

due by April 27, 2023; and oral argument during the second week of the May 2023 term of this Court. In support of this motion, Defendants-Appellants attach a supporting record and state the following.

BACKGROUND

1. This appeal concerns the constitutionality of Public Act 102-1116, and specifically its restrictions on the possession and sale of assault weapons and large capacity magazines (“LCMs”).

2. As relevant here, beginning January 10, 2023, the Act prohibits the knowing manufacture, delivery, sale, import, or purchase of assault weapons or LCMs, except sales to persons in other States or authorized to possess them. 720 ILCS 5/24-1.9(b) & 1.10(b). The Act also prohibits possession of assault weapons beginning on January 1, 2024, though persons who lawfully possessed them as of January 10, 2023, may continue to possess as long as they provide an endorsement affidavit to the State Police by January 1, 2024, *id.* 5/24-1.9(c)-(d). Similarly, while the Act prohibits possession of LCMs as of April 10, 2023, those who already possessed them may continue to do so. *Id.* 5/24-1.10(c)-(d). The Act also contains exemptions for enumerated persons or entities. *Id.* 5/24-1.9(e), 1.10(e).

3. Plaintiffs-Appellees filed an action in the circuit court alleging that the Act violates various provisions of the Illinois Constitution. The circuit court entered a final judgment declaring that the exceptions to the prohibitions on assault weapons and LCMs in sections 24-1.9 and 24-1.10 of the Act violate the equal protection clause in Article I, Section 2 of the Illinois Constitution and the special legislation clause in

Article IV, Section 13 of the Illinois Constitution. SR_ (Final Judgment). In doing so, the circuit court determined that it was bound by the decision of the appellate court in *Accuracy Firearms, LLC v. Pritzker*, 2023 IL App (5th) 230035 (request to file an oversize PLA pending, No. 129421).

4. In *Accuracy Firearms*, the appellate court, in a 2-1 decision, affirmed the entry of a temporary restraining order (“TRO”) enjoining enforcement of the Act as to the plaintiffs in that case. *See* 2023 IL App (5th) 230035. Specifically, the appellate court held that the plaintiffs there were likely to succeed on the merits of their equal protection challenge to the Act because, as a matter of law, the right to bear arms under Article I, Section 22 of the Illinois Constitution is fundamental for purposes of an equal protection challenge, the challenged exceptions are subject to strict scrutiny as a result, and the challenged exceptions did not satisfy strict scrutiny. *Id.* at ¶¶ 48-62.

5. In this case, the circuit court recognized that it was “bound to apply the appellate court’s holdings” to the equal protection claim here, as well as the special legislation claim because special legislation claims are “judged by the same standard” as equal protection claims. SR_. As a result, on March 3, 2023, the circuit court held that sections 24-1.9 and 24-1.10 of the Act violate the equal protection and special legislation clauses of the Illinois Constitution and entered final judgment in favor of Plaintiffs-Appellees.

6. That same day, Defendants-Appellants filed a notice of direct appeal to this Court from the circuit court’s order under Illinois Supreme Court Rule 302(a)(1).

Defendants-Appellants also requested that the circuit court prepare the record on appeal and the court reporter to prepare the report of proceedings as soon as possible in anticipation of this motion.

DISCUSSION

7. Given the seriousness of the issues raised by this case and the urgency associated with resolving the questions presented by it, Defendants-Appellants request that the Court enter an order expediting the disposition of this appeal.

8. Counsel for Plaintiffs-Appellees has authorized the undersigned counsel to state that Plaintiffs-Appellees do not oppose this motion.

CONCLUSION

WHEREFORE, Defendants-Appellants ask this Court to enter an order under Illinois Supreme Court Rule 311(b) directing the circuit court to prepare the record on appeal by March 15, 2023; and entering the following briefing schedule: Defendants-Appellants' opening brief due by March 20, 2023; Plaintiffs-Appellees' response brief due by April 13, 2023; Defendants-Appellants' reply brief(s) due by April 27, 2023; and oral argument during the second week of the May 2023 term of this Court. Alternately, Defendants-Appellants ask this Court to enter an order expediting the disposition of this appeal on any other schedule the Court deems appropriate.

Respectfully submitted,

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ENTER:

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DATED: _____

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CERTIFICATE OF FILING AND SERVICE

I certify that on March 6, 2023, I electronically filed the foregoing **Unopposed Motion to Place Appeal on an Accelerated Docket** with the Clerk of the Court for the Supreme Court of Illinois, by using the Odyssey eFileIL system.

I further certify that the other participants in this appeal, named below, are registered service contacts on the Odyssey eFileIL system, and that they will thus be served by the Odyssey eFileIL system, with a courtesy copy transmitted by e-mail on March 6, 2023.

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Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

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VERIFICATION BY CERTIFICATION

I, LEIGH J. JAHNIG, state the following:

1. I am a citizen of the United States over the age of 18. My current business address is 100 West Randolph Street, 12th Floor, Chicago, Illinois 60601. I have personal knowledge of the facts stated in this verification by certification. If called upon, I could testify competently to these facts.

