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

CALEB BARNETT, et al., Plaintiffs, vs. KWAME RAOUL, et al., Defendants.	Case No. 3:23-cv-209-SPM ** designated Lead Case
DANE HARREL, et al., Plaintiffs, vs. KWAME RAOUL, et al., Defendants.	Case No. 3:23-cv-141-SPM
JEREMY W. LANGLEY, et al., Plaintiffs, vs. BRENDAN KELLY, et al., Defendants.	Case No. 3:23-cv-192-SPM
FEDERAL FIREARMS LICENSEES OF ILLINOIS, et al., Plaintiffs, vs. JAY ROBERT "JB" PRITZKER, et al., Defendants.	Case No. 3:23-cv-215-SPM

CLOSING ARGUMENTS FOR TRIAL OF THE LANGLEY PLAINTIFFS

Comes now Plaintiffs, Jeremy W Langley, et al, (the Langley Plaintiffs), by and through their attorneys, Thomas G Maag and the Maag Law Firm, LLC, and for their Closing Arguments for trial, state as follows:

INTRODUCTION

This Court directed the parties to file their relevant documents withing 30 days. The other Plaintiff groups have done / are doing so, and while the *Langley* Plaintiff's joins what is written and submitted by the other Plaintiff groups, to the extent not inconsistent with this writing, which it is largely not inconsistent in any appreciable way, and does not intend to restate what the other groups wrote so well, and they did, the *Langley* Plaintiff's do write separately, to emphasize and clarify a few salient points, that they think important, that were perhaps not argued in the way the Langley Plaintiffs would argue. In many ways, this is like a short concurring opinion in an appellate decision, but joining with the majority.

ARGUMENT

While perhaps his political ideology and methodology would be, and in fact should be, offensive to most Americans, the late Chairman Mao was correct about one thing, and perhaps only one thing. That being, "Political power grows out of the barrel of a gun." Zedong, Mao (1965). Selected Works of Mao Tse-Tung Volume 1. Peking: Foreign Language Press.

The founders of this nation, likewise, would likely disagree with just about everything that the late Chairman Mao ascribed to. But they did recognize that political power is interrelated to the means to protect it. While, in context, Mao was advocating for a strong communist army in order to defend the communist party, the founders, in adopting the Second Amendment, were advocating for no less for a strong democratic principled based republic, based at its heart on the consent of the governed, with the means of the people to protect themselves and their own political power should that ultimately be shown to be "necessary to the security of a free state."

It Is perhaps no coincidence that the freest, most prosperous nation in history, has also traditionally had firearms laws liberally allowing ownership of a variety of arms. In fact, traditionally, the government owned military armories would sell the current service rifles, or recently replaced ones, to American citizens. For instance, in 1963 the U.S. Government sold 240,000 semi-automatic M1 Carbines, that accepted 15 and 30 round magazines, for $20 each, to U.S. citizens, one per customer. See Ex. A. At the same time, replica military firearms have been extremely popular with American citizens, with, for instance, some enterprising persons acquiring large portions of the tons of surplus gun parts available, and assembling them on new made receivers. Ex. A. As a practical matter, but for the popularity of the M1 carbine, it likely would be on the PICA ban list, as functionally, they are the same as nearly every firearm on the list, and unlike every rifle on the PICA ban list.

As noted in *Heller v. DC,* 554 U.S. 570 (2008)

> There are many reasons why the militia was thought to be "necessary to the security of a free state." See 3 Story §1890. First, of course, it is useful in repelling invasions and suppressing insurrections. Second, it renders large standing armies unnecessary—… Third, when the able-bodied men of a nation are trained in arms and organized, they are better able to resist tyranny.

This Court, at the close of the live portion of the evidence, recounted, with accuracy, the history of the East St Louis riots from over 100 years ago. This recounting hit the undersigned with a high degree of personal interest, having been familiar with the story. This Court asked, perhaps rhetorically, perhaps not, how things might have been different if the victims of that riot had of possessed a few of the arms at issue in this case. Said another way, what would have happened it a few of the potential victims, not even all, had been reasonably well armed?

