's plain text because, by "disarming individuals, with no individualized assessment," it "absolutely extinguishe[d] one's right to self-defense," C341.

Next, the circuit court held that historical laws authorizing pretrial detention of certain criminal defendants were not sufficiently analogous, concluding that, unlike section 8(n), those laws required a "determination of [defendants'] danger to the community, after taking into consideration[,] at the very least, the offense the accused [was] charged with." C342. By temporarily suspending the FOID card of anyone charged with a felony, the circuit court reasoned, section 8(n) disarmed "presumptively innocent individuals, with absolutely no risk assessment." *Id.* The circuit court did not expressly address the Bureau Chief's citation of laws disarming those deemed dangerous or surety laws as historical analogues. *Id.*

Finally, the circuit court concluded that "there is no set of facts or application of this [s]tatute that can pass constitutional muster" because, "no matter what the charge is," a "case-specific analysis" must be performed before someone can be disarmed. C344.

The Bureau Chief appealed. C347. On July 21, 2025, this Court granted the Bureau Chief's motion to stay the circuit court's judgment pending the outcome of this appeal. A26.

ARGUMENT

I. This Court reviews the circuit court's judgment *de novo*.

The grant of summary judgment, mootness, and the constitutionality of a statute are issues of law that this Court reviews *de novo*. *Barlow v. Costigan*, 2014 IL 115152, ¶ 17; *In re Rita P.*, 2014 IL 115798, ¶ 30. And when, as here, the parties filed cross-motions for summary judgment, "they agree that the case involves only legal questions and ask the court to decide the issues on the existing record." *Dynak v. Bd. of Educ. of Wood Dale Sch. Dist. 7*, 2020 IL 125062, ¶ 15.

II. This Court should vacate the circuit court's judgment because Bright's Second Amendment claim is moot and the circuit court erred in applying the public interest exception.

An action is moot when no actual controversy exists or the reviewing court cannot render "effectual relief." *In re Marriage of Donald B.*, 2014 IL 115463, ¶ 23 (cleaned up). The lack of an actual controversy deprives courts of subject matter jurisdiction over an action. *In re Marriage of Peters-Farrell*, 216 Ill. 2d 287, 291 (2005). Thus, courts "do not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided." *Commonwealth Edison Co. v. Ill. Com. Comm'n*, 2016 IL 118129, ¶ 10 (cleaned up). In other words, courts will not review moot cases "merely to establish a precedent or guide future litigation." *Id.* (cleaned up).

As Bright and the circuit court recognized, there is no actual controversy here. *See* C221, C270, R40. In this action, Bright sought an order reinstating his FOID card, *see* C11, and ISP reinstated his FOID card in May 2023, C211, C221. Thus, the circuit court's judgment holding section 8(n) unconstitutional rests on a hypothetical dispute. *See Strauss v. City of Chi.*, 2022 IL 127149, ¶ 50 (request for declaration that zoning ordinance was unconstitutional was moot where plaintiff no longer owned affected building); *Donald B.*, 2014 IL 115463, ¶ 30 (challenge to statute's constitutionality was moot where statute's restrictions on visitation rights no longer applied to petitioner); *Koshinski v. Trame*, 2017 IL App (5th) 150398, ¶ 19 (constitutional challenge to temporary revocation of FOID card based on order of protection was mooted by reinstatement of plaintiff's FOID card). And, as explained below, no mootness exception applies.

A. The circuit court erred in applying the public interest exception.

Although the circuit court concluded that the public interest exception applied, *see* C270, it was incorrect. The public interest exception "is invoked only on rare occasions when there is an extraordinary degree of public interest and concern." *Commonwealth Edison*, 2016 IL 118129, ¶ 13 (cleaned up). The party seeking to invoke that exception must make a "clear showing" that three criteria are met: (1) the issue presented is "of a public nature," (2) "an authoritative determination of the question is desirable for the future guidance of public officers," and (3) "the question is likely to recur." *Id.* at ¶¶

12-13 (cleaned up). "If any one of the criteria is not established, the exception may not be invoked." *Id.* at ¶ 13.

Here, Bright cannot establish any of these criteria. First, Bright brought an as-applied challenge to section 8(n), which, by definition, does not present an issue of a public nature. *See In re Christopher K.*, 217 Ill. 2d 348, 362 (2005) (whether statutory provision was "unconstitutionally vague as applied to defendant . . . is an issue specific to the facts of defendant's case. Therefore, it is not public in nature."). In both his complaint and his summary-judgment briefing, Bright repeatedly emphasized that his claim was limited to his particular circumstances. *See* C11 (alleging that "*Plaintiff* has been deprived of his ability to keep and bear arms" and requesting injunction compelling restoration of "*Plaintiff's* FOID card") (emphases added); C226 (making it "crystal clear" that Bright was bringing "an *as applied* challenge") (emphasis in original); *id.* (recognizing that those charged with "serious violent crime[s]" could be disarmed after "a bond hearing"); C231 (conceding that "actually dangerous persons can be disarmed in many circumstances"). In doing so, Bright made clear that this case presented only the narrow issue of whether *his* FOID card was properly suspended. *See Piasa Armory, LLC v. Raoul*, 2025 IL 130539, ¶ 13 ("[A] party raising a facial challenge must show that the statute is unconstitutional under any possible set of facts, whereas a party raising an as-applied challenge must establish that the statute is unconstitutional as it applies to the party's particular facts and

circumstances."); *Davis v. Yenchko*, 2024 IL 129751, ¶ 21 n.3 (plaintiffs appropriately categorized their claim as "an as-applied challenge to section 8(n) of the FOID Card Act" by conceding that there were "circumstances where [the statute could] be constitutionally applied").[3]

And even if, as the circuit court believed, *see* C344, Bright had brought a facial challenge to section 8(n), he still failed to make a clear showing of the first criterion. A constitutional challenge does not inherently raise a question of a public nature. *See*, *e.g.*, *Donald B.*, 2014 IL 115463, ¶¶ 14, 34-35; *see also Eisenberg v. Indus. Comm'n of Ill.*, 337 Ill. App. 3d 373, 380 (1st Dist. 2003) ("[T]he presence of a constitutional defect in a statutory requirement does not automatically mean that the public interest exception to the mootness doctrine applies."). Rather, the issue must have a "significant effect on the public as a whole." *Felzak v. Hruby*, 226 Ill. 2d 382, 393 (2007). Here, ISP's ability to revoke the FOID cards of individuals facing felony charges affects only a small subset of the public (those who possess a FOID card and have been charged with a felony) for a limited time (while the charges are pending). Even a facial challenge, therefore, would not present an issue of a public nature. *See*, *e.g.*, *In re Marriage of Eckersall*, 2015 IL 117922, ¶ 15 (question was not of a public nature when it had "limited application to a small group of people and [did]

[3] As explained below, Bright's assertion that he could bring an as-applied challenge that encompassed "every person charged with a felony," SUP R18-19, did not amend his complaint to broaden the scope of his claim. *See infra* p. 22.

not significantly affect the public as a whole"); *Donald B.*, 2014 IL 115463, ¶¶ 1, 34 (facial challenge implicating "very limited group" did not satisfy first criterion of public interest exception).[4]

Second, Bright cannot establish that an authoritative decision from this Court is necessary to guide public officials, a criterion that required him to show that "the law is in disarray or conflicting precedent exists." *Commonwealth Edison*, 2016 IL 118129, ¶ 16. No such disarray or conflict exists here, as section 8(n)'s constitutionality is an issue of first impression in this Court. *See id.* at ¶ 17 ("Because this appeal involves an issue of first impression, there is no conflicting precedent . . . and the law is not in disarray."); *see also Davis*, 2024 IL 129751, ¶ 1 (vacating circuit court judgment holding section 8(n) unconstitutional for lack of standing without reaching merits). And federal courts of appeal addressing a similar federal statute have uniformly held that, consistent with the Second Amendment, individuals facing felony charges may be categorically prohibited from receiving firearms. *See*, *e.g.*, *United States v. Quiroz*, 125 F.4th 713, 718-25 (5th Cir. 2025); *United States v. Gore*, 118 F.4th 808, 814-16 (6th Cir. 2024). Thus, there is no conflict that must be resolved through this moot action. *See Eckersall*, 2015 IL 117922, ¶ 16 (finding criterion not met where there were no "conflicting precedents" on issues).

[4] Bright also presented no evidence as to the number of individuals in this group. *See* C219-41, C274-80.

Third, Bright cannot show that the question presented here is likely to recur. As explained, Bright brought an as-applied challenge, which depended on his particular circumstances. Such a fact-specific inquiry does not satisfy the third criterion for the public interest exception. *See In re Alfred H.H.*, 233 Ill. 2d 345, 358 (2009) (third criterion not met because it was "highly unlikely" that addressing case-specific issue "would have any impact on future litigation"). And although Bright stated that he was "again charged with a felony" in his response to the Bureau Chief's motion for summary judgment, C225, he offered no evidence to support that conclusory assertion or show that his FOID card was again suspended based on any charge, *see* C219-41, C274-80. It was Bright's burden to present evidence supporting any mootness exceptions at summary judgment, *see Commonwealth Edison*, 2016 IL 118129, ¶ 13, and his unsworn, conclusory statement in response to the Bureau Chief's motion for summary judgment did not suffice, *see In re Marriage of Colangelo*, 355 Ill. App. 3d 383, 393 (2d Dist. 2005) ("unsworn assertions" should "not be considered in ruling on a motion for summary judgment").

