No. 129965

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff-Appellee,

vs.

TYSHON THOMPSON,

Defendant-Appellant.

Appeal from the Appellate Court of Illinois
Case No. 1-22-0429
There on appeal from the Circuit Court of Cook County
No. 20 CR 5154
Honorable Vincent M. Gaughan, Judge Presiding.

BRIEF OF AMICUS CURIAE BY COOK COUNTY STATE'S ATTORNEY'S OFFICE IN SUPPORT OF PLAINTIFF-APPELLEE

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INTERESTS OF AMICUS CURIAE

As the office responsible for prosecuting the defendant in the trial court, the Cook County State's Attorney's Office has a profound interest in ensuring that the conviction—obtained lawfully and justly—is upheld. This interest is deeply rooted in our commitment to uphold the rule of law, ensure public safety, and maintain the integrity of the criminal justice system within Cook County.

Our office represents the people of Cook County and seeks justice through the fair application of the law. The outcome of this appeal directly impacts our ability to effectively enforce the laws as mandated by the legislature and interpreted by the courts. A decision in this case could influence future prosecutions and prosecutorial standards employed by our office. It is essential to provide clarity and consistency in the application of the law, both for our office's prosecutorial duties and for the guidance it provides to law enforcement and the public about what constitutes acceptable and legal behavior.

In addition to our prosecutorial responsibilities, the Cook County State's Attorney's Office also represents the legislative body of Cook County, defending its laws and policies in litigation. Accordingly, the State's Attorney's Office has an interest in ensuring that courts adhere to the presumption that legislative enactments are constitutional, a longstanding principle grounded in deference to the legislature. It is especially important for this Court to uphold that presumption here, where Plaintiff seeks to bypass his burden of demonstrating that the challenged law implicates the plain text of the Second Amendment, and instead

attempts to improperly shift the burden to the government to justify the law.

Further, the issues raised in this appeal are important to other cases currently litigated by Cook County. This case involves analysis of whether licensing requirements implicate the plain text of the Second Amendment by infringing the right to keep and bear arms. This issue has spurred confusion in recent cases. For example, the First District Appellate Court recently concluded that a Cook County tax on firearms that can literally amount to as little as *one cent* was presumptively unconstitutional because any financial "burden" equated to an infringement for purposes of the Second Amendment. *Vandermyde v. Cook County*, 2024 IL App (1st) 230413-U, ¶ 37. A petition for leave to appeal in that matter is currently pending before this court. *Vandermyde v. Cook County*, No. 130536. This court's guidance on what type of burden constitutes an "infringement" for purposes of the Second Amendment will thus affect not only this case but will also have broad implications for the legality of Ordinances and prosecutorial practices throughout Cook County.

Thus, the Cook County State's Attorney's Office has a vested interest in participating in this appeal to advocate for a resolution that supports effective law enforcement and aligns with the principles of justice and equity that guide our work. This participation is in the best interest of not only the State's Attorney's Office but also the community we serve, ensuring that the laws within Cook County are applied consistently and judiciously.

SUMMARY OF ARGUMENT

In his opening brief, Thompson makes the extraordinary claim that every law that regulates conduct connected to firearms is presumptively unconstitutional. He challenges the Illinois law that prohibits an individual from knowingly carrying a ready-to-use firearm in public or his vehicle without a valid license. 720 ILCS 5/24-1.6(a)(1), (a)(3)(A-5); 430 ILCS 66/1. In doing so, Thompson eschews his burden of establishing that the plain text of the Second Amendment covers his conduct. *See N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 32 (2022); *Caulkins v. Pritzker*, 2023 IL 129453, ¶ 34. With no explanation, he assumes that any law that involves the right to bear arms implicates the plain text, shifting the burden to the government to show that its regulation is consistent with the nation's historical tradition of firearm regulation. Br. 11. But it is well settled that all laws are presumptively constitutional, *People v. Rizzo*, 2016 IL 118599, ¶ 23, and although the Second Amendment's text overcomes that presumption, that text still "presents several conditions for plain text coverage," requiring analysis of each of its component parts. *Bevis v. City of Naperville*, 85 F.4th 1175, 1208 (7th Cir. 2023). And because Thompson fails to establish that the licensing scheme "infringes" even the right to keep and bear arms on the facts of *this* case— let alone that it is "unconstitutional under any set of facts," *Caulkins*, 2023 IL 129453 ¶ 29 (emphasis added)— his facial challenge fails at *Bruen*'s first step.

