

**IN THE SUPREME COURT OF VIRGINIA**

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**Record No. \_\_\_\_\_**

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**JOHN CRUMP, et al.,**  
**Petitioners/Plaintiffs,**

**v.**

**COLONEL JEFFREY S. KATZ**  
**Defendant,**  
**and**  
**JUDGE, 15<sup>TH</sup> JUDICIAL CIRCUIT OF**  
**THE COMMONWEALTH OF VIRGINIA**  
**Respondent.**

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**VERIFIED PETITION FOR WRIT OF MANDAMUS, OR**  
**ALTERNATIVELY FOR REVERSAL OF DENIAL OF**  
**MOTION FOR TEMPORARY RESTRAINING ORDER AND**  
**PRELIMINARY INJUNCTION**

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**On Petition for Mandamus and for Review from the**  
**Circuit Court for the County of Lancaster (Case No. CL26000201-00)**

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**June 15, 2026**

**VERIFIED<sup>1</sup> PETITION FOR WRIT OF MANDAMUS, OR  
ALTERNATIVELY FOR REVERSAL OF DENIAL OF  
MOTION FOR TEMPORARY RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION**

Pursuant to Code § 17.1-309, Article 2 of Chapter 25 of Title 8.01 of the Code of Virginia, and Rule 5:7 of the Rules of the Supreme Court of Virginia, Petitioners request that this Court issue a writ of mandamus directed to the Respondent, Judge of the Lancaster County Circuit Court, within the 15th Judicial Circuit of the Commonwealth of Virginia, ordering that the circuit court must promptly consider and decide Petitioners' pending Motion for Temporary Restraining Order and Preliminary Injunction. In the alternative, pursuant to Va. Code § 8.01-626 and Rule 5:17A, Petitioners ask this Court to reverse the circuit court's effective denial of Petitioners' Motion, and either issue a preliminary injunction halting enforcement of the Challenged Statutes pending litigation on the merits, or remand with instructions that the circuit court do the same.

Effective July 1, 2026, the Commonwealth of Virginia will ban the acquisition, disposition, and public carry of hundreds of millions of the most commonly owned firearms and ammunition magazines in the country. These

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<sup>1</sup> Pursuant to Va. Code § 8.01-4.3 and Va. Sup. Ct. R. 5:7(b)(1), Petitioners have verified the allegations contained in this Petition under penalty of perjury. Their verifications appear at the end of this Petition and Memorandum. As required by Rule 5:7(b)(1), Petitioners state that the taking of evidence will not be necessary for the proper disposition of this Petition. Petitioners Record ("R.") is attached hereto.

weapons “are both widely legal and bought by many ordinary consumers,” and they include the ubiquitous semi-automatic AR-15, “the most popular rifle in the country.” *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 297 (2025) (unanimous opinion).

In the circuit court below, Petitioners raise grave constitutional questions about the Commonwealth’s looming gun ban. Chief among them is the Challenged Statutes’ conflict with Article I, Section 13 of the Virginia Constitution, which protects the individual right to keep and bear arms, and which this Court has interpreted “co-extensive[ly]” with the federal Second Amendment. *DiGiacinto v. Rector & Visitors of George Mason Univ.*, 281 Va. 127, 134 (2011). Thus, a ban on “the most popular weapon[s] chosen by Americans” is simply “invalid” on its face. *District of Columbia v. Heller*, 554 U.S. 570, 629 (2008).

Petitioners include an individual and four advocacy organizations who, along with millions of other Virginians, will suffer imminent and irreparable constitutional harm should the Challenged Statutes be allowed to take effect on July 1. And because the circuit court has failed to act – canceling a scheduled hearing and staying the entire case indefinitely – thereby refusing to consider and decide the serious and pressing questions Petitioners have raised, this Court’s intervention is necessary to preserve a centuries-old status quo pending a decision on the merits.

WHEREFORE, Petitioners respectfully pray as follows:

That this Court issue a writ of mandamus, ordering the circuit court to promptly consider and decide Petitioners’ pending Motion or, alternatively, that this Court preliminarily enjoin enforcement of the Challenged Statutes or order the circuit court do the same.