The circuit court was thus mistaken in deciding to review Bright's Second Amendment claim under the public interest exception. Initially, its decision rested on the misapprehension that Bright was bringing "a facial challenge," C344, even though he brought no such a challenge, *see supra* pp. 14-15.

And, as discussed, Bright's as-applied challenge does not present a question of a public nature. *See supra* pp. 14-15. Regardless, as explained above, the circuit court erred in concluding that Bright made a clear showing that even a facial challenge met all three of the public interest exception's criteria. *See supra* pp. 15-17; *see also Commonwealth Edison*, 2016 IL 118129, ¶ 13 (if "any one" of the public interest exception's criteria "is not established, the exception may not be invoked").

B. The capable-of-repetition-yet-evading review exception does not apply.

In the circuit court, Bright also argued that the capable-of-repetition-yet-evading-review exception to mootness applied, *see* C224-26, but he failed to show that there was a reasonable expectation that he would be "subject to the same action again," *In re J.T.*, 221 Ill. 2d 338, 350 (2006). As explained, Bright offered no evidence that his FOID card had been, or was likely to be, suspended based on future felony charges. *See* C219-41, C274-80. Without such evidence, Bright's mere speculation that his FOID card might be suspended under similar circumstances could not support the application of this exception. *See*, *e.g.*, *Holly v. Montes*, 231 Ill. 2d 153, 157 (2008) (capable-of-repetition exception inapplicable because it rested on "purely speculative" notion that individual might be subjected to electronic home confinement again).

C. The collateral consequences exception does not apply.

Finally, the collateral consequences exception applies only when "collateral consequences survive the expiration or cessation of a court order that are likely to be redressed by a favorable judicial determination." *Rita P.*, 2014 IL 115798, ¶ 31. Bright, however, does not challenge a court order and did not offer evidence of any continuing consequences resulting from the past, temporary suspension of his FOID card. C219-41, C274-80. Thus, this exception is inapplicable.

D. This Court should vacate the circuit court's order on mootness grounds.

As explained above, Bright's Second Amendment claim is moot and no mootness exception applies. Accordingly, this Court should reverse the circuit court's March 12, 2025 order concluding that the public interest exception applies and vacate the July 7, 2025 order finding section 8(n) unconstitutional. *See*, *e.g.*, *Commonwealth Edison*, 2016 IL 118129, ¶ 22 (vacating judgment when case moot and no exception applied); *Felzak*, 226 Ill. 2d at 394 (same).

III. Bright did not bring a facial challenge, so the circuit court erred in declaring section 8(n) unconstitutional as to all individuals charged with felonies.

If this Court applies a mootness exception to reach the merits of Bright's Second Amendment claim, it should hold that the circuit court committed a threshold error by invalidating section 8(n) with respect to *all* persons charged with a felony. Because Bright only brought an as-applied

challenge to section 8(n), the circuit court could not have granted relief to any parties other than Bright.

"[A] party raising a facial challenge must show that the statute is unconstitutional under any possible set of facts, whereas a party raising an as-applied challenge must establish that the statute is unconstitutional as it applies to the party's particular facts and circumstances." *Piasa Armory*, 2025 IL 130539, ¶ 13; *see Napleton v. Vill. of Hinsdale*, 229 Ill. 2d 296, 306 (2008) (as-applied challenge attacks "how an enactment was applied in the particular context in which the plaintiff acted or proposed to act"). "A successful facial challenge voids the statute, but in a successful as-applied claim, the party may enjoin the statute's enforcement against only himself." *Piasa Armory*, 2025 IL 130539, ¶ 13.

Here, Bright's complaint made clear that he only brought an as-applied Second Amendment challenge. He claimed that he was "deprived of *his* ability to keep and bear arms," not that section 8(n) deprived all individuals charged with felonies of their Second Amendment rights. C11 (emphasis added); *see also id.* (claiming that the Bureau Chief "is violating [Bright's] right to keep and bear arms"). As relief, Bright sought an injunction prohibiting the Bureau Chief "from continuing to hold as suspended [his] FOID card" or suspending "[his] FOID card in the future." *Id.* He sought no declaration that section 8(n) is facially invalid or invalid as to anyone other than him. In sum, Bright

"framed [his] claim in terms of [his] individual circumstances," so he brought an as-applied challenge. *See Piasa Armory*, 2025 IL 130539, ¶ 14.

Consistent with his complaint, Bright repeatedly stated in his summary judgment briefing that he brought "an *as applied* challenge." C226 (emphasis in original); *see* C275 ("The question before this Court is whether 430 ILCS 65/8(n), which, *as applied*, mandates the revocation of a FOID card, and thus the ability to possess all firearms, at all locations, for all reasons, violates the Second and 14th Amendments.") (emphasis added). And he recognized that there were situations in which section 8(n) could be constitutionally applied to someone charged with a felony, effectively conceding that a facial challenge would fail. *See* C226 (conceding that circuit court could order person charged with "serious violent crime" to "refrain from possessing firearms"); C229 (acknowledging "that genuinely dangerous persons can be disarmed, consistent with the Second Amendment"); C231 ("Plaintiffs [sic] *concede* that actually dangerous persons can be disarmed in many circumstances.") (emphasis in original). Based on these concessions, the circuit court should have viewed Bright's Second Amendment claim as an as-applied challenge. *See Piasa Armory*, 2025 IL 130539, ¶ 14 (construing constitutional claim as as-applied challenge because "plaintiff and the circuit court expressly acknowledged that the statute would be constitutional in certain applications, which would defeat a facial challenge"); *Davis*, 2024 IL 129751, ¶ 21 n.3 (framing Second Amendment challenge to section 8(n) as as-applied challenge

was "appropriate" because "plaintiffs acknowledge[d] that there are circumstances where section 8(n) . . . can be constitutionally applied").

Although Bright suggested that his Second Amendment claim encompassed "every person charged with a felony" at the hearing on the merits of that claim, SUP R18-19, he never sought leave to amend his complaint to broaden its scope, *see Caulkins v. Pritzker*, 2023 IL 129453, ¶ 36 ("if a party does not seek to amend his complaint, he cannot raise new claims in a summary judgment motion"). Thus, the circuit court erred in entering permanent injunctive relief that went beyond the claims in Bright's complaint, *see* C357-58, and this Court should, at the very least, modify the circuit court's judgment to apply only to Bright. *See*, *e.g.*, *Caulkins*, 2023 IL 129453, ¶ 36 ("A summary judgment motion is confined to the issues raised in the complaint, and a plaintiff may not raise new issues not pleaded in his complaint to support or defeat a motion for summary judgment."); *Finn v. Project Res. Sols.*, 2024 IL App (1st) 221016, ¶ 73 ("the trial court erred in granting *sua sponte* relief under [an] unpleaded claim").

IV. Revoking Bright's FOID card while he faced felony charges did not violate the Second Amendment.

Whether Bright brought a facial or as-applied challenge, this Court should reverse the circuit court's order holding section 8(n) unconstitutional. As every federal court of appeals addressing similar issues has held, the Second Amendment's plain text and history do not prohibit the Illinois General Assembly from temporarily disarming individuals charged with felonies. In

concluding otherwise, the circuit court misapprehended the scope of the Second Amendment's text, while overlooking crucial historical evidence of the widespread practice of disarming individuals accused of serious offenses.

A Second Amendment challenge to a firearm restriction involves two inquiries. *People v. Thompson*, 2025 IL 129965, ¶ 43. First, the challenger must show that "the Second Amendment's plain text covers an individual's conduct." *Bruen*, 597 U.S. at 17. If he does, the analysis proceeds to the second step, where the burden shifts to the government to show that the challenged restriction "is consistent with this Nation's historical tradition of firearm regulation." *Id.* Here, Bright's claim, whether categorized as a facial or as-applied challenge, failed at both steps.

A. The Second Amendment's plain text does not protect firearm possession while an individual faces felony charges.

To begin, Bright's challenge failed at the first step of the *Bruen* analysis because he did not carry his burden of showing that possessing a firearm while subject to pending felony charges is protected by the Second Amendment's plain text. *See Caulkins*, 2023 IL 129453, ¶ 34 (*Bruen*'s first step asks whether "a plaintiff has shown" the plain text covers the relevant conduct); *see also Bruen*, 517 U.S. at 24 (if Second Amendment's "plain text covers an individual's conduct . . . .the government *must then* justify its regulation") (emphasis added). The Second Amendment's plain text applies only to "law-abiding citizens." *Thompson*, 2025 IL 129965, ¶ 42; *see Bruen*, 597 U.S. at 26

(Second Amendment protects "the right of law-abiding, responsible citizens to use arms for self-defense") (cleaned up); *United States v. Gay*, 98 F.4th 843, 846 (7th Cir. 2024) ("When describing the persons who possess rights under the Second Amendment, *Bruen* repeatedly used the phrase 'law-abiding, responsible citizens' or a variant.") (quoting *Bruen*, 597 U.S. at 26). In contrast, it is "presumptively lawful" to regulate the possession of firearms by groups who are not considered to be responsible or law-abiding, such as "felons and the mentally ill." *District of Columbia v. Heller*, 554 U.S. 570, 626 & n.26 (2008); *see id.* at 627 n.26 (describing those categories as "examples" and not "exhaustive").

