

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ROBERT C. BEVIS, and NATIONAL
ASSOCIATION FOR GUN RIGHTS, and
LAW WEAPONS, INC., d/b/a LAW
WEAPONS & SUPPLY, an Illinois corporation,

Plaintiffs,

v.

CITY OF NAPERVILLE, ILLINOIS, and
JASON ARRES,

Defendants;

JAVIER HERRERA,

Plaintiff,

v.

KWAME RAOUL, in his official capacity as
Attorney General of the State of Illinois,
BRENDAN F. KELLY, in his official capacity
as Director of the Illinois State Police, COOK
COUNTY, a body politic and corporate, TONI
PRECKWINKLE, in her official capacity
County Board of Commissioners President,
KIMBERLY M. FOXX, in her official capacity
as Cook County State's Attorney, THOMAS J.
DART, in his official capacity as Sheriff of Cook
County, CITY OF CHICAGO, a body politic
and corporate, DAVID O'NEAL BROWN, in
his official capacity as Superintendent of Police
for the Chicago Police Department,

Defendants.

Case No. 1:22-cv-04775

Hon. Virginia M. Kendall

Case No. 1:23-cv-00532

Hon. Lindsay C. Jenkins

**PLAINTIFF'S NOTICE OF REPLY IN SUPPORT OF MOTION
FOR RULE 40.4 REASSIGNMENT OF RELATED CASES**

Movant Dr. Javier Herrera, the plaintiff in the related case of *Herrera v. Raoul*, No. 1:23-cv-532, files this notice and attaches a copy of his reply brief in support of reassignment under Local Rule 40.4. Counsel filed the reply in the lowest-numbered case where reassignment would be appropriate, *Goldman v. City of Highland Park*, No. 1:22-cv-4774. As discussed in the attached reply, Plaintiff and Defendants agree that reassignment of related Second Amendment cases is warranted. Counsel for Dr. Herrera and the State Defendants agree that reassignment to this Court is best for judicial economy in light of this Court's recent opinion in *Bevis v. City of Naperville*, No. 22-cv-4775, ECF 63, 2023 WL 2077392 (N.D. Ill. Feb. 17, 2023). The County Defendants do not oppose reassignment to this Court but would prefer reassignment to Chief Judge Rebecca R. Pallmeyer to be heard alongside another related case, even though plaintiffs in that case are seeking to stay that case. For the reasons explained in the motion for reassignment and the attached reply, Dr. Herrera respectfully requests that his case be reassigned to this Court.

Dated: March 6, 2023

Respectfully submitted,

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Counsel for Plaintiff Javier Herrera
in Herrera v. Raoul et al., No. 1:23-cv-0532

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2023, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing via email to counsel of record.

Dated: March 6, 2023

/s/ Taylor A.R. Meehan
Taylor A.R. Meehan

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SUSAN KAREN GOLDMAN, and
NATIONAL ASSOCIATION FOR GUN
RIGHTS

Plaintiffs,

v.

CITY OF HIGHLAND PARK, ILLINOIS,

Defendant;

Case No. 1:22-cv-04774

Hon. Harry D. Leinenweber

ROBERT C. BEVIS, and NATIONAL
ASSOCIATION FOR GUN RIGHTS, and
LAW WEAPONS, INC., d/b/a LAW
WEAPONS & SUPPLY, an Illinois corporation,

Plaintiffs,

v.

CITY OF NAPERVILLE, ILLINOIS, and
JASON ARRES,

Defendants;

Case No. 1:22-cv-04775

Hon. Virginia M. Kendall

JAVIER HERRERA,

Plaintiff,

v.

KWAME RAOUL, in his official capacity as
Attorney General of the State of Illinois,
BRENDAN F. KELLY, in his official capacity
as Director of the Illinois State Police, COOK
COUNTY, a body politic and corporate, TONI
PRECKWINKLE, in her official capacity

Case No. 1:23-cv-00532

Hon. Lindsay C. Jenkins

County Board of Commissioners President, KIMBERLY M. FOXX, in her official capacity as Cook County State's Attorney, THOMAS J. DART, in his official capacity as Sheriff of Cook County, CITY OF CHICAGO, a body politic and corporate, DAVID O'NEAL BROWN, in his official capacity as Superintendent of Police for the Chicago Police Department,

Defendants.

**PLAINTIFF'S REPLY IN SUPPORT OF MOTION
FOR RULE 40.4 REASSIGNMENT OF RELATED CASES**

Related Plaintiffs and Defendants from the State of Illinois and Cook County all agree that reassignment of related Second Amendment cases is warranted under Local Rule 40.4. Reassignment will enable one Court—as compared to three or four—to decide the overlapping constitutional challenges to State and local firearms bans. The only remaining question is which Court.

