



GUN OWNERS OF MAINE

DEFENDING GUN RIGHTS

LD 208: An Act to Eliminate the 72-hour Waiting Period on Firearm Purchases

LD 1230: An Act to Abolish the 72-hour Waiting Period for a Gun Purchase

With regard to repealing the unconstitutional 72-Hour Waiting Period enacted by the 131st Maine Legislature through the use of vote pairing in the State Senate and allowed to go into law without the Governor's signature, we would strongly encourage an **OUGHT TO PASS** vote.

Last session before this very committee, I stated the following: "...waiting periods jeopardize the lives of the law-abiding and will hurt small businesses in our state. Once a background check is passed, imposing an arbitrary waiting period could be the difference between life and death for someone looking to leave a domestic violence situation."

Fast forward eight months, and as promised, those who believe the laws passed in this House should pass constitutional muster have challenged the Waiting Period law and thus far have been very successful.

I have brought some of the legal documents in this case (printing all would require reams of paper), including the State's supposition that waiting periods are constitutional because there was a time in our country, unfortunately, that we discriminated against people's right to bear arms based on their skin color, as well as purporting that laws prohibiting the "drunken" carry of firearms somehow translate into an arbitrary, sweeping removal of the rights of responsible Maine gun owners

The District Court of Maine felt so strongly that the plaintiffs were likely to succeed on the merits of the case that a preliminary injunction was granted. The Judge stated, "**Given that Plaintiffs have established a likelihood of success and the existence of irreparable injury, I find that the balance of equities favors them as well. Similarly, although members of the public undoubtedly feel that they have a genuine interest in laws curtailing the right to keep and bear arms, their interest is not exclusive and not one that can win out in terms of an interest-balancing exercise by a court that is sworn to uphold the Constitution.**"

The State of Maine appealed this decision, lost in District Court, then brought their request to reinstate the waiting period law to the First Circuit Court of Appeals where they were denied again.

Three President Biden appointed Judges denied the State of Maine's request to stay the Preliminary Injunction, stating in summation, "Moreover, the Attorney General's failure to seek expedited review of the stay motion or the appeal **undercuts any claim that immediate relief from the injunction is required to prevent irreparable harm.**"



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Certainly this ruling is not final, and we are months away from the determination in this legal challenge. As much as it would give me great pleasure for the plaintiffs in this case to set a legal precedent for the rest of the country, it is in the best interest of Maine residents, business owners, and the taxpayers that are footing the bill to allow the State of Maine to proceed defending this law, that this law be repealed.

I have included the Court of Appeals ruling, and would encourage you to find all of the hundreds of pages of documents related to the current legal challenge of Waiting Periods on our website. Read the plaintiffs' stories. Read about their need to defend themselves, the loss of hard earned business. Read the rulings. Decide if allowing this law to remain is in the best interest of our State.

On behalf of our membership and the Gun Owners of Maine Board of Directors,

Laura Whitcomb, President
Gun Owners of Maine
laura@gunownersofmaine.org

United States Court of Appeals For the First Circuit

No. 25-1160

ANDREA BECKWITH; EAST COAST SCHOOL OF SAFETY; NANCY COSHOW; JAMES
WHITE; J. WHITE GUNSMITHING; ADAM HENDSBEE; THOMAS COLE; TLC
GUNSMITHING AND ARMORY; A&G SHOOTING,

Plaintiffs - Appellees,

v.

AARON M. FREY, in their personal capacity and in their official capacity as Attorney General
of Maine,

Defendant - Appellant.

Before

Montecalvo, Rikelman and Aframe,
Circuit Judges.