While he was charged with a felony, Bright was not considered law-abiding, at least temporarily. *See United States v. Jackson*, 661 F. Supp. 3d 392, 404 (D. Md. 2023) (assuming for argument's sake that defendant facing felony charges was protected by Second Amendment, but adding that, "on a continuum, with a law-abiding citizen at one end and a convicted citizen at the other, a citizen under indictment is by no means akin to the status of a law-abiding individual, such that the plain text of the Second Amendment applies to an individual under indictment").

And contrary to Bright's suggestion in the circuit court, *see* C235, felony charges are not bare accusations of a crime. Relevant here, a judge found probable cause to conclude that Bright committed a felony. C213, EI56. Because a judge found that there were "reasonable ground[s] to believe that

[Bright] committed . . . a felony," *People v. Sims*, 167 Ill. 2d 483, 500 (1995), he was no longer a law-abiding, responsible citizen while those charges remained pending.

Nor did the "presumption of innocence" have any bearing on Bright's Second Amendment rights while he was facing felony charges. *See* C235. "The presumption of innocence is a doctrine that allocates the burden of proof in criminal trials," but "has no application to a determination of the rights of a pretrial detainee . . . before his trial has even begun." *Bell v. Wolfish*, 441 U.S. 520, 533 (1979). The People's burden of proof at Bright's criminal trial, therefore, does not establish that he retained Second Amendment rights while facing felony charges.

B. Prohibiting those facing felony charges from possessing firearms comports with the nation's historical tradition.

Even if Bright's conduct was covered by the Second Amendment's plain text, restricting the firearms rights of those charged with felonies squares with historical tradition, as required by the second step of the *Bruen* inquiry. When comparing modern and historical firearm laws, the Supreme Court has explained, courts must often "reason[ ] by analogy," which requires assessing "whether the two regulations are relevantly similar." *Bruen*, 597 U.S. at 28-29 (cleaned up). "Why and how the regulation burdens the right are central to this inquiry." *United States v. Rahimi*, 602 U.S. 680, 692 (2024) (citing *Bruen*, 597 U.S. at 29). In other words, the court must determine "whether modern and historical regulations impose a comparable burden on the right of armed

self-defense and whether that burden is comparably justified." *Bruen*, 597 U.S. at 29.

But to make that showing, the government need not identify a historical mirror-image of a current law. *Rahimi*, 602 U.S. at 691-92. Requiring that "would be as mistaken as applying the protections of the [Second Amendment] only to muskets and sabers." *Id.* at 692. Rather, "the appropriate analysis involves considering whether the challenged regulation is consistent with the *principles* that underpin our regulatory tradition." *Id.* (citing *Bruen*, 597 U.S. at 26-31) (emphasis added).

Here, there is a robust historical tradition supporting section 8(n)'s restriction on firearms possession by those charged with felonies, including: (1) laws authorizing the detention of defendants charged with serious offenses; (2) laws categorically restricting the firearm rights of groups deemed dangerous or unlikely to obey the law; and (3) surety laws restricting the firearm rights of those accused of posing a threat. Indeed, relying on these historical laws, several courts have recognized the existence of a historical tradition of completely prohibiting firearm possession by those charged with serious or felony offenses. *See Quiroz*, 125 F.4th at 718 ("Our nation has a long history of disarming criminal defendants facing serious charges pending trial."); *Gore*, 118 F.4th at 815 (in all States at the founding, "defendants facing serious charges did not enjoy a right to bail" and "could instead be detained — and, so, disarmed — while they awaited trial"); *United States v.*

Perez-Garcia, 96 F.4th 1166, 1182 (9th Cir. 2024) ("[T]he historical record evinces a historical tradition of complete disarmament of criminal defendants facing serious or felony charges pending trial."); *Moore v. State*, 244 N.E.3d 934, 940 (Ind. Ct. App. 2024) ("Since the Founding, the government has been empowered to detain criminal defendants while they await trial. In the founding era, pretrial detention involved complete disarmament.") (cleaned up). This Court should similarly conclude that this historical tradition justifies section 8(n)'s prohibition on firearm possession while under felony charges.

1. This country has a robust historical tradition of detaining indicted defendants before trial.

"Since the founding, the government has subjected criminal defendants to temporary restrictions on their liberty, including restrictions that affected their ability to keep and bear arms." *Quiroz*, 125 F.4th at 718. Relevant here, "[d]uring the founding era, the government was empowered to detain criminal defendants charged with serious crimes while they awaited trial." *Id.* at 718 & n.22 (citing Sandra G. Mayson, *Dangerous Defendants*, 127 Yale L.J. 490, 502 (2018)); *see Gore*, 118 F.4th at 815 (At the time of the Bill of Rights' adoption, "defendants facing serious charges did not enjoy a right to bail. They could instead be detained — and, so, disarmed — while they awaited trial."); *Perez-Garcia*, 96 F.4th at 1182-83 ("Since the Founding, the government has been empowered to detain criminal defendants while they await trial. Pretrial detention in the founding era involved total disarmament.") (cleaned up);

Moore, 244 N.E.3d at 940 ("Since the Founding, the government has been empowered to detain criminal defendants while they await trial. In the founding era, pretrial detention involved complete disarmament.").

Although founding-era laws used the term "capital" to describe such "serious crimes," "'capital crimes' in the founding era encompassed a broad set of offenses." *Perez-Garcia*, 96 F.4th at 1183. Indeed, "[m]ost serious crimes and felonies were eligible for capital charges because 'death was the standard penalty for all serious crimes at the time of the founding.'" *Id.* (quoting *Bucklew v. Precythe*, 587 U.S. 119, 129 (2019)); *see Gore*, 118 F.4th at 815 ("'[A]ll serious crimes at the time of the founding' were punishable by death.") (quoting *Bucklew*, 587 U.S. at 129). And these serious offenses included non-violent crimes. *See*, *e.g.*, *Quiroz*, 125 F.4th at 719-20 (at the founding, capital offenses included "forgery"; "running away with a ship or vessel, or any goods or merchandise to the value of fifty dollars"; "horse-stealing"; "burglary in the nighttime"; and "stealing a hog") (cleaned up); *Medina v. Whitaker*, 913 F.3d 152, 158 (D.C. Cir. 2019) (nonviolent offenses like forgery and horse theft were capital offenses at the founding). As a result, "pretrial release in the founding era was much rarer than it is today," such that disarmament was a common result for anyone facing serious charges. *Moore*, 244 N.E.3d at 941 (citing Kellen R. Funk & Sandra G. Mayson, *Bail at the Founding*, 137 Harv. L. Rev. 1816, 1892 (2024)).

2. This country has a robust historical tradition of disarming groups considered to pose a risk of future danger.

Next, English and American governments have long restricted the firearms rights of groups and individuals deemed dangerous or untrustworthy to promote public safety. For example, in 1662, England empowered officers to "seize all [arms] in the custody or possession of any person" whom they "judge[d] dangerous to the Peace of the Kingdom." Militia Act of 1662, 13 & 14 Car. 2, ch. 3, § 13 (1662); *see Bruen*, 597 U.S. at 42 (calling this period of English history "particularly instructive").

The American colonies continued that tradition by passing several categories of laws restricting the possession and use of firearms by groups and individuals deemed dangerous or untrustworthy. For example, "the colonies enacted similar restrictions [to England's] on Catholics, prohibited the transfer of weapons to Native Americans, and banned slaves and free Black people from possessing firearms." *United States v. Duarte*, 137 F.4th 743, 759 (9th Cir. 2025) (*en banc*); *see also United States v. Jackson*, 110 F.4th 1120, 1126 (8th Cir. 2024) ("In colonial America, legislatures prohibited Native Americans from owning firearms. Religious minorities, such as Catholics in Maryland, Virginia, and Pennsylvania, were subject to disarmament.") (cleaned up). These categorical disarmaments continued during the American Revolution, when "the Continental Congress, Massachusetts, Virginia, Pennsylvania, Rhode Island, North Carolina, and New Jersey prohibited

possession of firearms by people who refused to declare an oath of loyalty." *Jackson*, 110 F.4th at 1126; *see Duarte*, 137 F.4th at 759 ("[D]uring the revolutionary period states disarmed those who refused to swear oaths of loyalty to the emerging nation.").

Through the late 19th century, "states continued to promulgate categorical restrictions on the possession of firearms by certain groups of people." *Duarte*, 137 F.4th at 759. For example, States restricted sales of firearms to those below certain ages and "those of unsound mind," as well as firearm possession by "certain vagrants — known as 'tramps.'" *Id.* at 759-60. Again, these laws reflected the belief that certain groups, "as a class, presented a danger to the community if armed." *Id.* at 760.