This case presents an opportunity for this court to clarify that *Bruen*'s textual analysis requires more than a cursory statement that regulated conduct somehow

involves the right to keep and bear arms. *See Caulkins*, 2023 IL 129453, ¶ 34 (explaining plain text analysis involves "fact-intensive inquiry" asking whether "regulated items fall in the category of 'bearable arms' that are 'commonly used' for self-defense today") (cleaned up); *Bevis*, 85 F.4th at 1208 (explaining that *Bruen*'s plain text coverage "raises questions including" the scope of the "people" and whether the regulated instruments are "Arms"). As relevant here, this court should clarify that not every incidental burden on the right to keep and bear arms constitutes an "infringement" for purposes of the Second Amendment's plain text. *See United States v. Scheidt*, 103 F.4th 1281, 1284 (7th Cir. 2024) ("Ordinary information-providing requirements…do not 'infringe' the right to keep and bear arms."). This issue has already caused confusion and inconsistent results among Illinois appellate courts. For instance, in *Vandermyde v. Cook Cnty.*, 2024 IL App (1st) 230413-U, the Appellate Court concluded that the plaintiffs had adequately alleged that tax of as little one cent "might infringe their right to bear arms" simply because it imposed *some* identifiable burden on the purchase of firearms and ammunition. *Id.* at ¶¶ 37–38. Meanwhile, in another case, the Appellate Court concluded that there was "no need to engage in a historical analysis" of a 90-day waiting period or $150 fee, because neither amounted to the types of "lengthy wait times" or "exorbitant fees" that *Bruen* indicated might fall within the scope of the Second Amendment. *People v. Gunn*, 2023 IL App (1st) 221032, ¶ 29 (quoting *Bruen*, 597 U.S. at 38, n. 9.).

Supreme Court caselaw and founding era dictionaries make clear that not every incidental burden on the right to keep and bear arms constitutes an

infringement. Rather, to establish that a regulation "infringes" the right to keep and bear arms, an individual must establish, at minimum, that the regulation imposed a significant hindrance to the ability to keep or bear arms. And when an individual raises a facial challenge, as is the case here, he must show "that the statute is unconstitutional under any set of facts," *Caulkins*, 2023 IL 129453, ¶ 29, and there is no "situation in which a statute could be validly applied," *Hill v. Cowan*, 202 Ill. 2d 151, 157 (2002); *see also Rizzo*, 2016 IL 118599, ¶ 23 (explaining that the individual challenging the law bears "the heavy burden of successfully rebutting the strong judicial presumption that statutes are constitutional"). Applying these demanding standards to the conduct at issue here—namely, carrying a ready-to-use firearm without the necessary license—Thompson's argument fails at *Bruen*'s first step.

I. The statute does not infringe the right to keep and bear arms.

Tellingly, Thompson essentially ignores *Bruen*'s first step. Br. 11. The entirety of his argument is that, because his conduct of "carrying a gun in a vehicle without being issued a license under the Firearm Concealed Carry Act" necessarily includes bearing arms, it must implicate the Second Amendment's plain text. Br. 11 (quotations omitted). But a regulation is not presumptively unconstitutional simply because firearms are involved. *See District of Columbia v. Heller*, 554 U.S. 570, 627, n. 26 (2008) (explaining that various regulations involving firearms are "presumptively lawful"). As the Supreme Court has explained, the Second Amendment "right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose." *Id*. at 626. Accordingly, this court has

emphasized that *Bruen*'s first step involves a "fact-intensive" inquiry, *Caulkins*, 2023 IL 129453, ¶ 34. As relevant here, that inquiry involves a determination as to whether the challenged regulation—requiring individuals to obtain a license to carry ready-to-use firearms in public or a vehicle— "infringes" the right to keep and bear arms.