Family history is an interesting thing. Stories told to a small child once or twice, maybe even in an offhand way, become not only relevant to him as an adult, not just as perhaps as a source of pride that is used for inspiration when things might otherwise look bad or hopeless, or when one's integrity is being tested, but also, perhaps, when trying to decide which option is the correct one.

As a small child, the undersigned was told about the East St. Louis riot, at a time when most people in polite circles would not talk about it or even acknowledge it. The casualty figures of the riot, as told to this child, make what is reported in modern works seem rather low. As many of those killed were from the South, such as Mississippi, sometimes, oftentimes, no one asked questions when a relative went north for work, and was never heard from again.

But the oral history presented to this child, at least partially answers this Court's question. What would have happened it a few of the potential victims, not even all, had been reasonably well armed? Two revolvers, one in each hand, and an old obsolete Swiss army rifle, stood between this mob in East St Louis, accurately described by the Court, and the home of the undersigned's great-grandfather, in which his black employees and their families had sought refuge. The event being over 100 years ago, it is unclear if shots were actually fired, as the tellers of the story were then old men, now dead, speaking to a child, but the lesson was clear. The home of the undersigned's great grandfather, still stands, to this day, and those that sought refuge behind his firearms, had no ill become them that day, and lived at least another 65 years to tell the story to the great-grandson of a man with two revolvers and an old Swiss army rifle. If others had had such courage, or the victims of that time had their own arms, it is doubtful that the event would have ever taken place.

In this case, the State of Illinois has banned, what the record shows as some of the most popular firearms and accessories on the market today. The Kentucky or Winchester rifles of lore could not boast the same popularity. To say that the number of AR15 pattern rifles in civilian hands in this Country numbers in the literal millions, if not tens of millions, as to the number of magazines (ammunition feeding devices) which hold over 15 rounds. These are the most popular arms in the United States today.

In some, in many ways, this Court, as a trial court, is in a difficult conundrum. Specifically, it has to reconcile that which is likely not able to be reasonably reconciled; that being the Seventh Circuit's recent opinion in this case, and the Supreme Court's modern Second Amendment cases. Again, without simply restating what others have said so well, Plaintiff's will try to reconcile them with the following points:

1. "[T]he definition of `bearable Arms' extends only to weapons in common use for a lawful purpose. That lawful purpose, as we have said several times, is at its core the right to individual self-defense." *Bevis v. City of Naperville*, 85 F.4th 1175, 1193 (7th Cir. 2023).
2. "Everyone can agree that a personal handgun, used for self-defense, is one of those Arms that law-abiding citizens must be free to "keep and bear." (*Bevis v. City of Naperville, Illinois*, 85 F. 4th 1175,, 1182 (7th Circuit 2023).
3. "the plaintiffs in each of the cases before us thus have the burden of showing that the weapons addressed in the pertinent legislation are Arms that ordinary people would keep at home for purposes of self-defense, not weapons that are exclusively or predominantly useful in military service, or weapons that are not possessed for lawful purposes" Id. at 1194.

4. The *Bevis* Appellate court similarly commented on machineguns, artillery, and the like. However, this case does not concern machineguns, artillery, or the like.
5. The Supreme Court explained in *District of Columbia v. Heller*, 554 U. S. 570 (2008), that the Second Amendment's protection "extends, *prima facie*, to all instruments that constitute bearable arms, even those that were not in existence at the Cite as: 603 U. S. ____ (2024) 3 Statement of THOMAS, J. time of the founding." Id., at 582.
6. The Supreme Court noted "the Second Amendment does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes," id., at 625, recognizing "the historical tradition of prohibiting the carrying of dangerous and unusual weapons," id., at 627 (internal quotation marks omitted); see also *Caetano v. Massachusetts*, 577 U. S. 411, 417–419 (2016) (ALITO, J., concurring in judgment).