This history demonstrates that disarmament could occur without any "'individualized determination of dangerousness as to each person in a class of prohibited persons.'" *Id.* (quoting *Jackson*, 110 F.4th at 1128). Indeed, these historical laws reflected the government's authority to "disarm[ ] entire categories of people who were presumed to pose a special risk of misusing firearms," even if they encompassed individuals who were law-abiding. *Id.* at 761 (cleaned up); *see id.* (acknowledging that "every categorical disarmament law was overbroad — sweeping in law-abiding people who were not dangerous, violent, untrustworthy, or unstable") (cleaned up). And even though laws discriminating based on race, ethnicity, or religion "would be impermissible today under other constitutional provisions, they are relevant . . . in

determining the historical understanding of the right to keep and bear arms." *Jackson*, 110 F.4th at 1127; *see Duarte*, 137 F.4th at 760 (despite "overgeneralized and abhorrent" nature of categorical disarmament laws, they "are reflective of American history and tradition" of disarmament).

Finally, these laws were not limited to protecting the public from those with a "demonstrated propensity for violence," but also from those who "deviated from legal norms." *Jackson*, 110 F.4th at 1127. For example, "[e]arly legislatures . . . ordered forfeiture of firearms by persons who committed non-violent hunting offenses." *Id.* (citing Act of Oct. 9, 1652, *Laws and Ordinances of New Netherland* 138 (1868), and Act of Apr. 20, 1745, ch. III, 23, *The State Records of North Carolina* 218-19 (1904)). They also "authorized punishments that subsumed disarmament — death or forfeiture of a perpetrator's entire estate — for non-violent offenses involving deceit and wrongful taking of property." *Id.* (collecting laws); *see Duarte*, 137 F.4th at 756-57 (citing laws authorizing "greater punishment of death and estate forfeiture" for all "serious crimes" — even "nonviolent crimes" — as evidence that "the lesser restriction of permanent disarmament [was] also permissible") (cleaned up). And they disarmed those who would not swear loyalty to the new republic even though "not all early Americans who declined to swear an oath of loyalty . . . were violent." *Jackson*, 110 F.4th at 1128.

3. This country has a robust historical tradition of surety laws that restricted the firearms rights of individuals accused of posing a threat.

Finally, the nation has a historical tradition of surety laws, "a form of preventive justice" that "authorized magistrates to require individuals suspected of future misbehavior to post a bond." *Rahimi*, 602 U.S. at 695 (cleaned up); *see* 4 William Blackstone, Commentaries on the Laws of England 252 (1769) ("[W]herever any private man hath just cause to fear, that another will burn his house, or do him a corporal injury, by killing, imprisoning, or beating him; . . . he may demand surety of the peace against such person[.]"). As relevant here, surety laws could restrict access to firearms by those "'reasonably accused of intending to injure another or breach the peace.'" *Perez-Garcia*, 96 F.4th at 1191 (quoting *Bruen*, 597 U.S. at 57). A surety did not require a determination that a crime was "actually committed by the party," but rather required only "probable suspicion" that a crime was "intended or likely to happen." 4 Blackstone at 249; *see Bruen*, 597 U.S. at 55 (surety statutes applied to "those threatening to do harm").

The American colonies adopted the surety practice. *See Rahimi*, 602 U.S. at 696-97. For example, a New Hampshire provision allowed a justice of the peace to seize the weapons of a person who went armed in a threatening manner, based on a "confession" or "legal proof." Acts and Laws of His Majesty's Province of New Hampshire in New England; with Sundry Acts of Parliament 1-2 (1761) (citing 1701 statute). Other colonies had similar laws.

E.g., 1 The Acts and Resolves, Public and Private, of the Province of the Massachusetts Bay 52-53 (1869) (citing 1692 statute); *see* 1 Laws of the State of Delaware from the Fourteenth Day of October, One Thousand Seven Hundred, to the Eighteenth Day of August, One Thousand Seven Hundred and Ninety-Seven 52 (1797) (citing 1700 statute); Acts and Laws of His Majesties Colony of Connecticut in New England 91 (1901) (citing 1702 statute). As further evidence of this tradition, *Bruen* identified 10 States and territories that passed laws requiring any person "who was reasonably likely to 'breach the peace,'" and who could not show a special need for self-defense, to post a bond before publicly carrying firearms. 597 U.S. at 56 & n.23 (collecting statutes).

4. Section 8(n)'s restriction on firearms possession for those charged with a felony is analogous to each of these historical precursors.

Each of these historical precursors is "'relevantly similar'" to section 8(n) "in both why and how it burdens the Second Amendment right." *Rahimi*, 602 U.S. at 698 (quoting *Bruen*, 597 U.S. at 29). To begin, section 8(n) is analogous to the three historical precursors in "how" it burdens the right to bear arms. First, like historical laws allowing for the detention (and, necessarily, disarmament) of individuals charged with serious crimes, section 8(n) temporarily prohibits a person from possessing firearms while they face felony charges. In fact, as courts have recognized, the historical power of legislatures to order pretrial detention for those accused of crimes

encompassed the power to restrict a person's access to firearms before trial. *See Gore*, 118 F.4th at 815; *Perez-Garcia*, 96 F.4th at 1184; *see also Moore*, 244 N.E.3d at 942 (concluding that Indiana statute prohibiting handgun carriage while under felony indictment was similar to "historical precursors [that] applied only to criminal defendants awaiting trial for alleged, serious crimes"). Section 8(n) imposes a similar limit on firearm possession while felony charges are pending.

Second, section 8(n) operates similarly to historical laws authorizing the categorical disarmament of certain groups. *See Perez-Garcia*, 96 F.4th at 1186 (statute authorizing bail condition prohibiting firearm possession while felony charges were pending was analogous to historical laws "barring people or groups deemed dangerous or unlikely to respect the sovereign's authority from possessing firearms"). Both restricted firearms possession because individuals in the designated groups were considered to be dangerous or unlikely to follow the law. *See, e.g.*, *Duarte*, 137 F.4th at 759 ("The historical record reveals a host of regulations that disarmed those whom the legislature deemed dangerous on a categorical basis."); *Jackson*, 110 F.4th at 1127 (citing "historical record" showing that "legislatures traditionally possessed discretion to disqualify categories of people from possessing firearms to address a danger of misuse by those who deviated from legal norms"). And these laws did not require "'individualized determination of dangerousness as to each person in a class of prohibited persons.'" *Duarte*, 137 F.4th at 760

(quoting *Jackson*, 110 F.4th at 1128); *see also Jackson*, 110 F.4th at 1128 ("Not all persons disarmed under historical precedents — not all Protestants or Catholics in England, not all Native Americans, not all Catholics in Maryland, not all early Americans who declined to swear an oath of loyalty — were violent or dangerous persons."). Thus, section 8(n)'s reliance on the existence of felony charges is comparable to the historical, categorical bans on firearm possession by limited groups identified as potentially dangerous or likely to defy legal norms.

Third, section 8(n) operates like historical surety laws for similar reasons. Like surety laws, which acted for a "limited duration," section 8(n)'s restriction "was temporary as applied to [Bright]." *See Rahimi*, 602 U.S. at 699; *see also Perez-Garcia*, 96 F.4th at 1190 ("Surety statutes . . . empowered local officials to temporarily disarm specific individuals who threatened to do harm or were reasonably accused of intending to injure another or breach the peace.") (cleaned up). After all, section 8(n) only restricts a person's access to firearms while a felony charge is pending; if, as here, the charges are dismissed or the person is acquitted, their FOID card can be restored. *See* 430 ILCS 65/8.3 (2024) (ISP may suspend FOID card "for the duration of the disqualification if the disqualification is not a permanent ground for revocation"). Additionally, surety laws could be invoked based on "probable suspicion" of wrongdoing, which resembles the probable cause determination that accompanies felony charges. 4 Blackstone at 249; *see* C213 (finding

"probable cause to detain" Bright); *see also* 725 ILCS 5/109-3(a) (2024) (at preliminary hearing, court must find "probable cause to believe an offense has been committed by the defendant . . . if the offense is a felony" for charges to proceed); *id.* § 112-4(d) (grand jury may return indictment if nine "jurors concur that the evidence before them constitutes probable cause that a person has committed an offense").

These three historical precursors are also similar to section 8(n) in "why" they burden Second Amendment rights. Both section 8(n) and historical pretrial detention laws restricted firearms possession "during the fraught period between indictment and trial, for the purpose of furthering public safety and protecting the integrity of the criminal process." *Gore*, 118 F.4th at 814; *see Quiroz*, 125 F.4th at 718 (federal statute prohibiting firearm acquisition by those under felony indictment was similar to historical pretrial detention laws because "at the founding, American legislatures provided for pretrial detention of indicted defendants out of a concern for public safety"). Likewise, laws that "categorically disarm[ed]" groups of people are similar to section 8(n) in seeking to avoid "a special danger of [firearm] misuse." *Duarte*, 137 F.4th at 761 (cleaned up); *see Jackson*, 110 F.4th at 1127 ("This historical record suggests that legislatures traditionally possessed discretion to disqualify categories of people from possessing firearms to address a danger of misuse by those who deviated from legal norms, not merely to address a person's demonstrated propensity for violence."). And surety laws, like section 8(n),

were "pretrial restrictions" that "provided a mechanism for preventing violence before it occurred." *Quiroz*, 125 F.4th at 722 (cleaned up).