A. Thompson's proposed course of conduct is carrying a gun without the proper license.

Before determining whether a law "infringes" the right to bear arms, it is crucial to precisely define the "proposed course of conduct" at issue. *Bruen*, 597 U.S. at 4. As Thompson recognizes, the criminalized conduct at issue here is "carrying a gun in a vehicle without having been issued a license under the Firearm Concealed Carry Act." Br. 11. Without elaboration, Thompson argues that such conduct is protected by the plain text of the Second Amendment, seemingly because it necessarily encompasses "bear[ing] arms." Br. 11. By that crabbed reasoning, a rule of this court prohibiting bringing firearms to oral argument would also be an "infringement" of individuals' right to bear arms, because it somehow affects their ability to carry arms wherever and whenever they please, forcing this court to justify its rules by offering up historical analogues for its rules, *see Bruen*, 597 U.S. at 17. Obviously, the Second Amendment does not command such nonsensical results. That is because reducing the proposed conduct to merely "bearing arms" does not fully capture the true nature of the behavior being regulated.

In defining Thompson's proposed conduct, "courts should look to the intersection of what the law at issue proscribes and what [Thompson] seeks to do." *Oakland Tactical Supply, LLC v. Howell Twp.*, 2024 U.S. App. LEXIS 13142, *18 (6th

Cir. 2024); *see also Doe v. Bonta*, 101 F.4th 633, 639 (9th Cir. 2024) (explaining that "proposed course of conduct" in *Bruen* was "what the plaintiffs wanted to do and what the challenged law prevented them from doing"). Although Thompson suggests that his proposed conduct is the general "carrying [[of] a ready-to-use handgun for self-defense outside the home," such a definition does not accurately reflect the activity regulated by the statute. The challenged law is not a flat ban on carrying ready-to-use guns outside the home—this court has already struck down a previous version of the statute doing just that. *See People v. Burns*, 2015 IL 117387, ¶ 32. Thompson's proposed conduct must be defined as what the statute criminalizes: carrying a ready-to-use handgun in a vehicle or in public *without a proper license*.[1]

B. "Infringe" refers only to significant or complete violations.

Determining whether the Second Amendment protects Thompson's proposed course of conduct also requires understanding the relevant text. The Second Amendment provides, in relevant part, that "the right of the people to keep and bear Arms, shall not be infringed." Most of these terms have already been authoritatively defined. As the Supreme Court has explained, "people" presumptively refers to "all

[1] Thompson argues that the statute "completely bans the public open carrying of firearms under subsection (a)(1)" and then "aggravates the open carry of a handgun, through subsection (3)(A-5), when the gun is loaded, uncased and immediately accessible and that individual has not been issued a concealed carry license." Br. 14. This is false. Thompson ignores the inclusion of "and" in the statute. Section(a)(1) requires that a person "carries on or about his or her person or in any vehicle or concealed on or about his person" any firearm subject to certain exceptions "and" one of the factors enumerated in section (3) is present. 720 ILCS 5/24-1.6. In this case, the section (3) factor that was present was enumerated in section (3)(A-5), which states that "the pistol, revolver, or handgun has not been issued a currently valid license under the Firearm Concealed Carry Act.

Americans," as well as individuals "who have otherwise developed sufficient connection with this country to be considered part of that community," *Heller*, 554 U.S. at 580–81, but only so long as they are also law-abiding adults, *see Bruen*, 597 U.S. at 31 (explaining during textual step of analysis that the plaintiffs were part of "the people" because they were "ordinary, law-abiding, adult citizens"); *id.* at 71 (concluding that law at issue "violates the Fourteenth Amendment in that it prevents law-abiding citizens . . . from exercising their right to keep and bear arms"). The term "keep" means to "have weapons," and the term "bear" means "carrying [arms] for a particular purpose — confrontation." *Heller*, 554 U.S. at 582–84. And the term "arms" for purpose of the Second Amendment encompasses only those weapons commonly used for self-defense. *Caulkins*, 2023 IL 129453, ¶ 34.