**PETITIONERS’ MEMORANDUM IN SUPPORT OF  
THEIR VERIFIED PETITION**

**Assignments of Error**

1. The circuit court erred as a matter of law by refusing to hear and decide Petitioners’ Motion for Temporary Restraining Order and Preliminary Injunction (the “Motion”) under Rule 4:15(d). R.181, R.183
2. By refusing to hear and decide Petitioners’ Motion – not merely on an expedited basis and in a timely manner, but *at all* – and instead staying the case indefinitely, the circuit court has effectively denied Petitioners’ Motion, which will allow serious and irreparable harm to befall Petitioners. R.181, R.183

**Nature of the Case and Proceedings Below**

This petition is brought pursuant to Code § 17.1-309, Article 2 of Chapter 25 of Title 8.01 of the Code of Virginia, Code § 8.01-626, and Rules 5:7 and 5:17A. Petitioners seek mandamus or, alternatively, review of a June 9, 2026 order of the Circuit Court for the County of Lancaster (the “circuit court”) which stayed all proceedings in this case, and which canceled the previously scheduled June 12, 2026

hearing upon Petitioners' Motion for Temporary Restraining Order and Preliminary Injunction. R.181.

This case involves recent enactments by the General Assembly which, effective July 1, ban the purchase, transfer, import, manufacture, and public carrying of the nation's most popular firearms and magazines ("Challenged Statutes"). Petitioners challenge the constitutionality of those enactments under Article I, Section 13 and Article I, Section 11 of the Constitution of Virginia.

On May 15, 2026, the day after the Challenged Statutes were signed into law, Petitioners filed a Complaint for Declaratory and Injunctive Relief and supporting documents, seeking a declaratory judgment and injunctive relief. R.1. Three days later, on May 18, 2026, Petitioners filed their Motion, seeking a temporary restraining order and/or preliminary injunction with respect to the Challenged Statutes, in order to maintain the status quo and avoid irreparable constitutional harm, pending a final decision on the merits. R.103. On June 9, 2026, Defendant filed his Brief in Opposition to the Motion (R.146) and exhibits and, on June 11, 2026, Plaintiffs filed their Reply (R.188).

Because the Challenged Statutes – and the irreparable harm they will cause to millions – are set to take effect on July 1, Petitioners promptly obtained available hearing dates from the circuit court and, by agreement of both the circuit court and Defendant, set and noticed a hearing on their Motion for June 12, 2026. Thereafter,

the parties agreed upon a truncated briefing schedule, which the parties have now concluded.

However, separately from this ongoing litigation in Lancaster County, on May 26, 2026, Defendant filed in this Court an application under the Multiple Claimant Litigation Act, Va. Code § 8.01-267.1 *et seq.* (“MCLA”), seeking to have Petitioners’ case consolidated with three other pending cases brought against the Challenged Statutes. R.129. On June 3, 2026, this Court issued an order designating a three-judge panel to consider Defendant’s MCLA application. R.143. That panel has not yet taken any action on the application. Indeed, such panels are comprised of three sitting circuit judges from across the state, who maintain their own busy dockets, and must find time to schedule panel proceedings.

Importantly, Defendant agreed to the June 12 hearing on Petitioners’ Motion. Nor has Defendant ever objected to the June 12, 2026 hearing proceeding as originally scheduled, notwithstanding the pending MCLA application. Even so, on the afternoon of June 9, 2026 – just three days before the scheduled hearing on Petitioners’ Motion and three weeks before the Challenged Statutes will take effect – the circuit court, acting *sua sponte*, issued an order stating that, because this Court had designated a panel to consider the question of whether to transfer and consolidate, “further proceedings in this case are stayed pending the decision of the said Circuit Court panel.” R.181 (stay order). Contemporaneously, both the clerk

and the circuit court judge's chambers confirmed by email that the parties' June 12, 2026 hearing had been cancelled and removed from the docket.

Petitioners immediately filed an emergency motion in the circuit court, seeking to reinstate the June 12 hearing and requesting that the circuit court vacate its June 9 order staying the case. R.183. This emergency motion explained that the language of the MCLA does not contemplate (much less require) that individual cases be stayed while an application to consolidate and transfer is pending. Moreover, Petitioners explained that, given the urgency of the temporary injunctive relief sought due to the Challenged Statutes' July 1 effective date, staying the case indefinitely while awaiting the MCLA panel's decision would permit the irreparable harm to occur without any judicial review. R.184-185.