In sum, section 8(n) is "relevantly similar" to at least three types of historical regulations. *Bruen*, 597 U.S. at 29 (cleaned up). Whether considered on their own or together, these historical analogues establish that section 8(n) comports with the Second Amendment at *Bruen*'s second step.

C. The circuit court's Second Amendment analysis was deeply flawed.

In addition to awarding Bright relief on a claim he did not plead, *see supra* pp. 19-22, the circuit court did not correctly analyze section 8(n)'s constitutionality at either step of the *Bruen* test. At the first step, the court concluded that "disarming individuals, with no individualized assessment, strikes the very core [of the Second Amendment] and absolutely extinguishes one's right to self-defense, while merely under indictment." C341. But the court did not address whether individuals facing felony charges are "law-abiding citizens" entitled to Second Amendment protections. *Thompson*, 2025 IL 129965, ¶ 42. As explained, they are not. *See supra* pp. 23-25.

As for *Bruen*'s second step, the circuit court incorrectly concluded that historical pretrial detention laws are not analogous to section 8(n). C341-42. Indeed, the circuit court recognized that some historical laws disarmed individuals based on "the severity of the charge," C342, which is precisely what section 8(n) does by limiting its restriction to those charged with felony offenses, *see also id.* (noting that pretrial detention laws took "into

consideration at the very least, the offense the accused is charged with"). Under the circuit court's own reasoning, therefore, section 8(n) aligns with the historical tradition of disarming those who have been charged with serious offenses based on the charge's severity. *See Quiroz*, 125 F.4th at 718; *Gore*, 118 F.4th at 815; *Perez-Garcia*, 96 F.4th at 1184.

Additionally, the circuit court erred in concluding that the historical analogues cited by the Bureau Chief required "an individualized risk assessment" before an individual could be disarmed. C342. As the Bureau Chief highlighted in the circuit court, *see* C205-06, C251-52, history is replete with laws that prohibited firearm possession by "categories of persons . . . as a whole," without any "requirement for an individualized determination of dangerousness," *Jackson*, 110 F.4th at 1128; *accord Duarte*, 137 F.4th at 760.

And the circuit court overlooked the Bureau Chief's discussion of surety laws, *see* C206-08, C252-54, which allowed disarmament without a determination that a crime was "actually committed by the party," but rather only "probable suspicion" that "some crime [was] intended or likely to happen," 4 Blackstone 249; *see also Rahimi*, 602 U.S. at 695 (surety laws allowed for restrictions to be imposed on "'probable ground to suspect'" person of misbehavior) (quoting 4 Blackstone 251). Section 8(n) likewise allows for disarmament based on charges that require a finding of probable cause that the defendant has committed a felony offense. *See* 725 ILCS 5/109-3(a), 112-

4(d) (2024). Accordingly, the circuit court erred in concluding that no historical analogues to section 8(n) exist.

The circuit court also distinguished federal cases upholding the constitutionality of 18 U.S.C. § 922(n) from this one on the basis that the federal statute only prohibits "the acquisition of new firearms while under indictment," whereas section 8(n) prohibits "simple possession of a firearm." C343. But this distinction is not meaningful because the courts that have upheld 18 U.S.C. § 922(n) have recognized a historical tradition of completely prohibiting firearm possession by those charged with serious or felony offenses. *See Quiroz*, 125 F.4th at 718-19 (finding that "[o]ur nation has a long history of disarming criminal defendants facing serious charges pending trial," including "pretrial detention" that resulted in complete "loss of access to weapons") (cleaned up); *Gore*, 118 F.4th at 815 (in all States at the founding, "defendants facing serious charges did not enjoy a right to bail" and "could instead be detained — and, so, disarmed — while they awaited trial"). As explained, this historical tradition justifies section 8(n)'s temporary prohibition of firearm possession by those charged with felony offenses.

Finally, the circuit court's reference to Illinois courts' authority to "impose conditions," including "the loss of a FOID card," on criminal defendants after pretrial hearings does not support its holding. C344. Whether the circuit court currently has authority to disarm certain defendants has no bearing on whether the Second Amendment — as interpreted through

historical analogues — prohibits the General Assembly from authorizing ISP to revoke the FOID card of someone charged with a felony. Indeed, the circuit court's reference to modern-day regulations on pretrial release has little place in *Bruen*'s text-and-history framework because earlier regulations support section 8(n)'s validity. *See Bruen*, 597 U.S. at 66 n.28 ("20th-century evidence . . . does not provide insight into the meaning of the Second Amendment when it contradicts earlier evidence."). And to the extent the circuit court was suggesting that section 8(n) is overly burdensome on Second Amendment rights because circuit courts can adequately safeguard public safety through pretrial conditions, its analysis resembles the means-end scrutiny that *Bruen* discarded. *See id.* at 22 ("means-end scrutiny" that assesses "whether the statute burdens a protected interest in a way or to an extent that is out of proportion to the statute's salutary effects upon other important governmental interests" is inappropriate in Second Amendment analysis) (cleaned up).

In sum, the historical record and Second Amendment case law contradicts the circuit court's analysis. This Court, therefore, should reverse the circuit court's order holding section 8(n) unconstitutional if it reaches the merits of Bright's Second Amendment claim.

CONCLUSION

For these reasons, Defendant-Appellant Jeffrey Yenchko requests that this Court: (1) reverse the circuit court's March 12, 2025 order and vacate its July 7, 2025 judgment as moot; (2) alternatively, reverse the July 7, 2025 order and remand with instructions to enter summary judgment in favor of Defendant-Appellant; or (3) in the further alternative, modify the July 7, 2025 judgment so that it applies only to Bright.

Respectfully submitted,

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October 27, 2025

CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, 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 43 pages.

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APPENDIX

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Julie A. Carnahan
CIRCUIT CLERK
RANDOLPH COUNTY, IL

IN THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

MALIK CEDRICK BRIGHT, Plaintiff(s)	)	
v.	)	2023LA12
JEFFREY YENCHKO, in his official Capacity as Chief of the Firearms Services Bureau, et. al. Defendant(s)	)	

ORDER

Cause came before the Court on the 11th day of March, 2025 upon the Defendant's Motion for Summary Judgment. Parties were present through counsel. Court having heard oral arguments, reviewed pleadings and supporting documentation, and otherwise being fully advised in the premises, hereby FINDS as follows:

1. The parties agree that the Plaintiff's FOID card was reinstated by the State Police and that the issues raised by the Plaintiff in his Complaint are moot.
2. None the less, the Court is of the opinion the issue raised in Plaintiff's Complaint are of a public nature, an authoritative determination of the question is desirable for the future guidance of public officers and the question is likely to recur.

WHEREFORE, it is HEREBY ORDERED as follows:

A. The Defendant' Motion for Summary Judgment is partially denied, specifically as it relates to the issues of mootness.

B. The Court reserves ruling on the constitutional issues raised in Defendant's Motion

for Summary Judgment.

C. Plaintiff shall file any necessary pleading they believe necessary to determine the issues of constitutionality on or before April 25, 2025.

D. Parties shall appear for a Zoom CMC on April 29, 2025, at 1:30 p.m. to determine if any further briefings or oral arguments will be necessary for the Court to determine the constitutional issues raised and/or what relief is requested by the Plaintiff and in turn available to the Court, if the Court were to rule in favor of the Plaintiff.

IT IS SO ORDERED.

DATED: March 12, 2025 ENTER: _____

Jeremy R. Walker
Circuit Judge

FILED
7/7/2025 9:05 AM
Julie A. Carnahan
CIRCUIT CLERK
RANDOLPH COUNTY, IL

IN THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

MALIK CEDRICK BRIGHT, Plaintiff(s)	)	
v.	)	
	)	2023LA12
JEFFREY YENCHKO, in his official Capacity as Chief of the Firearms Services Bureau, et. al. Defendant(s)	)	

ORDER

This matter having come before the Court on the 2nd of July, 2025, upon the cross Motions for Summary Judgment filed herein. Attorney Thomas Maag appeared and argued for the Plaintiff. Attorney Darren Kinkead appeared and argued for the Defendant, Jeffery Yenchko, in his official capacity as Chief of the Firearms Services Bureau. The Court having heard arguments in this matter, reviewed pleadings, taking this matter under advisement to view and read relevant cases, and otherwise being fully advised in the premises, hereby FINDS as follows:

A. The Plaintiff is attacking the constitutionality of *430 ILCS 65/8(n)*, which currently authorizes the Illinois State Police ("ISP") to revoke a Firearm Owner's Identification ("FOID") card if the holder "is prohibited from acquiring or possessing firearms or firearm ammunition by any Illinois State or by federal law."