The Supreme Court's recent decisions did not define the term "infringe," however, likely because the laws addressed in those cases effectively banned ownership and/or household use of common handguns, undoubtedly infringing the right to keep and bear those handguns no matter how that term were defined. In *Heller*, for example, the laws at issue effectively forbade the ownership of handguns by requiring they be registered, but also forbidding their registration. 554 U.S. at 575. And while other guns were allowed, they could be kept at home only if they were either disassembled or rendered inoperable with a trigger lock or similar mechanism. *Id.* In *Caetano v. Massachusetts*, the law at issue involved an absolute ban on the possession of stun guns. 577 U.S. 411 (2016). In *Bruen*, the law at issue absolutely prohibited an individual from bearing a firearm in public unless he "demonstrates a

special need for self-defense."597 U.S. at 11. And most recently, *United States v. Rahimi* addressed whether a prohibition against possessing a firearm while subject to a domestic violence restraining order violated the Second Amendment. 144 S. Ct. 1889 (2024). In each circumstance, there was no dispute that the regulation at issue effectively destroyed—and, thus, "infringed" within the meaning of the Second Amendment's text—the plaintiff's ability to keep and bear arms. Absent an authoritative definition of that term, the interpretive analysis focuses on the meaning of the "text, as informed by history." *Bruen*, 142 S. Ct. at 2118–19.

i. Founding Era Dictionaries

Comparing the language of the Constitution's first two amendments and their different word choices emphasizes that, at the time of the founding, "infringe" would have been understood to refer only to a significant or complete abrogation of the right. To illustrate that understanding, this court should look to the same sources the Supreme Court did in *Heller*: Samuel Johnson's 1755 DICTIONARY OF THE ENGLISH LANGUAGE and Noah Webster's COMPENDIOUS DICTIONARY OF THE ENGLISH LANGUAGE, published in 1806. *See Heller*, 554 U.S. at 581. Samuel Johnson's dictionary defined "infringe" as a significant infraction or complete breach: "to violate; to break laws or contracts" or to "destroy; to hinder." *See Infringe,* A DICTIONARY OF THE ENGLISH LANGUAGE: A DIGITAL EDITION OF THE 1755 CLASSIC BY SAMUEL JOHNSON, https://johnsonsdictionaryonline.com (last visited Sept. 17, 2024). The grievousness of an "infringement" stood in contrast to the related term "abridgment," which was defined as "a diminution in general" or any "restraint, or abridgment of

liberty." *See Abridgment,* A DICTIONARY OF THE ENGLISH LANGUAGE: A DIGITAL EDITION OF THE 1755 CLASSIC BY SAMUEL JOHNSON, https://johnsonsdictionaryonline.com (last visited Sept. 23, 2024). The same distinction appears in Noah Webster's dictionary, where "abridge" is defined as "to contract, shorten, deprive" whereas "infringe" means something more serious—"to violate, break, transgress." Noah Webster, A COMPENDIOUS DICTIONARY OF THE ENGLISH LANGUAGE 2, 158 (1st ed. 1806). Thus, members of the founding generation would have understood an infringement to amount to a significant violation of a right, whereas a smaller or incidental impact on a right would constitute an abridgment only.