Counsel for movant, Plaintiff Dr. Javier Herrera in the related case of *Herrera v. Raoul*, No. 1:23-cv-532, has explained that reassignment would be proper to whichever Court can most expeditiously decide his pending motion for a temporary restraining order and preliminary injunction motion.¹ That motion has been pending since January 27, 2023. Based on intervening events, that now appears to be reassignment to Judge Virginia M. Kendall, who recently denied a similar motion in *Bevis v. City of Naperville*, No. 1:22-cv-4775. The State Defendants in *Herrera* agree that the case should be reassigned to Judge Kendall, but they would not oppose reassignment to another related case pending before Chief Judge Rebecca R. Pallmeyer, *Viramontes v. Cook County*, No. 1:21-cv-4595.² The County Defendants in *Herrera* prefer reassignment to the *Viramontes* Court first and *Bevis* second.³ Neither the State nor County Defendants wish to be reassigned to this Court, overseeing the related Second

¹ See ECF 80 at 10-11. All docket numbers are to this Court's docket in *Goldman v. City of Highland Park*, No. 1:22-cv-4774, unless otherwise noted.

² See State Resp., *Herrera v. Raoul*, No. 1:23-cv-532, ECF 58.

³ See County Resp., ECF 84.

Amendment challenge to Highland Park’s ordinance.

Intervening events have confirmed that reassignment to Judge Kendall would likely be best for judicial economy. Since the filing of the reassignment motion, Judge Kendall has issued a reasoned opinion evaluating the constitutionality of the State’s recently enacted ban on sales of semiautomatic rifles and magazines, as well as a local ban. *See Bevis v. City of Naperville*, No. 22-cv-4775, ECF 63, 2023 WL 2077392 (N.D. Ill. Feb. 17, 2023). The Court denied the *Bevis* Plaintiffs’ request for a temporary restraining order and preliminary injunction, after considering many of the same Second Amendment questions, many of the same experts, and many of the same legal arguments as those in Dr. Herrera’s case. *See id.* In light of that recent opinion, counsel for Dr. Herrera and the Illinois Attorney General—who has also since intervened in *Bevis*—now agree that reassignment to Judge Kendall in particular “would serve the interests of judicial economy and efficiency” and “could most expediently resolve the motion[s].” *See* Resp. Regarding Reassignment at 1, 3, *Herrera v. Raoul*, No. 1:23-cv-532, ECF 58.

It stands to reason that if Dr. Herrera’s case were reassigned to Judge Kendall, then Dr. Herrera’s pending motion for a temporary restraining order and preliminary injunction could be swiftly decided once the motion is fully briefed on March 14, and likely appeals will follow. As the State Defendants explain, reassignment will avoid the cases proceeding along separate tracks in the Seventh Circuit. *See* State Resp. at 3-4, *Herrera v. Raoul*, No. 1:23-cv-532, ECF 58. Shortly after Judge Kendall denied preliminary relief to the *Bevis* Plaintiffs, the *Bevis* Plaintiffs filed a notice of appeal. Likewise here, counsel anticipates that the losing party will immediately appeal. As the State Defendants explain, those “cases should be considered together by the Seventh Circuit.” *Id.* at 4.

The County Defendants do not oppose reassignment to Judge Kendall but contend that reassignment to Chief Judge Pallmeyer to be heard alongside *Viramontes* would be better. *See* County Defs. Resp. at 2, ECF 84. Their objection appears to be that counsel for Dr. Herrera did not seek reassignment to *Viramontes* when filing their motion, *id.*, but Dr. Herrera’s brief explained that counsel

did not file the reassignment motion in *Viramontes* because (1) Dr. Herrera's case was not initially assigned to the *Viramontes* Court, despite being marked as related; (2) that the *Viramontes* Plaintiffs did not have a pending motion for preliminary relief like the other related plaintiffs; (3) that the *Viramontes* Plaintiffs had instead moved to stay that litigation; and (4) in any event, Dr. Herrera did not oppose reassignment to *Viramontes*. *See* Memo. at 2 n.2, ECF 80.

On the merits, the County Defendants contend that considerations about which Court could most expeditiously decide the pending motions for preliminary relief are irrelevant. *See* Resp. at 7, ECF 84. But speed is necessarily a relevant concern when a plaintiff has a pending motion for temporary restraining order and preliminary injunction for ongoing constitutional violations. *See Ezell v. City of Chicago*, 651 F.3d 684, 697-99 (7th Cir. 2011). County Defendants also suggest that "judge shopping" concerns compel reassignment to Chief Judge Pallmeyer in *Viramontes*. *See* Resp. at 11, ECF 84. To the contrary, to the extent there are any "judge shopping" concerns, it is the County Defendants' wish to be reassigned to *Viramontes* (where there is a pending stay motion), instead of to *Bevis* (where Judge Kendall has already issued a reasoned opinion) or to this Court (where the same Second Amendment issues are pending in the same preliminary injunction posture).

For the foregoing reasons, counsel respectfully asks for reassignment to whichever Court can most expeditiously decide Dr. Herrera's pending motion for a temporary restraining order and preliminary injunction, which appears to be the *Bevis* Court.

Dated: March 6, 2023

Respectfully submitted,

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Counsel for Plaintiff Javier Herrera
in Herrera v. Raoul et al., No. 1:23-cv-0532

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2023, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing via email to counsel of record.

Dated: March 6, 2023

/s/ Taylor A.R. Meehan
Taylor A.R. Meehan