But the circuit court has failed to rule on Petitioners' emergency motion, leaving their case indefinitely stayed and effectively shutting the courthouse doors to Petitioners. This inaction will allow the Challenged Statutes to take effect on July 1, causing irreparable harm not only to Petitioners but also to countless other Virginians.

Petitioners seek mandamus pursuant to Rule 5:7 or, alternatively, pursuant to Rule 5:17A(a), Petitioners file this Petition for Review within 15 days of the circuit court's June 9, 2026 stay order. Petitioners seek relief from this Court given (1) the circuit court's refusal to hear and decide Petitioners' Motion on an expedited basis

*or at all*, and (2) the circuit court’s effective denial of a temporary injunction, given that the irreparable harm sought to be alleviated will commence on July 1 absent immediate judicial relief.

Because full briefing on Petitioners’ Motion is now complete in the circuit court, this Court has a complete record through which to consider the important constitutional questions Petitioners have raised, and to issue an order preserving the status quo and temporarily delaying the grave and irreparable harm that is set to soon befall Virginians throughout the Commonwealth.

### **Summary of Facts**

On May 14, 2026, Governor Spanberger signed into law Senate Bill 749 (“SB749”). R.61. *First*, SB749 adds Va. Code § 18.2-287.4:1, which generally provides that “[a]ny person who imports, sells, manufactures, purchases, or transfers an assault firearm is guilty of a Class 1 misdemeanor.” *Id.* § 18.2-287.4:1(B). SB749 amends Va. Code § 18.2-308.2:2 to define the “assault firearms” prohibited by the new Section 18.2-287.4:1. To that end, Section 18.2-308.2:2(F)(4) enacts a convoluted seven-part definition that sweeps in most semi-automatic firearms. An “assault firearm” according to the new statute is:

1. A semi-automatic center-fire **rifle or pistol** with a fixed magazine capacity in excess of 15 rounds;
2. A semi-automatic center-fire **rifle** that has the ability to accept a detachable magazine, not including an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition, and that has **one or more** of the following characteristics:

- (i) a folding, telescoping, or collapsible stock;
  - (ii) a thumbhole stock or pistol grip that protrudes conspicuously beneath the action of the rifle;
  - (iii) a second handgrip or a protruding grip that can be held by the non-trigger hand;
  - (iv) a grenade launcher; or
  - (v) a threaded barrel capable of accepting (a) a muzzle brake, (b) a muzzle compensator, (c) a sound suppressor, or (d) a flash suppressor;
3. A semi-automatic center-fire **pistol** that has **two or more** of the following characteristics:
- (i) a second handgrip or a protruding grip that can be held by the non-trigger hand;
  - (ii) the capacity to accept a magazine that attaches to the pistol outside of the pistol grip;
  - (iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the pistol with the non-trigger hand without being burned;
  - (iv) a threaded barrel capable of accepting (a) a sound suppressor, (b) a flash suppressor, (c) a barrel extender, or (d) a forward handgrip; or
  - (v) a buffer tube, arm brace, or other part that protrudes horizontally behind the pistol grip and is designed or redesigned to allow or facilitate the firing of a firearm from the shoulder;
4. A semi-automatic **shotgun** that expels single or multiple projectiles by action of an explosion of a combustible material that has **one of** the following characteristics:
- (i) a folding, telescoping, or collapsible stock;
  - (ii) a thumbhole stock or pistol grip that protrudes conspicuously beneath the action of the shotgun;
  - (iii) the ability to accept a detachable magazine;
  - (iv) a magazine capacity in excess of 15 rounds; or
  - (v) any characteristic of like kind as enumerated in clauses (i) through (iv);
5. A **shotgun** with a revolving cylinder;
6. A **firearm** that has the capacity to accept a belt ammunition feeding device; or
7. A **firearm** that has been modified to be operable as an assault firearm as described in subdivisions 1 through 6.