B. ISP utilizes *18 U.S.C. §922(n)* as the underpinning basis to declare those in the State of Illinois shall be disarmed if they are "under indictment for a crime punishable by imprisonment for a term exceeding one year," commonly and practically known as a

felony offense.

C. *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1, held that "when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct." *Id*. at 17. Furthermore, [t]o justify its regulation of that protected conduct, 'the government must demonstrate that the regulation is consistent with the Nation's historical tradition of firearm regulation." *Id*., quoting from *United State v. Quiroz*, 125 F.4th 713, 716-717.

D. *United States v. Rahimi*, 602 U.S. 680, also provides meaningful guidance for Second Amendment analysis.

E. Per *Rahimi*, "the appropriate analysis involves considering whether the challenged regulation is consistent with the principles that underpin our regulatory tradition." Quote taken from *Quiroz*, at 717.

F. The Court then "must ascertain whether the new law is 'relevantly similar" to laws that our tradition is understood to permit, 'apply[ing] faithfully the balance struck by the founding generation to modern circumstances,'" *Id.* at 717, quoting *Rahimi.*

G. Per *Bruen*, "[w]hile we do not now provide an exhaustive survey of the features that render regulations relevantly similar under the Second Amendment, we do think that *Heller* and *McDonald* point toward at least two metrics: how and why the regulations burden a law-abiding citizen's right to armed self-defense. As we stated in *Heller* and repeated in *McDonald*, "individual self-defense is 'the central component' of the Second Amendment right." *McDonald*, 561 U. S., at 767 (quoting *Heller*, 554 U. S., at 599); see also *id*., at 628 ("the inherent right of self-defense has been central to the Second Amendment right"). Therefore, whether modern and historical regulations

impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified are "'central'" considerations when engaging in an analogical inquiry. *McDonald*, 561 U. S., at 767 (quoting *Heller*, 554 U. S., at 599).

H. Furthermore, per *Bruen*, "analogical reasoning requires only that the government identify a well-established and representative historical analogue, not a historical twin. So even if a modern-day regulation is not a dead ringer for historical precursors, it still may be analogous enough to pass constitutional muster."

I. Finally, per *Quiroz,* "[b]y focusing on the why and how, we must ascertain whether the challenged regulation 'impose[s] a comparable burden on the right of armed self-defense" to that imposed by a historically recognized regulation." *Quiroz* at 718.

J. The how in this case, appears to be ISP simply receiving notification an individual has been charged with a felony offense, without any regard for the nature of the offense, individualized assessment of the person charged, or the specific facts of the alleged offense, etc.

K. The why in this case is the safety of the public.

L. ISP's actions in disarming individuals, with no individualized assessment, strikes to the very core and absolutely extinguishes one's right to self-defense, while merely under indictment.

M. Therefore, ISP must demonstrate a well-established and representative historical analogue to justify this burden on possession and self-defense of the person under indictment.

N. ISP relies heavily in their argument that back to the time of the founding, this country engaged in a history of disarming those accused of felony offenses, because they were

detained or held before trial.

O. This Court does not find that argument/analogue to be persuasive.

P. The analysis or historical analogue of "disarming" individuals by their pre-trial detention, denial of bond, or their release on bond with conditions, is a historical tradition and is in actuality a determination of their danger to the community, after taking into consideration at the very least, the offense the accused is charged with.

Q. *Quiroz* and other cases discuss the "disarming" of individuals accused of capital cases, which back at the time of the founding included a multitude of offenses, including horse thievery.

R. While stealing a horse over $500 in value is still a felony today, it is not a capital offense. Back in 1791, those empowered to make such a decision determined that stealing a horse could be punishable by death, and thus should be denied release, with the ancillary effect of "disarming" an individual.

S. This "disarming" was a product of an individualized assessment of the accused. Not a blanket authority to disarm a person simply accused of a felony offense.

T. The lawmakers, prosecutors, and judges at the time of the founding were applying the law and making decisions regarding the risk of individuals to the community.

U. Thus, this Court is of the belief the historical analogue to the time of the founding in the materials and cases cited by ISP demonstrate an individualized risk assessment based on the severity of the charge, facts of the case, the Defendant's history, etc.

V. In stark contrast to that historical analogue, ISP is carte blanche disarming, presumptively innocent individuals, with absolutely no risk assessment, or case specific analysis.

W. Another important distinction is noted by the Court in the cases relied upon by ISP… they do not relate to simple possession of a firearm while under indictment for a felony.

X. *Quiroz* and *United State v. Perez-Garcia*, discuss *922(n)* under its federal purpose…the acquisition of new firearms while under indictment.

Y. The Court further finds the following quote from *Quiroz* to be fatal to the argument advanced by ISP, "[t]he statute's *[922(n)]* restrictions are also limited in scope they do not bar the *possession* of weapons-only their shipment, transport, or receipt." *Id*. at 720.

Z. This distinction is also found in *United States v. Gore*, 118 F.4th 808, 814 "…*922(n)* works a temporary, and limited, deprivation of Second Amendment rights. By its terms, it applies only while an indictment is pending. And it does not prohibit *possessing* firearms."

AA. ISP's application of *922(n),* through *430 ILCS 65/8(n)* in juxtaposition, does just that. Banning not only the shipment, transport, receipt but possession, without any sort of risk assessment or individualized review of the seriousness of the underlying felony, facts surrounding the felony, characteristics of the person under indictment, etc., and thus, denying a person's right to self-defense, which is central to a Second Amendment analysis.

BB. *Quiroz* also states, "[a]t the founding, pretrial detention was also a temporary restriction on the constitution rights of those *who posed a threat to society* but had not been proven guilty," *emphasis* added. *Id*.

CC. Three years ago, the Illinois criminal justice system underwent a significant

transformation regarding pre-trial release and individualized assessment of those charged with felony offenses, the Pre-Trial Fairness Act.

DD. The Pre-Trial Fairness Act allows a court to impose conditions (including the loss of a FOID card, the surrender of firearms while the case is pending, as well as a multitude of other conditions).

EE. Obviously in certain cases, individuals should be disarmed while pending trial. However, this should only occur, as at the time of the founding, after a determination has been made that the accused is a threat to society.

FF. As the Plaintiff is arguing a facial challenge to *430 ILCS 65/8(n)*, the statute must be unconstitutional under any set of facts. Based on the lack of a historical analogue to the time of the founding, such as a risk-based, case-specific determination of a person under indictment's threat to the public and/or safety to the community, the Court is of the opinion there is no set of facts or application of this Statute that can pass constitutional muster. Simply disarming someone charged with a felony, with no risk assessment, is unconstitutional no matter what the charge is…First Degree Murder or Retail Theft. This in no way implicates someone charged with First Degree Murder should not be disarmed, but only after a case-specific analysis which includes the State, the Defendant (and his/her attorney), and a court of competent jurisdiction making that determination, which is exactly what the Pre-Trial Fairness Act provides/allows.

GG. *430 ILCS 65/8(n)*, based on the failure of ISP to demonstrate that the regulation is consistent with the Nation's historical tradition of firearm regulation, is facially unconstitutional.

HH. Injunctive relief is necessary to protect the Plaintiff and others similarly situated.

II. Justice is best served if this ruling (and injunctive relief) is stayed pending a Petition or Leave to Appeal and/or the Illinois Supreme Court to determine if a stay is necessary, appropriate and in the interests of justice.

JJ. Pursuant to *Supreme Court Rule 18,*

a. A transcript is available from the hearing(s) held in this matter;

b. This Court is finding *430 ILCS 65/8(n)* facially unconstitutional to the extent it allows ISP to revoke, suspend or otherwise impair the ability of an Illinois citizen to possess firearms while under indictment (or information) for a felony offense;

c. The reasoning for the Court's decision is set forth above in this order regarding the infringement of a citizen's rights under the Second Amendment to the United States Constitution;

d. *430 ILCS 65/8(n)* is facially unconstitutional and cannot be construed in a manner that would preserve its validity;

e. The finding of unconstitutionally is necessary to the decision/judgment of this matter in controversy; and

f. Notice as required by Supreme Court Rule 19 has been served and those served with notice have been given adequate time and opportunity to defend the statute.

WHEREFORE, it is HEREBY ORDRED as follows:

1. *430 ILCS 65/8(n)* is facially unconstitutional to the extent it allows ISP to revoke, suspend or otherwise impair the ability of an Illinois citizen to possess firearms while under indictment (or information) for a felony offense;
2. ISP is temporarily and permanently enjoined from utilizing *430 ILCS 65/8(n)* as a basis to

revoke, suspend or otherwise impair the ability of an Illinois citizen to possess firearms while under indictment (or information) for a felony offense;

3. This Order is stayed for a period of 35 days so that the Illinois Supreme Court can determine whether a stay of this order pending the outcome of any appeal is warranted;
4. This issue of attorney's fees and costs shall be determined after an appeal is taken in this matter. If no appeal is taken, Plaintiff's attorney has 60 days from the entry of this Order to file a Petition for Fees and set the same for hearing, upon proper notice.

IT IS SO ORDERED.