This definition of "infringe" also finds support in the Second Amendment's prefatory clause, which may be consulted whenever a court is confronted with an ambiguity in the language of the Amendment's operative clause. *Heller*, 554 U.S. at 577–78. That prefatory clause specifically contemplates a "well-regulated militia," not a militia whose members are free from all conceivable burdens or regulations on gun ownership or possession—it is only when those burdens become so great as to infringe on or destroy the militia's ability to keep and bear certain arms that they run afoul of the Second Amendment's plain text. And while the prefatory clause contemplates only regulation of the "militia," *Heller* made clear that "the conception

of the militia at the time of the Second Amendment's ratification was the body of all citizens capable of military service." 554 U.S. at 627.[2]

ii. Supreme Court and historical caselaw

Nineteenth century caselaw further supports the notion that regulations that merely implicate the right to keep and bear arms do not amount to an infringement. In *Robertson v. Baldwin*, 165 U.S. 275, 281–82 (1897), the Supreme Court noted that "the right of the people to keep and bear arms is not infringed by laws prohibiting the carrying of concealed weapons." State supreme courts also used "infringe" in a similar manner. The Louisiana Supreme Court held that a statute against carrying concealed weapons did "not infringe the right of the people to keep or bear arms" because it "prohibit[ed] only a particular mode of bearing arms which is found dangerous to the peace of society." *State v. Jumel*, 13 La. Ann. 399, 399–400 (1858) (citing *State v. Chandler*, 5 La. Ann. 489 (1850)). The Alabama Supreme Court upheld a concealed carry ban in 1840, declaring that the legislature had "the right to enact laws in regard to the manner in which arms shall be borne" so long as the manner selected did not prevent arms from being used for self-defense efficiently. *State v. Reid*, 1 Ala. 612 (1840). The court explained:

> A statute which, under the pretence of regulating, amounts to a destruction of the right, or which requires arms to be so borne as to render them wholly useless for the purpose of defence, would be clearly unconstitutional. But a law which is intended merely to promote personal security, and to that end inhibits the wearing of certain

[2] While militia membership at the time of this nation's founding was limited to white males, the Fourteenth Amendment's Equal Protection Clause eliminated that limitation by abolishing such racial and gender discrimination.

> weapons, in such a manner as is calculated to exert an unhappy influence upon the moral feelings if the wearer, by making him less regardful of the personal security of others, does not come in collision with the constitution.

Id. at 616–17. In other words, a "destruction of the right," *id*. at 616,—that is, an infringement—implicated the Second Amendment. A law that merely regulated the way arms could be carried, however, did not run afoul of the Second Amendment so long as it still allowed the carrier to defend himself. *Id*. at 617. The Georgia Supreme Court later followed *Reid*'s reasoning in upholding a prohibition on concealed carry while striking a restriction on open carry. *Nunn v. State*, 1 Ga. 243 (1846). There, the court reasoned that the concealed carry ban was "valid, inasmuch as it does not deprive the citizen of his natural right of self-defence." *Id*. at 251. Because open carry remained available, citizens could still defend themselves. But had open carry also been prohibited, the concealed carry ban would have deprived citizens of the natural right of self-defense and therefore would have violated the Second Amendment. Notably, the Supreme Court in *Heller* approvingly cited *Nunn*, *Chandler*, and *Reid* in defining the scope of the Second Amendment right. *Heller*, 554 U.S. at 612, 629.

The notion that anything that implicates firearms constitutes an "infringement" is also contradictory to the Supreme Court's statements that various regulatory measures, including "laws imposing conditions and qualifications on the commercial sale of arms," are "presumptively lawful." *Heller*, 554 U.S. at 627 n. 26; *see also McDonald v. City of Chicago*, 561 U.S. 742, 786 (2010) (repeating *Heller*'s "assurances" concerning the presumptive constitutionality of "laws imposing conditions and qualifications on the commercial sale of arms") (plurality opinion).

Such laws undoubtedly make it more difficult to obtain and bear arms, so this statement would be unusual if the Court believed its analysis cast into doubt all regulations having even the most minimal effect on an individual's ability to obtain arms. And although *Bruen* makes clear that the burden shifts to the government to justify its regulation if "the Second Amendment's plain text covers an individual's conduct," *Bruen*, 597 U.S. at 24, that case did not disavow *Heller* and *McDonald*'s understanding of the Second Amendment's textual scope, *see* 597 U.S. at 80 (Kavanaugh, J., concurring). Indeed, Justice Kavanaugh wrote separately to emphasize that *Bruen* "does not prohibit States from imposing licensing requirements for carrying a handgun for self-defense." 597 U.S. at 21 (Kavanaugh, J., concurring). Thus, a consistent reading of the Supreme Court's caselaw makes clear that a regulation implicates the plain text of the Second Amendment not merely whenever the proposed conduct *involves* firearms, but only when it goes farther and *infringes* the right to keep and bear arms.