SB749 then amends Va. Code § 18.2-308.2:5 to provide that “[n]o person shall sell an assault firearm as defined in § 18.2-308.2:2 for money, goods, services, or anything else of value.” *Id.* § 18.2-308.2:5(E). Thus, “[a]ny person who willfully and intentionally (i) sells an assault firearm as defined in § 18.2-308.2:2 to another person or (ii) purchases an assault firearm as defined in § 18.2-308.2:2 from another person is guilty of a Class 1 misdemeanor.” *Id.*

SB749 also adds Va. Code § 18.2-309.1, which generally provides that “[a]ny person who imports, sells, barter, transfers, or purchases a large capacity ammunition feeding device is guilty of a Class 1 misdemeanor.” *Id.* § 18.2-309.1(B). Section 18.2-309.1 then defines a “large capacity ammunition feeding device” to mean “a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 15 rounds of ammunition but does not include an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition.” *Id.* § 18.2-309.1(A).

Enacted prior to SB749 on April 22, 2026, SB727 amends Va. Code § 18.2-287.4 to ban the public carry of “assault firearms.” As amended, Section 18.2-287.4 provides that “[i]t is unlawful for any person to carry an assault firearm as defined in § 18.2-308.2:2 on or about his person on any public street, road, alley, sidewalk, public right-of-way, or in any public park or any other place of whatever nature that

is open to the public. ... Any person violating the provisions of this section is guilty of a Class 1 misdemeanor.” Section 18.2-287.4 as amended effectively bans the carry of all firearms defined as “assault firearms” on every street, sidewalk, park, trail, and – remarkably – “any other place of whatever nature that is open to the public.” This last phrase encompasses not just government-owned areas open to the public, but all private property held open to the public, including stores, shopping centers, privately owned event locations, and ironically, even gun shops where firearms are sold.

The Petitioners in this case are an individual resident of Virginia who wishes to purchase, transfer, and continue to carry in public, after July 1, numerous examples of firearms ammunition feeding devices R.73-85, as well as four organizations that represent the interests of millions of gun owners and that, individually, are also harmed by the legislation being challenged. R.86-102 The Petitioners properly sought temporary injunctive relief in the circuit court to alleviate the harm that will occur to them beginning on July 1, but as explained herein, the circuit court has stayed their case and declined to rule on their Motion.

## **Argument**

### **I. Standard of Review.**

On appeal, this Court reviews *de novo* questions of law, including the meaning of statutory frameworks and rules of court. *See, e.g., Phelps v. Commonwealth*, 275 Va. 139, 141 (2008). In this case, Petitioners’ first assignment of error raises

questions of law regarding (1) Petitioners' entitlement to be heard upon their Motion under Rule 4:15(d), and (2) whether the mere pendency of an application under the MCLA is grounds to stay individual cases being considered for consolidation, while refusing even to consider a time-sensitive motion for temporary injunctive relief.

Regarding denial of temporary injunctive relief itself, a circuit court's decision to grant or deny a temporary injunction is a discretionary act and is accordingly reviewed by this Court on an abuse-of-discretion standard. However, "[t]he abuse-of-discretion standard includes review to determine that the discretion was not guided by erroneous legal conclusions," and "[a circuit] court by definition abuses its discretion when it makes an error of law." *Porter v. Commonwealth*, 276 Va. 203, 260 (2008).

Regarding mandamus, a writ of mandamus "is an extraordinary remedy that may be used to compel a public official to perform a purely ministerial duty that is mandatory in nature and is imposed on the official by law." *Elyazidi v. Barr*, 91 Va. Cir. 89, 90 (Fairfax Cnty. 2015) (quoting *Goldman v. Landsidle*, 262 Va. 364, 370-71 (2001)). When the "right involved and the duty sought to be enforced are clear and certain, and when there is no other specific, adequate remedy that is available, the writ will issue." *Id.*

Finally, Va. Code § 8.01-626 broadly provides that this Court "may take such

action [upon the petition] as it considers appropriate under the circumstances of the case.”

## **II. A Writ of Mandamus Should Issue to Require the Circuit Court to Hear and Decide Petitioners’ Motion.**

Chief Justice John Marshall once opined: “We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution. Questions may occur which we would gladly avoid; but we cannot avoid them. All we can do is, to exercise our best judgment, and conscientiously to perform our duty. In doing this, on the present occasion, we find this tribunal invested with appellate jurisdiction in all cases arising under the constitution and laws of the United States. We find no exception to this grant, and we cannot insert one.” *Cohens v. Virginia*, 19 U.S. 264, 404 (1821).

