

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DANE HARREL, an individual and resident of
St. Clair County, Illinois, et al.,

Plaintiffs,

v.

KWAME RAOUL, in his official capacity as
Attorney General of Illinois, et al.,

Defendants.

Case No. 23-141-SPM

UNOPPOSED MOTION FOR LEAVE TO FILE OVERLENGTH BRIEF

Defendants, Kwame Raoul, in his official capacity as Attorney General for the State of Illinois, and Brendan Kelly, in his official capacity as Director of the Illinois State Police, by and through their attorney, Kwame Raoul, Attorney General for the State of Illinois, pursuant to SDIL-LR 7.1(d), respectfully request leave to file an overlength memorandum in opposition to Plaintiffs' motion for preliminary injunction. In support of this motion, Defendants state:

1. On January 17, 2023, Plaintiffs filed a complaint alleging that the Protect Illinois Communities Act (the "Act") violates the Second Amendment, incorporated against the State under the Fourteenth Amendment.
2. On January 25, 2023, Plaintiffs filed a 22-page motion for preliminary injunction seeking to bar enforcement of the Act, along with six declarations as exhibits.
3. Defendants are preparing a response in opposition to Plaintiffs' motion for preliminary injunction. Although the draft is not completed, Defendants anticipate that it will be approximately 50 pages in length.

4. The Local Rules for the Southern District of Illinois require that no briefs shall be submitted that are longer than 20 double-spaced typewritten pages in 12 point font. SDIL-LR 7.1(d).

5. Defendants have made every effort to comply with the page limit, but are not able to do so while also fully addressing Plaintiffs' motion for preliminary injunction. In order to address whether Plaintiffs are likely to succeed on the merits of their Second Amendment claims, Defendants must address the legal framework applicable to Second Amendment claims under current Supreme Court precedent. The State Defendants intend to argue that the Act regulates conduct not protected by the text of the Second Amendment and that, even if it did, the Nation's history and tradition supports restricting assault weapons and large-capacity magazines. Providing the necessary historical context for these arguments requires additional pages.

6. Furthermore, Defendants need additional pages to address the remaining elements of a preliminary injunction of irreparable harm, the public interest, and the balance of the equities.

7. This case involves important constitutional questions and a preliminary injunction would have far-reaching safety implications. It is important that Defendants are able to fully address the issues raised in Plaintiffs' preliminary injunction motion.¹

8. The number of pages being sought herein is consistent with the length of preliminary injunction opposition briefs filed by Attorneys General in other jurisdictions in cases involving regulations of assault weapons and large capacity magazines, including *National Association for Gun Rights, et al. v. Attorney General Campbell*, USDC D. Mass., 1:22-cv-11431-FDS Doc. 21 (55 pages); *Delaware State Sportsmen's Association, Inc. et al. v. Delaware*

¹ Defendants have filed a motion for extension of time to file their opposition to Plaintiffs' preliminary injunction motion, which remains pending with the Court. ECF 18. Defendants will need to file an overlength brief regardless of the deadline.

Department of Safety and Homeland Security, et al., USDC D. Del., 1:22-cv-00951-RGA Doc. 37 (59 pages); and *James Miller, et al. v. California Attorney General Rob Bonta, et al.*, USDC S.D. Cal., 3:19-cv-01537-BEN-JLB Doc. 137 (77 pages).

9. Plaintiffs' counsel stated he does not oppose the request to file an overlength brief, if the State Defendants would agree to Plaintiffs' request (if any) to file a reply to the response. The State Defendants have agreed to not oppose Plaintiffs' request to file a reply brief, should they make one to the Court.

WHEREFORE, the State Defendants respectfully request leave to file an overlength brief not to exceed 50 pages in opposition to Plaintiffs' motion for summary judgment.

Dated: February 5, 2023

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on February 5, 2023, I caused a copy of the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification to all counsel of record.

/s/ Laura K. Bautista _____

Laura K. Bautista

Assistant Chief Deputy Attorney General