The Supreme Court's statements in *Bruen* indicating that it was not troubled by "shall issue" licensing regimes—including Illinois's licensing statute at issue here—further support the concept that not every firearm regulation constitutes an infringement. *Bruen*, 597 U.S. at 38, n. 9 (explaining that "nothing in [its] analysis should be interpreted to suggest the unconstitutionality of the 43 States' 'shall-issue' licensing regimes"); *see also id.* at 1 n. 1 (citing, *e.g.*, 430 ILCS 66/10). In fact, the Court explained that these regimes, which "often require applicants to undergo a background check or pass a firearms safety course," were not problematic was

because they did not "prevent law-abiding, responsible citizens from exercising their Second Amendment right to public carry." *Id*. (internal quotations omitted). Thus, the Court understood that some burdens on the right to keep and bear arms were permissible, so long as they did not "prevent" individuals from exercising the underlying the right— in other words, if they did not "infringe" or "destroy" the underlying right. The Court further warned, however, that permitting schemes that were "put toward abusive ends" by doing things such as imposing "lengthy wait times in processing license applications or exorbitant fees" such that they "deny ordinary citizens their right to public carry" could be subject to constitutional challenges. *Bruen*, 597 U.S. 38 n. 9. In other words, regulations that, in practice, did infringe the right to keep and bear arms were subject to scrutiny.

Once all these textual clues are put together, it becomes apparent that the text of the Second Amendment allows the government to regulate individuals' ability to keep and possess firearms, so long as those regulations are not so severe or exorbitant in their terms or effects as to destroy or deny individuals their ability to keep and bear arms commonly used for lawful purposes such as self-defense.

C. Thompson fails to establish that the statute prevented him from keeping and bearing arms.

Applying this definition, the requirements of the statute do not "infringe" Thompson's right to keep and bear arms. Thompson dedicates the bulk of his brief to arguing that there is no historical analogue to what he refers to as a "dual licensing regime,"—*i.e.*, requiring more stringent requirements to attain a concealed-carry license than a Firearm Owner's Identification ("FOID") card. Br. 26–36. But he fails

to develop any argument that the law "infringes" his Second Amendment right by preventing him from keeping or bearing arms, let alone explain how it prevents *all* individuals from keeping or bearing arms, as necessary to prevail on a facial challenge. *See Scheidt*, 103 F.4th at 1284 (holding requirements that "do not 'infringe' the right to keep and bear arms" are "outside the scope of the Second Amendment's protections, not requiring application of *Bruen*'s historical analysis framework").

Nor could he. Thompson has not offered any evidence that he even attempted to apply for a concealed carry license. A-29. He does not argue that he was unable to afford the licensing fee, or that he waited for any amount of time before abandoning his plan to receive the license. As such, he fails to state even an as-applied challenge to the statute on the basis that it imposes the type of "lengthy wait times in processing license applications or exorbitant fees" that *Bruen* warned might be subject to a constitutional challenge. *Bruen*, 597 U.S. 38 n. 9. In fact, Thompson does not point to any facts indicating that wait times or financial cost played any role—let alone a role so significant as to constitute an infringement—in his decision to flout Illinois's licensing requirement. Absent such facts, this Court cannot conclude that that the licensing requirement was unconstitutional as applied to Thompson. Indeed, the Hawaii Supreme Court only recently recognized that a plaintiff's failure to seek a license forecloses any claim that a licensing regime infringed his Second Amendment rights. *State v. Wilson*, 543 P.3d 440, 459 (Haw. 2024).