Petitioners are injured by the circuit court’s refusal to consider – and therefore effective denial of – their Motion for Temporary Restraining Order and Preliminary Injunction. To be sure, circuit courts have wide latitude in controlling cases, setting their dockets, and even staying cases when appropriate. *See Yarbrough v. Commonwealth*, 258 Va. 347, 361 (1999) (trial court has “inherent authority to administer cases on its docket.”). But that discretion does not extend to a refusal to decide time-sensitive motions and even to hear a case at all. The judicial duty to “say what the law is” is – quintessentially – nondiscretionary. *See Williamson v.*

*Farrell*, 447 P.3d 131, 134 (Utah Ct. App. 2019) (“Courts generally have the duty and obligation to adjudicate all of the cases that come before them.”).

And so a circuit court’s decision to indefinitely stay a case – in the face of an expedited motion seeking emergency relief to prevent serious and irreparable harm set to occur in less than a month – is not within the bounds of its discretion. But the circuit court below has done just that. The court has refused to consider the serious constitutional questions Petitioners raise, deciding instead to simply let the Challenged Statutes take effect through inaction, and *entirely without judicial review*. This inaction also denies Petitioners any ability to appeal an adverse ruling. Petitioners’ only recourse is the filing of this Petition.

Petitioners brought their case below with all haste. They filed their Complaint on a Friday, the day after the Challenged Statutes were enacted. Petitioners then filed their Motion the following Monday. Subsequently, Petitioners moved quickly to set a hearing date, with the circuit court’s input and agreement, and thereafter fulfilled a truncated briefing schedule agreed to with Defendant. Importantly, the Defendant has been amenable to the urgent timeline of these proceedings, and did not ask the circuit court to prevent Petitioners having their scheduled day in court on June 12. Nevertheless, the circuit court, acting *sua sponte*, not only canceled Petitioner’ hearing, but also stayed Petitioners’ case – entirely and indefinitely.

R.181. The only reason given by the circuit court was that this Court has appointed a three-judge panel, pursuant to the Multiple Claimant Litigation Act, Va. Code § 8.01-267.1 *et seq.* (“MCLA”), to hear and consider Defendant’s motion to consolidate Petitioners’ case with three others. R.182.

But that is no reason to stay Petitioners’ pending case – a constitutional challenge seeking expedited review prior to an imminently forthcoming effective date of a newly enacted statute that bans commonly owned items that countless Virginians have peaceably possessed for decades. Indeed, the MCLA provides no authority for staying a case while entirely separate and parallel proceedings transpire in front of a three-judge panel. For starters, there is no timeframe, statutory or otherwise, within which such three-judge panels must act. Nor is there any guarantee that any or all of the underlying cases will be consolidated or transferred at all. And even if consolidation and transfer were to occur, it is highly likely that panel proceedings will take weeks (if not longer) to play out – well past the July 1 effective date of the Challenged Statutes, when the grave and irreparable harm to Petitioners will certainly occur. Not to mention, Defendant himself has asked the three-judge panel to consolidate and transfer all four cases *to Lancaster* (or Fauquier) (R.129– in other words, to the same circuit court that just stayed Petitioners’ case.

Even as the MCLA provides no legal cover for the circuit court to stay

Petitioner’s case and refuse to decide their Motion, this Court’s rules say that it must. Rule 4:15(d) provides that, “upon request of counsel of record for any party, or at the court’s request, the court will hear oral argument on a motion.” *Id.* (emphasis added). Petitioners properly requested, scheduled, and noticed a hearing on their Motion – a hearing to which Defendant (and the circuit court) agreed. The circuit court then decided to cancel that hearing and stay Petitioners’ case entirely, meaning that “the court will [*not*] hear oral argument on [Petitioners’] motion.” That decision was not within the bounds of the circuit court’s discretion.

This makes issuance of a writ of mandamus. Mandamus “may be appropriately used and is often used to compel courts to act where they refuse to act and ought to act ... to compel courts to hear and decide where they have jurisdiction ... to require them to proceed to judgment....” *Page v. Clopton*, 71 Va. 415, 418 (1878). Indeed, courts across the country agree that “[c]ourts have a ‘virtually unflagging obligation to exercise’ the full extent of [their] jurisdiction....” *Blakely v. Kahrs*, 2016 Wash. Super. LEXIS 836, at \*32 (quoting *Deakins v. Monaghan*, 484 U.S. 193, 203 (1988)). A vital part of the duty to hear and decide cases is the “ministerial duty to rule on a properly filed and timely presented motion.” *In re Leyva*, 2023 LX 67878, at \*2 (Tex. Ct. App. July 19, 2023).