DATED: July 7, 2025 ENTER: _____

Jeremy R. Walker
Circuit Judge

FILED
7/7/2025 2:09 PM
Julie A. Carnahan
CIRCUIT CLERK
RANDOLPH COUNTY, IL

APPEAL TO THE SUPREME COURT OF ILLINOIS

FROM THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT, RANDOLPH COUNTY, ILLINOIS

MALIK CEDRICK BRIGHT, Plaintiff-Appellee, v. JEFFREY YENCHKO, in his official capacity as Chief of the Firearm Services Bureau, Defendant-Appellant, and VICTOR JURADO, HANNAH GOLDSTEIN, and GABRIEL RUVALCAHA, Defendants.	)	No. 2023-LA-12 The Honorable JEREMY R. WALKER, Judge Presiding.

NOTICE OF APPEAL

PLEASE TAKE NOTICE that, pursuant to Illinois Supreme Court Rules 301 and 302(a)(1), Defendant-Appellant Jeffrey Yenchko, in his official capacity as Chief of the Firearm Services Bureau of the Illinois State Police, appeals to the Illinois Supreme Court from the final order of the Circuit Court of the Twenty-Fourth Judicial Circuit, Randolph County, entered on July 7, 2025, holding 430 ILCS 65/8(n) unconstitutional. Additionally, Defendant-Appellant appeals from prior orders of the circuit court, including but not limited to its March 12, 2025 order partially denying Defendant-Appellant's motion for summary judgment on the issue of mootness. Copies of the March 12, 2025 and July 7, 2025 orders are attached.

By this appeal, Defendant-Appellant respectfully requests that the Illinois

Supreme Court reverse and vacate such orders, and grant any other appropriate relief.

Respectfully submitted,

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Attorney General
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By: /s/ Carson R. Griffis
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July 7, 2025

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Julie A. Carnahan
CIRCUIT CLERK
RANDOLPH COUNTY, IL

IN THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

MALIK CEDRICK BRIGHT, Plaintiff(s)	)	
v.	)	2023LA12
JEFFREY YENCHKO, in his official Capacity as Chief of the Firearms Services Bureau, et. al. Defendant(s)	)	

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2. None the less, the Court is of the opinion the issue raised in Plaintiff's Complaint are of a public nature, an authoritative determination of the question is desirable for the future guidance of public officers and the question is likely to recur.

WHEREFORE, it is HEREBY ORDERED as follows:

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B. The Court reserves ruling on the constitutional issues raised in Defendant's Motion

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IT IS SO ORDERED.

DATED: March 12, 2025 ENTER: _____

Jeremy R. Walker
Circuit Judge

FILED
7/7/2025 9:05 AM
Julie A. Carnahan
CIRCUIT CLERK
RANDOLPH COUNTY, IL

IN THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

MALIK CEDRICK BRIGHT, Plaintiff(s)	)	
v.	)	
	)	2023LA12
JEFFREY YENCHKO, in his official Capacity as Chief of the Firearms Services Bureau, et. al. Defendant(s)	)	

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D. *United States v. Rahimi*, 602 U.S. 680, also provides meaningful guidance for Second Amendment analysis.

E. Per *Rahimi*, "the appropriate analysis involves considering whether the challenged regulation is consistent with the principles that underpin our regulatory tradition." Quote taken from *Quiroz*, at 717.

F. The Court then "must ascertain whether the new law is 'relevantly similar" to laws that our tradition is understood to permit, 'apply[ing] faithfully the balance struck by the founding generation to modern circumstances,'" *Id.* at 717, quoting *Rahimi.*

G. Per *Bruen*, "[w]hile we do not now provide an exhaustive survey of the features that render regulations relevantly similar under the Second Amendment, we do think that *Heller* and *McDonald* point toward at least two metrics: how and why the regulations burden a law-abiding citizen's right to armed self-defense. As we stated in *Heller* and repeated in *McDonald*, "individual self-defense is 'the central component' of the Second Amendment right." *McDonald*, 561 U. S., at 767 (quoting *Heller*, 554 U. S., at 599); see also *id*., at 628 ("the inherent right of self-defense has been central to the Second Amendment right"). Therefore, whether modern and historical regulations

impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified are "'central'" considerations when engaging in an analogical inquiry. *McDonald*, 561 U. S., at 767 (quoting *Heller*, 554 U. S., at 599).

H. Furthermore, per *Bruen*, "analogical reasoning requires only that the government identify a well-established and representative historical analogue, not a historical twin. So even if a modern-day regulation is not a dead ringer for historical precursors, it still may be analogous enough to pass constitutional muster."

I. Finally, per *Quiroz,* "[b]y focusing on the why and how, we must ascertain whether the challenged regulation 'impose[s] a comparable burden on the right of armed self-defense" to that imposed by a historically recognized regulation." *Quiroz* at 718.

J. The how in this case, appears to be ISP simply receiving notification an individual has been charged with a felony offense, without any regard for the nature of the offense, individualized assessment of the person charged, or the specific facts of the alleged offense, etc.

K. The why in this case is the safety of the public.

L. ISP's actions in disarming individuals, with no individualized assessment, strikes to the very core and absolutely extinguishes one's right to self-defense, while merely under indictment.

M. Therefore, ISP must demonstrate a well-established and representative historical analogue to justify this burden on possession and self-defense of the person under indictment.

N. ISP relies heavily in their argument that back to the time of the founding, this country engaged in a history of disarming those accused of felony offenses, because they were

detained or held before trial.

O. This Court does not find that argument/analogue to be persuasive.

P. The analysis or historical analogue of "disarming" individuals by their pre-trial detention, denial of bond, or their release on bond with conditions, is a historical tradition and is in actuality a determination of their danger to the community, after taking into consideration at the very least, the offense the accused is charged with.

Q. *Quiroz* and other cases discuss the "disarming" of individuals accused of capital cases, which back at the time of the founding included a multitude of offenses, including horse thievery.

R. While stealing a horse over $500 in value is still a felony today, it is not a capital offense. Back in 1791, those empowered to make such a decision determined that stealing a horse could be punishable by death, and thus should be denied release, with the ancillary effect of "disarming" an individual.

S. This "disarming" was a product of an individualized assessment of the accused. Not a blanket authority to disarm a person simply accused of a felony offense.

T. The lawmakers, prosecutors, and judges at the time of the founding were applying the law and making decisions regarding the risk of individuals to the community.

U. Thus, this Court is of the belief the historical analogue to the time of the founding in the materials and cases cited by ISP demonstrate an individualized risk assessment based on the severity of the charge, facts of the case, the Defendant's history, etc.

V. In stark contrast to that historical analogue, ISP is carte blanche disarming, presumptively innocent individuals, with absolutely no risk assessment, or case specific analysis.

W. Another important distinction is noted by the Court in the cases relied upon by ISP… they do not relate to simple possession of a firearm while under indictment for a felony.

X. *Quiroz* and *United State v. Perez-Garcia*, discuss *922(n)* under its federal purpose…the acquisition of new firearms while under indictment.

Y. The Court further finds the following quote from *Quiroz* to be fatal to the argument advanced by ISP, "[t]he statute's *[922(n)]* restrictions are also limited in scope they do not bar the *possession* of weapons-only their shipment, transport, or receipt." *Id*. at 720.

Z. This distinction is also found in *United States v. Gore*, 118 F.4th 808, 814 "…*922(n)* works a temporary, and limited, deprivation of Second Amendment rights. By its terms, it applies only while an indictment is pending. And it does not prohibit *possessing* firearms."

AA. ISP's application of *922(n),* through *430 ILCS 65/8(n)* in juxtaposition, does just that. Banning not only the shipment, transport, receipt but possession, without any sort of risk assessment or individualized review of the seriousness of the underlying felony, facts surrounding the felony, characteristics of the person under indictment, etc., and thus, denying a person's right to self-defense, which is central to a Second Amendment analysis.

BB. *Quiroz* also states, "[a]t the founding, pretrial detention was also a temporary restriction on the constitution rights of those *who posed a threat to society* but had not been proven guilty," *emphasis* added. *Id*.

CC. Three years ago, the Illinois criminal justice system underwent a significant

transformation regarding pre-trial release and individualized assessment of those charged with felony offenses, the Pre-Trial Fairness Act.

DD. The Pre-Trial Fairness Act allows a court to impose conditions (including the loss of a FOID card, the surrender of firearms while the case is pending, as well as a multitude of other conditions).

EE. Obviously in certain cases, individuals should be disarmed while pending trial. However, this should only occur, as at the time of the founding, after a determination has been made that the accused is a threat to society.

FF. As the Plaintiff is arguing a facial challenge to *430 ILCS 65/8(n)*, the statute must be unconstitutional under any set of facts. Based on the lack of a historical analogue to the time of the founding, such as a risk-based, case-specific determination of a person under indictment's threat to the public and/or safety to the community, the Court is of the opinion there is no set of facts or application of this Statute that can pass constitutional muster. Simply disarming someone charged with a felony, with no risk assessment, is unconstitutional no matter what the charge is…First Degree Murder or Retail Theft. This in no way implicates someone charged with First Degree Murder should not be disarmed, but only after a case-specific analysis which includes the State, the Defendant (and his/her attorney), and a court of competent jurisdiction making that determination, which is exactly what the Pre-Trial Fairness Act provides/allows.