2. I am an Assistant Attorney General in the Civil Appeals Division of the Office of the Attorney General of the State of Illinois, and I am one of the attorneys representing Defendants-Appellants in this matter. I submit this verification in support of Defendants-Appellants' unopposed motion to place appeal on an accelerated docket, pursuant to Illinois Supreme Court Rule 311(b).

3. I am familiar with the documents filed in the circuit court, and the orders entered by the circuit court, in this matter. The circuit court order included in the supporting record is a true and correct copy of the final judgment entered in this case.

4. The factual statements made in the motion are true and correct to the best of my knowledge, information, and belief.

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.

Executed on March 6, 2023.

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FILED

MAR 03 2023

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINOIS**

**SHERRY A. DOTY
CIRCUIT CLERK**

DAN CAULKINS et al.,

Plaintiffs,

v.

No. 2023 CH 3

JB PRITZKER et al.,

Defendants.

FINAL JUDGMENT

1. For the reasons set forth below, the Court enters final judgment in favor of defendants on counts I, II, III, and VI of the complaint and in favor of plaintiffs on counts IV and V of the complaint.
2. Plaintiffs allege in counts I, II, and III of the complaint that Public Act 102-1116 violates the single subject and three readings rules in article IV, section 8(d) of the Illinois constitution and that the method by which it was passed violates the due process clause in article I, section 2 of the Illinois constitution. *Accuracy Firearms, LLC v. Pritzker*, 2023 IL App (5th) 230035, ¶¶ 21-47, holds identical claims fail as a matter of law. In addition, plaintiffs allege in count VI that they are entitled to an injunction. *Kopnick v. JL Woode Management Co.*, 2017 IL App (1st) 152054, ¶ 34, holds an injunction is not a separate cause of action. The Court is bound to apply the appellate court's holdings to plaintiffs' claims in this case. *People v. Carpenter*, 228 Ill. 2d 250, 259-60 (2008). For these reasons, the Court enters final judgment in favor of defendants on plaintiffs' single subject, three readings, and due process claims in counts I, II, and III, and the claim for an injunction in count VI, of the complaint.
3. Plaintiffs allege in counts IV and V of the complaint that exceptions to the prohibitions on assault weapons and large capacity ammunition feeding devices in sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 violate the equal protection clause in article I, section 2 of the Illinois constitution and the special legislation clause in article IV, section 13 of the Illinois constitution. Plaintiffs further allege sections 24-1.9 and 24-1.10 infringe on their fundamental rights to bear arms, under article I, section 22 of the Illinois constitution and U.S. Constitution, Second Amendment and therefore that to resolve plaintiffs' equal protection claim under article I, section 2 of the Illinois constitution (Count IV) and plaintiffs' special legislation claim under article IV, section 13 of the Illinois constitution (Count V), the Court must subject the challenged exceptions to strict scrutiny. Complaint ¶¶ 2, 128-136, 153, 157. *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶¶ 48-62, considered an equal protection challenge to the exceptions to sections 24-1.9 and 24-1.10. The appellate court held the right to bear arms under article I, section 22 of the Illinois constitution is fundamental for equal protection purposes, that the

challenged exceptions are subject to strict scrutiny as a result, and that the challenged exceptions did not satisfy strict scrutiny. The Court is bound to apply the appellate court's holdings to plaintiffs' identical equal protection claim in this case. *Carpenter*, 228 Ill. 2d at 259-60. Further, equal protection and special legislation claims "are judged by the same standard," *In re Estate of Jolliff*, 199 Ill. 2d 510, 520 (2002), so the Court is also bound to apply those holdings to plaintiffs' special legislation claim in this case. Defendants argue that *Accuracy Firearms* is wrongly decided for multiple reasons but acknowledge that the Court is bound to apply it. For these reasons, the Court enters final judgment in favor of plaintiffs on their equal protection and special legislation claims in counts IV and V of the complaint.

4. Pursuant to Illinois Supreme Court Rule 18, and in accordance with the Court's findings above, the Court further finds that:
 - a. Sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 violate the equal protection clause in article I, section 2 of the Illinois constitution and the special legislation clause in article IV, section 13 of the Illinois constitution.
 - b. Sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 are facially unconstitutional under these provisions of the Illinois constitution;
 - c. Sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 cannot reasonably be construed in a manner that would preserve their validity;
 - d. the finding of unconstitutionality is necessary to the Court's decision and judgment; and
 - e. this decision and judgment cannot rest upon an alternative ground.

Dated: March 3, 2023



Honorable Rodney S. Forbes
Associate Judge

CERTIFICATE OF FILING AND SERVICE

I certify that on March 6, 2023, I electronically filed the foregoing **Supporting Record** with the Clerk of the Supreme Court of Illinois by using the Odyssey eFileIL system.

I further certify that the other participants in this case, named below, are registered service contacts on the Odyssey eFileIL system, and that they will thus be served by the Odyssey eFileIL system, with a courtesy copy transmitted by e-mail.

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