To be sure, issuance of a writ of mandamus is an extraordinary remedy, and

within the discretion of this Court. *In re Commonwealth of Virginia*, 278 Va. 1, 8 (2009). Such a writ is “directed to any person, corporation, or inferior court requiring it to do some particular thing which pertains to its duty or office and over which it has no discretion.” K. Sinclair, *Virginia Civil Procedure* § 3.6 (6th ed. 2014) (citations omitted). Importantly, though, when considering issuance of a writ of mandamus, “[c]onsideration should be had [i] for the urgency which prompts an exercise of the discretion, [ii] the interests of the public and third persons, [iii] the results which would follow upon a refusal of the writ, as well as [iv] the promotion of substantial justice ... [when] [v] the right involved and the duty sought to be enforced are clear and certain and [vi] there is no other available specific and adequate remedy the writ will issue.” *Gannon v. State Corp. Comm’n*, 243 Va. 480, 482 (1992). Each factor weighs in favor of issuance of a writ here.

*First*, the Challenged Statutes imminently will take effect on July 1. An “urgen[t]” decision on Petitioners’ Motion is therefore necessary to preserve the status quo and prevent the irreparable constitutional harm that Petitioners stand to suffer in a matter of days. Indeed, Rule 3:26 provides that a temporary restraining order can be issued *ex parte*, and even without a finding of likelihood of success on the merits. Va. Sup. Ct. R. 3:26(b), (e). Intended to respond to urgent matters like those Petitioners raised below, temporary restraining orders are designed to be

considered by courts on an expedited – if not an emergency – basis. Even a denial of Petitioners’ Motion would allow them to promptly seek appellate review. In contrast, the circuit court’s indefinite stay of Petitioners’ entire case simply allows the impending harm to occur *without any judicial review at all*.

*Second*, the Challenged Statutes affect not only Petitioners, but also third persons and the public more broadly. The public has an interest in the prompt resolution of questions concerning the validity of acts of the General Assembly. Indeed, “the public interest favors enjoining a constitutional violation.... [I]t is not adverse to the public interest to grant a preliminary injunction in order to preserve a constitutional right pending trial.” *Stickley v. City of Winchester*, 110 Va. Cir. 300, 326 (Winchester 2022); *see also Legend Night Club v. Miller*, 637 F.3d 291, 302-03 (4th Cir. 2011) (“Maryland is in no way harmed by issuance of an injunction that prevents the state from enforcing unconstitutional restrictions. ... [U]pholding constitutional rights is in the public interest.”).

*Third*, refusal of the writ would result in the loss of Petitioners’ – and indeed, all Virginians’ – Article I, Section 13 rights. Courts recognize that “[t]he loss of [constitutional] freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). In contrast, granting of the writ merely would allow Petitioners to litigate their

constitutional claims and, if necessary, to seek further appellate review to prevent irreparable harm.

*Fourth*, compelling a ruling on Petitioners’ Motion – or ideally, preserving the status quo – would promote substantial justice. Courts have a “duty ... to say what the law is,” *Marbury v. Madison*, 5 U.S. 137, 177 (1803), and the public needs clarity on the constitutionality of the Challenged Statutes. Indeed, several Commonwealth’s Attorneys already have opined that the Challenged Statutes are unconstitutional, refusing to enforce them.<sup>2</sup> On the other hand, other Executive Branch officials, including the Attorney General, are vigorously defending the Challenged Statutes’ constitutionality in court. Meanwhile, countless well-intentioned and law-abiding Virginians are caught in the middle, wondering if their enumerated constitutional rights will survive the month. Resolving these conflicts is precisely the role of the judiciary.

*Fifth*, both the right involved and the duty sought to be enforced are “clear and certain.” *Gannon*, 243 Va. at 482. Article I, Section 13 protects the individual “right of the people to keep and bear arms.” This Court has interpreted that provision “co-extensive[ly]” with the federal Second Amendment. *DiGiacinto v. Rector &*

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<sup>2</sup> To date, fifteen Commonwealth’s Attorneys have declined to enforce the Challenged Statutes on Article I, Section 13 and Second Amendment grounds. See <https://tinyurl.com/4xxvvzvs>.