ORDER OF COURT

Entered: April 10, 2025

Defendant-appellant Aaron Frey, the Attorney General of Maine, has filed a motion to stay pending appeal a preliminary injunction that bars enforcement of a Maine statute that imposes a 72-hour waiting period for certain sales of firearms. See 25 M.R.S. § 2016. In granting a preliminary injunction and denying a stay, the district court found that plaintiffs, a group of Maine citizens and business owners, including federally-licensed firearm dealers, were likely to succeed on the merits of their Second Amendment challenge to the statute. The Attorney General argues that the district court erred in applying the standard set forth in New York State Rifle & Pistol Ass'n, Inc. v. Bruen, 597 U.S. 1 (2022), and maintains that allowing the injunction to remain in effect pending appeal will result in irreparable injury to the State's interest in enforcing a duly enacted law, and also may result in loss of life that could be avoided if the law were enforced. Plaintiff-appellees oppose, arguing that the district court was correct in concluding that the waiting period law is likely unconstitutional, and they maintain that allowing the law to be enforced pending appeal would result in the irremediable deprivation of their Second Amendment rights as well as economic loss to the plaintiffs who are gun dealers.

"In ruling on a motion for a stay pending appeal, we consider '(1) [w]hether the stay applicant has made a strong showing that it is likely to succeed on the merits, (2) whether the applicant will be irreparably injured absent a stay, (3) whether [the] issuance of the stay will substantially injure the other parties interested in the proceeding, and (4) where the public interest lies.'" Dist. 4 Lodge of the Int'l Ass'n of Machinists & Aerospace Workers Loc. Lodge 207 v. Raimondo, 18 F.4th 38, 42 (1st Cir. 2021) (quoting Common Cause R.I. v. Gorbea, 970 F.3d 11, 14 (1st Cir. 2020)) (alterations in original). In the usual case, the "sine qua non of [the] four-part inquiry is likelihood of success on the merits[.]" New Comm Wireless Servs., Inc. v. SprintCom, Inc., 287 F.3d 1, 9 (1st Cir. 2002). Moreover, "[a] stay 'is not a matter of right, even if irreparable injury might otherwise result to the appellant.'" Does 1-3 v. Mills, 39 F.4th 20, 25 (1st Cir. 2022) (quoting Nken v. Holder, 556 U.S. 418, 427 (2009)).

Determining the likelihood of the Attorney General's success in this appeal requires us to determine the likelihood that the district court itself erred in issuing a preliminary injunction. Dist. 4 Lodge of the Int'l Ass'n of Machinists & Aerospace Workers Loc. Lodge 207, 18 F.4th at 42-43. "We review the denial of a motion for preliminary injunctive relief for abuse of discretion, and we will 'reverse the denial only if the district court mistook the law, clearly erred in its factual assessments, or otherwise abused its discretion.'" González-Droz v. González-Colon, 573 F.3d 75, 79 (1st Cir. 2009) (quoting McClure v. Galvin, 386 F.3d 36, 41 (1st Cir. 2004)) (citation and alteration omitted).

Because the case presents questions of first impression in an emerging area of constitutional law involving a legal standard that is difficult to apply and subject to varying interpretations, we are not persuaded that the Attorney General has made a "strong showing" that he is likely to succeed in demonstrating that the district court abused its discretion in granting preliminary injunctive relief, and the case does not present unusual circumstances involving a "particularly severe and disproportionate" harm to one side, Cintron-Garcia v. Barcelo, 671 F.2d 1, 4 n.2 (1st Cir. 1982); cf. Providence J. Co. v. Fed. Bureau of Investigation, 595 F.2d 889, 890 (1st Cir. 1979). Moreover, the Attorney General's failure to seek expedited review of the stay motion or the appeal undercuts any claim that immediate relief from the injunction is required to prevent irreparable harm. Accordingly, we deny the request for a stay and reserve consideration of merits to the panel hearing the appeal.

By the Court:

Anastasia Dubrovsky, Clerk

cc:

Paul D Clement, Joshua A. Tardy, Erin E. Murphy, Matthew D. Rowen, Kevin Joseph Wynosky, Christopher C. Taub, Thomas A. Knowlton, Paul Switter, Douglas Neal Letter, Julia Brennan MacDonald