As the evidence shows, while a given make or model of a given banned firearm may well be somewhat rare, overall, the record makes clear that the banned firearms in this case are in common use, as cited in the general Plaintiff brief, common to the point of ubiquity. At noted by at least one witness, these firearms are not being mostly bought by law enforcement, as law enforcement would not have they physical space to store them. So common, in fact, it is unlikely that any civilian arm has been produced and distributed to the point at the AR15 and its magazines.

As to the Seventh Circuit's comparison of the AR15 to the M16, yes, the record shows, in many ways they are similar, in the same way that a Shelby Cobra Mustang and a Ford mustang with a 4 cylinder engine are similar. Certainly, most driving will be at 55 or 65 miles per hour, for either car. And certainly, some of the parts and accessories with be the same, or very similar. But that does not make them the same car.

Just as an average car hobbyist, or even mechanic, cannot make a 4 cylinder Mustang a Shelby race car, as the experts and testimony showed, normal semi-automatic AR15 rifles are designed to *preclude* installation of M16 fire control components that make the firearm fire like a machinegun. Like a 4 cylinder mustang might be designed for fuel economy and cost savings, semi automatic AR15s are designed for better accuracy and other non-military characteristics. No military on the planet uses semi-automatic AR15 rifles, and in fact, other than potentially third world nations still using WWII relics, no military issues as standard issue any semi-automatic rifle. Likewise, no military, at least since the American Civil War, has issued revolving Cylinder Shotguns, like the Colt Model 1855. Ex. B. Yet, this historical relic, and replicas thereof, are banned under PICA.

Along these lines, the issue of "machineguns" crops up in this case from time to time. The undisputed evidence in this case is that none, literally none, of the banned firearms, are machineguns, which, instead, are regulated by other statutes not at issue in this case. To that end, any ruling as to whether a machinegun is protected by the Second Amendment would be merely advisory.

The firearms and magazines in question are, again, typically possessed for lawful purposes. In fact, for most of the firearms at issue, there is *no evidence* of any criminal use, at all.

Flare guns and grenade launchers are essentially the same thing, they launch items other than traditional projectiles. Flare guns are *required* on most watercraft under Coast Guard regulations. 46 CFR 160.021. The PICA statute does not ban either grenades or flares. Thus, this Court need not consider whether or not grenades may be banned, as such a decision would be expressly advisory, as again, PICA does not ban grenades, or for that

matter flares, and no Plaintiff is arguing any other ban which may or may not exist in this case. Certainly, Defendants have not cited to a single criminal use of a flare gun or a grenade launcher, ever. Which is perhaps the best evidence they are not being used for criminal purposes.

SUMMARY JUDGMENT ON VAGUENESS

It is important to note that Defendants have moved for summary judgment on the Langley Plaintiff Vagueness argument. It is noted that Plaintiff previously moved for summary judgment on these grounds which was denied. Plaintiff stands on their previously vagueness arguments made, and request this Court Deny those summary judgment arguments on vagueness made by Defendant.

OBJECTIONS TO PLAINTIFF'S EXPERTS

The Defendants also object to the Langley Plaintiff's experts, arguing bias and the like. These arguments go to weight, not admissibility, and in any event, Plaintiff's experts largely parrot the other evidence introduced without objection. To this end, these objections / motions should be overruled.

CONCLUSION

This Court should enter judgment for the Plaintiff's and enjoin the firearm and magazine prohibitions of the so called, Protect Illinois Communities Act.

Dated: October 21, 2024

Respectfully Submitted,
By the Langley Plaintiffs,

s/Thomas G. Maag
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CERTIFICATE OF SERVICE

The undersigned attorney certifies that the foregoing document was electronically filed on this date, and that as a consequence thereof, a copy of the foregoing was served upon counsel of record on this date;

Dated: October 21, 2024. /s/ Thomas G. Maag