*Visitors of George Mason Univ.*, 281 Va. 127, 134 (2011). And under the U.S. Supreme Court’s explication of the Second Amendment, a ban on “the most popular weapon[s] chosen by Americans” is simply “invalid” on its face. *District of Columbia v. Heller*, 554 U.S. 570, 629 (2008). Accordingly, Petitioners have alleged “clear” violations of their Article I, Section 13 rights, and the circuit court’s duty to hear their case likewise is “certain.”

*Sixth*, whereas “mandamus does not lie in favor of a party who has another clear and adequate legal remedy,” Martin P. Burks, *Common Law and Statutory Pleading and Practice* § 199 (4th ed. 1952), the “writ will issue” when “there is no other available specific and adequate remedy.” *Gannon*, 243 Va. at 482. Here, Petitioners have no other remedy. Their fully briefed Motion is now in legal purgatory, and Petitioners neither have an injunction to prevent their irreparable harm, nor an appealable denial of their Motion.

For the foregoing reasons, Petitioners respectfully request that this Court issue a writ of mandamus, ordering that the circuit court must promptly consider and decide Petitioners’ pending Motion.

**III. Alternatively, This Court Should Reverse the Circuit Court’s Effective Denial of Petitioners’ Motion and Preliminarily Enjoin the Challenged Statutes.**

Alternatively, given the Challenged Statutes’ imminent effective date, this

Court should issue a preliminary injunction itself, preserving the status quo pending a decision on the merits below. Indeed, “[w]hen a circuit court ... refuses” a preliminary injunction and “an aggrieved party ... file[s] a petition for review,” this Court “may take such action thereon as it considers appropriate under the circumstances of the case.” Va. Code § 8.01-626. The circuit court’s refusal to timely decide Petitioners’ Motion constitutes an effective “refus[al]” of their requested injunction, and the “circumstances of the case” warrant injunctive relief here.

*First*, courts broadly agree that the failure to rule on a pending motion for temporary restraining order or preliminary injunction constitutes an effective *denial* of that motion. As the Fairfax County Circuit Court explains, “[a] request for an injunction or a temporary restraining order always enjoys precedence on any court’s docket.” *Preferred Sys. Solutions v. GP Consulting, LLC*, 2011 Va. Cir. LEXIS 98, at \*7 n.19 (Fairfax Cnty. July 28, 2011). Thus, “[b]ecause a motion for preliminary injunctive relief must be granted promptly to be effective, a ... court’s failure to timely rule on motion can amount to an effective denial. What counts as an effective denial is contextual – different cases require rulings on different timetables.” *Amazon.com Servs. LLC v. NLRB*, 151 F.4th 221, 227 (5th Cir. 2024) (cleaned up). Indeed, in one recent case, the U.S. Supreme Court deemed a “judge ... to have

constructively denied an injunction by failing to act within the space of a little over two hours on an application....” *A.A.R.P. v. Trump*, 605 U.S. 91, 103 (2025) (Alito & Thomas, JJ., dissenting).

Here, the “timetable” is clear, and time is of the essence. The Challenged Statutes take effect in a matter of days, and they will dramatically alter the Commonwealth’s centuries-old firearms regulatory scheme, thereby narrowing the scope of Virginians’ Article I, Section 13 rights. The parties’ original briefing and hearing schedule would have afforded the circuit court ample opportunity to rule on Petitioners’ Motion *before* the Challenged Statutes took effect. But now, with their hearing canceled and their case indefinitely stayed, it would seem that Petitioners’ irreparable harm will come to pass, absent this Court’s intervention. The circuit court’s inaction constitutes a “refus[al]” under Va. Code § 8.01-626.

*Second*, this Court should reverse the circuit court’s effective denial of Petitioners’ Motion because Defendant has utterly failed to justify the Challenged Statutes’ constitutionality below. The arguments the parties briefed below are illuminating and worth summarizing here.

Indeed, rather than accept the most basic of precepts – that Article I, Section 13 protects an *individual right* to keep and bear arms – Defendant unseriously seeks to relitigate *District of Columbia v. Heller*, 554 U.S. 570 (2008). Even though the

Supreme Court definitively ruled nearly two decades ago that the Second Amendment enumerates and guarantees a pre-existing, individual right, Defendant claims that the virtually identical language in Article I, Section 13, which protects “the body of people trained to arms,” in fact protects the right of no people at all – just a collective right of states to maintain a militia. But this Court already rejected that notion in *DiGiacinto v. Rector & Visitors of George Mason Univ.*, 281 Va. 127, 134 (2011), where it analyzed Article I, Section 13 “co-extensive[ly]” with the Second Amendment’s individual right.