Thompson's facial challenge is even weaker. The closest that Thompson comes to making such a challenge is a broad statement that "Illinoisans want to legally carry

ready-to-use handguns outside the home for self-defense but are unable to afford the timely and costly CCL application process and most of the time only undergo the FOID process." Br. 32. But this assertion is not supported by the record on appeal. In fact, Thompson's only support for this citation is an article published by the Marshall Project, Br. 32, which found that "[i]n a third of the stops [in its study]…the person arrested had their gun owner's permit but not the license that allowed carrying the loaded gun in public." The Marshall Project, *The War on Gun Violence Has Failed*, https://www.themarshallproject.org/2023/03/23/gun-violence-possession-police-chicago. (Mar. 23, 2023). As a preliminary matter, Thompson cannot attempt to introduce materials that were not subject to the scrutiny of the adversarial process at trial as evidence for purposes of his appeal. *See* ILL. R. EVID. 201 (governing judicial notice); ILL R. EVID. 802 (explaining that hearsay is inadmissible except as provided by other rules or statutes). And even if the article could be considered evidence, and one could infer from it that a large portion of the population found the licensing fees to be a significant financial burden, this still would be insufficient to raise a facial challenge, which requires that law be unconstitutional in all instances.

Thompson's remaining arguments are similarly unavailing. He attempts to argue that Illinois is not actually a "shall issue" licensing regime because "the requirement under the CCL Act for instructor approval ultimately does leave it in the discretion of the government to issue a certificate of completion of the training requirement." Br. 30. In making this argument, he ignores the fact that *Bruen* explicitly included Illinois among the 43 states that are "shall issue" jurisdictions.

Bruen, 597 U.S. at 13, n. 1 (citing Ill. Comp. Stat., ch. 430, 66/10). Further, Thompson again points to nothing in the record indicating that the issuance of a certificate of completion of the training requirement is based on discretionary criteria. Moreover, review of Illinois's statutory scheme makes clear that the Illinois State Police "shall" issue to the applicant a concealed carry license, *Id.* § 10(a), (e), so long as certain objective criteria is met. This includes (1) not having been found guilty of a misdemeanor involving the use or threat of force or violence to any person within five years preceding the date of the application to obtain the license; (2) not having two or more violations related to impaired driving within the same period; (3) not being the subject of a pending warrant or prosecution that could result in disqualification to possess a firearm; or (4) not having been ordered to receive treatment for alcohol or drugs within the preceding five years, *id.* § 25(3)–(5). The individual must also (1) be at least 21 years old; (2) have completed firearms training; and (3) have a valid FOID card and meet the requirements for the issuance of a FOID card. *Id.* § 25(1),(2), (6).

These requirements are distinct from the subjective standards requiring an applicant to demonstrate "good cause" or "proper reason" for needing to carry a firearm at issue in *Bruen*, which typically required evidence "of particular threats, attacks, or other extraordinary danger to personal safety." *Bruen*, 597 U.S. at 12–13. Whereas the regulation in *Bruen* "prevent[ed] law-abiding citizens with ordinary self-defense needs from exercising their right to keep and bear arms," *id.* at 71, Illinois's law requires issuance of a license whenever an applicant meets the threshold objective requirements. And because these objective requirements do not in practice

"deny ordinary citizens their right to public carry," *id*. at 38 n. 9, they do not infringe the right to keep and bear arms for purposes of the Second Amendment.

CONCLUSION

This court should affirm the judgment of the appellate court.

Respectfully submitted,

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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 18 pages.

/s/ Jessica L. Wasserman
Jessica L. Wasserman, Attorney

CERTIFICATE OF SERVICE

I, Jessica Wasserman, an attorney, hereby certify that on September 23, 2024, a true and correct copy of **BRIEF OF AMICUS CURIAE BY COOK COUNTY STATE'S ATTORNEY'S OFFICE IN SUPPORT OF PLAINTIFF-APPELLEE** was served via Odyssey eFileIL, an approved electronic filing service provider, pursuant to Illinois Supreme Court Rule 11(c), upon the following:

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Under penalties as provided by law pursuant to section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/ Jessica L. Wasserman
Jessica L. Wasserman, Attorney