GG. *430 ILCS 65/8(n)*, based on the failure of ISP to demonstrate that the regulation is consistent with the Nation's historical tradition of firearm regulation, is facially unconstitutional.

HH. Injunctive relief is necessary to protect the Plaintiff and others similarly situated.

II. Justice is best served if this ruling (and injunctive relief) is stayed pending a Petition or Leave to Appeal and/or the Illinois Supreme Court to determine if a stay is necessary, appropriate and in the interests of justice.

JJ. Pursuant to *Supreme Court Rule 18,*

a. A transcript is available from the hearing(s) held in this matter;

b. This Court is finding *430 ILCS 65/8(n)* facially unconstitutional to the extent it allows ISP to revoke, suspend or otherwise impair the ability of an Illinois citizen to possess firearms while under indictment (or information) for a felony offense;

c. The reasoning for the Court's decision is set forth above in this order regarding the infringement of a citizen's rights under the Second Amendment to the United States Constitution;

d. *430 ILCS 65/8(n)* is facially unconstitutional and cannot be construed in a manner that would preserve its validity;

e. The finding of unconstitutionally is necessary to the decision/judgment of this matter in controversy; and

f. Notice as required by Supreme Court Rule 19 has been served and those served with notice have been given adequate time and opportunity to defend the statute.

WHEREFORE, it is HEREBY ORDRED as follows:

1. *430 ILCS 65/8(n)* is facially unconstitutional to the extent it allows ISP to revoke, suspend or otherwise impair the ability of an Illinois citizen to possess firearms while under indictment (or information) for a felony offense;
2. ISP is temporarily and permanently enjoined from utilizing *430 ILCS 65/8(n)* as a basis to

revoke, suspend or otherwise impair the ability of an Illinois citizen to possess firearms while under indictment (or information) for a felony offense;

3. This Order is stayed for a period of 35 days so that the Illinois Supreme Court can determine whether a stay of this order pending the outcome of any appeal is warranted;
4. This issue of attorney's fees and costs shall be determined after an appeal is taken in this matter. If no appeal is taken, Plaintiff's attorney has 60 days from the entry of this Order to file a Petition for Fees and set the same for hearing, upon proper notice.

IT IS SO ORDERED.

DATED: July 7, 2025 ENTER: _____

Jeremy R. Walker
Circuit Judge

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on July 7, 2025, I electronically filed the foregoing Notice of Appeal with the Clerk of the Circuit Court of the Twenty-Fourth Judicial Circuit, Randolph County, Illinois, by using the Odyssey eFileIL system.

I further certify that the other participants in this appeal, named below, registered service contacts on the Odyssey eFileIL system, and thus will be served via that system.

Counsel for Plaintiff-Appellee
Malik Cedrick Bright
Thomas Maag
tmaag@maaglaw.com
maaglawoffice@gmail.com

Counsel for Defendants Victor Jurado, Hannah Goldstein, and Gabriel Ruvalcaha
Scott Cohen
Scott.Cohen@CityofChicago.org

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/ Carson R. Griffis
CARSON R. GRIFFIS
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Assistant Attorney General
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SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721

CYNTHIA A. GRANT
Clerk of the Court

(217) 782-2035
TDD: (217) 524-8132

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
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July 21, 2025

Carson Reid Griffis
Office of the Illinois Attorney General
115 South LaSalle Street
Chicago, IL 60603

In re: Bright v. Yenchko
132015

Dear Carson Reid Griffis:

Enclosed is a certified order entered July 21, 2025, by Justice Overstreet in the above-captioned cause.

Very truly yours,

Cynthia A. Grant

Clerk of the Supreme Court

cc: Peter Jonathan Maag
Randolph County Circuit Court
Scott Aaron Cohen
Thomas Gordon Maag

State of Illinois
Supreme Court

I, Cynthia A. Grant, Clerk of the Supreme Court of the State of Illinois, and keeper of the records, files and Seal thereof do hereby certify the following to be a true copy of an order entered July 21, 2025, in a certain cause entitled:

132015	)	
	)	
Malik Cedrick Bright,	)	
	)	
Appellee,	)	
	)	
v.	)	
	)	Appeal from
Jeffrey Yenchko,	)	Randolph County Circuit Court
	)	23LA12
Appellant	)	
	)	
	)	
Victor Jurado, Hannah Goldstein, and Gabriel Ruvalcaha	)	

Filed in this office on the 8th day of July A.D. 2025.

IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of said Supreme Court, in Springfield, in said State, this 21st day of July, 2025.

Cynthia A. Grant

Clerk,
Supreme Court of the State of Illinois

132015

IN THE

SUPREME COURT OF ILLINOIS

Malik Cedrick Bright, Appellee, v. Jeffrey Yenchko, Appellant Victor Jurado, Hannah Goldstein, and Gabriel Ruvalcaha	)	Appeal from Randolph County Circuit Court 23LA12

O R D E R

This cause coming to be heard on the motion of Appellant proper notice having been served, and the Court being fully advised in the premises:

IT IS ORDERED: Motion by Appellant to stay the judgment of the Circuit Court of Randolph County, in case No. 23 LA 12, pending appeal. Allowed.

Order entered by Justice Overstreet.

FILED
July 21, 2025
SUPREME COURT
CLERK

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

BRIGHT, MALIK	)	
Plaintiff/Petitioner	)	Reviewing Court No: 132015
	)	Circuit Court No: 2023LA12
	)	Trial Judge: Jeremy Walker
v	)	
	)	
	)	
JEFFERY YENKO IN HIS OFFICAL CAPAC	)	
Defendant/Respondent	)	

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

BRIGHT, MALIK	)	
Plaintiff/Petitioner	)	Reviewing Court No: 132015
	)	Circuit Court No: 2023LA12
	)	Trial Judge: Jeremy Walker
v	)	
	)	
	)	
JEFFERY YENKO IN HIS OFFICAL CAPAC	)	
Defendant/Respondent	)	

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

BRIGHT, MALIK	)	
Plaintiff/Petitioner	)	Reviewing Court No: 132015
	)	Circuit Court No: 2023LA12
	)	Trial Judge: Jeremy Walker
v	)	
	)	
	)	
JEFFERY YENKO IN HIS OFFICAL CAPAC	)	
Defendant/Respondent	)	

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

BRIGHT, MALIK	)	
Plaintiff/Petitioner	)	Reviewing Court No: 132015
	)	Circuit Court No: 2023LA12
	)	Trial Judge: Jeremy Walker
v	)	
	)	
	)	
JEFFERY YENKO IN HIS OFFICAL CAPAC	)	
Defendant/Respondent	)	

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

BRIGHT, MALIK	)	
Plaintiff/Petitioner	)	Reviewing Court No: 132015
	)	Circuit Court No: 2023LA12
	)	Trial Judge: Jeremy Walker
v	)	
	)	
	)	
JEFFERY YENKO IN HIS OFFICAL CAPAC	)	
Defendant/Respondent	)	

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

BRIGHT, MALIK	)	
Plaintiff/Petitioner	)	Reviewing Court No: 132015
	)	Circuit Court No: 2023LA12
	)	Trial Judge: Jeremy Walker
v	)	
	)	
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JEFFERY YENKO IN HIS OFFICAL CAPAC	)	
Defendant/Respondent	)	

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

BRIGHT, MALIK	)	
Plaintiff/Petitioner	)	Reviewing Court No: 132015
	)	Circuit Court No: 2023LA12
	)	Trial Judge: Jeremy Walker
v	)	
	)	
	)	
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APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

BRIGHT, MALIK	)	
Plaintiff/Petitioner	)	Reviewing Court No: 2132015
	)	Circuit Court No: 2023LA12
	)	Trial Judge: Jeremy R Walker
v	)	
	)	
	)	
JEFFERY YENKO IN HIS OFFICAL CAPAC	)	
Defendant/Respondent	)	

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWENTY-FOURTH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

BRIGHT, MALIK	)	
Plaintiff/Petitioner	)	Reviewing Court No: 2132015
	)	Circuit Court No: 2023LA12
	)	Trial Judge: Jeremy R Walker
v	)	
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JEFFERY YENKO IN HIS OFFICAL CAPAC	)	
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CERTIFICATE OF FILING AND SERVICE

I certify that on October 27, 2025, I electronically filed the foregoing Brief and Appendix of Defendant-Appellant with the Clerk of the Court for the Illinois Supreme Court by using the Odyssey eFileIL system.

I further certify that the other participants in this appeal, named below, are registered Odyssey eFileIL service contacts, and thus will be served via the Odyssey eFileIL system.

Counsel for Plaintiff-Appellee Malik Cedrick Bright
Thomas Maag
tmaag@maaglaw.com
maaglawoffice@gmail.com

Counsel for Defendants Victor Jurado, Hannah Goldstein, and Gabriel Ruvalcaha
Scott Cohen
Scott.Cohen@CityofChicago.org

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/ Carson R. Griffis
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