Seeking to replace *Heller*, and untethered to any existing judicial precedent, Defendant offers an entirely made-up creation – what he calls “the Virginia methodology.” But this “methodology” is nothing more than repackaged “judge-empowering interest balancing” that the Supreme Court expressly rejected in *Heller* and repudiated again in *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 17 (2022).

Then, even after finally acknowledging the governing textual and historical framework, Defendant fails to show how the Challenged Statutes’ unprecedented gun ban enjoys historical support. In fact, Defendant presents *no* law remotely analogous to the Challenged Statutes below. He cites historical “trap gun” laws that regulated *traps*, not *guns*. He cites Bowie knife regulations in an attempt to paper

over a corresponding dearth of *firearm* regulations. He relies on 19th-century revolver laws that were racist creations designed to subjugate newly freed slaves while ensuring that white former soldiers remained well armed. And the laws he claims regulated “semi-automatic weapons” in fact banned fully automatic machineguns.

Defendant’s refusal to even acknowledge governing precedents, including from this Court, together with his inability to articulate a coherent historical record to justify this new and sweeping ban on the most popular firearms and magazines in the nation is hardly surprising – because there is no such tradition. With the benefit of the parties’ completed briefing below, this Court should preliminarily enjoin the presumptively unconstitutional Challenged Statutes – or remand with instructions that the circuit court do the same – in order to preserve the status quo as it has existed for centuries.

### **Conclusion**

For the foregoing reasons, Petitioners ask that this Court grant their petition.

Respectfully submitted,

**JOHN CRUMP,  
GUN OWNERS OF AMERICA, INC.,  
GUN OWNERS FOUNDATION,  
VIRGINIA CITIZENS DEFENSE LEAGUE,  
and  
VIRGINIA CITIZENS DEFENSE FOUNDATION**

**BY:**

A handwritten signature in black ink, appearing to read "John Crump", written over a horizontal line.

**COUNSEL**

**VERIFICATION**

Pursuant to Code § 8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

06/12/2026  
DATE

John Crump  
John Crump

6/15/2026  
DATE

Erich Pratt  
Gun Owners of America, Inc.  
and Gun Owners Foundation  
By: Erich Pratt, Senior VP

06/12/2026  
DATE

Patricia H. Webb  
Virginia Citizens Defense League  
and Virginia Citizens Defense Foundation  
By: Patricia Webb, Treasurer

## CERTIFICATE

In accordance with Rule 5:17A(c)(iii), the undersigned certifies that:

1. Petitioners are John Crump, Gun Owners of America, Inc., Gun Owners Foundation, and Virginia Citizens Defense League, and Virginia Citizens Defense Foundation.

2. Respondent is Col. Jeffrey S. Katz, in his official capacity as Superintendent of the Virginia State Police.

3. Counsel for Petitioners are:

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4. Counsel for Defendant are:

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5. The Respondent is the Presiding Judge, 15<sup>th</sup> Judicial Circuit of the Commonwealth of Virginia:

Presiding Judge  
Lancaster Circuit Court  
8265 Mary Ball Road  
Lancaster, VA 22503

6. A copy of the record being filed is an accurate copy of the record of the circuit court and contains everything necessary for a review of the Petition.

7. On June 15, 2026, a true and accurate copy of the foregoing Verified Petition for Review and Record was served upon the following via e-mail, thereby giving notice of the same:

Tillman J. Breckenridge (VSB No. 84657)  
*Solicitor General*

R. Trent Taylor (VSB No. 47468)  
Ethan P. Fallon (VSB No. 102491)  
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Presiding Judge  
Lancaster Circuit Court  
8265 Mary Ball Road  
Lancaster, VA 22503  
(via e-mail to Respondent's judicial assistant)

Hon. Richard S. Wallerstein  
Designated Chief Judge – MCLA Panel  
Henrico Circuit Court  
4309 East Parham Road  
Henrico, VA 23228  
(via e-mail to Judge Wallerstein's judicial assistant)



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David G. Browne