

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF LANCASTER

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

Plaintiffs,

v.

Case No. CL26000201-00

**COLONEL JEFFREY S. KATZ,
In His Official Capacity as
Superintendent of the Virginia State Police**

Defendant.

PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION TO STAY PROCEEDINGS

COME NOW Plaintiffs John Crump, Gun Owners of America, Inc. ("GOA"), Gun Owners Foundation ("GOF"), Virginia Citizens Defense League ("VCDL"), and Virginia Citizens Defense Foundation ("VCDF"), by counsel, and in opposition to Defendant Katz's Motion to Stay Proceedings ("Mot.") state the following:

INTRODUCTION

On June 25, 2026, this Court orally granted a preliminary injunction against Defendant's enforcement of an unprecedented ban on commonly owned but pejoratively named "assault firearms" and "large capacity ammunition feeding devices," holding that the Challenged Statutes likely violate Article I, Section 13 of the Virginia Constitution. On June 30, 2026, this Court formalized its oral ruling in a written order, over Defendant's objections that "Art. I, Sec. 13 does not secure an individual right to bear and keep arms" and "federal Second Amendment doctrine

and case law does not control....” Order Granting Preliminary Injunction at 4. That same day, the U.S. Supreme Court granted certiorari in *Viramontes v. Cook County*, 2026 U.S. LEXIS 2893 (June 30, 2026), and *Grant v. Higgins*, 2026 U.S. LEXIS 2887 (June 30, 2026), two consolidated Second and Fourteenth Amendment challenges to the “assault weapons” bans of other jurisdictions. Notably, the U.S. Supreme Court granted certiorari despite the absence of a circuit split on the issue at the time – seemingly indicating that all the courts to have upheld “assault weapons” bans have gotten it *wrong*. Even so, two days after that, Defendant filed an “emergency motion” to stay this Court’s prescient ruling in the Supreme Court of Virginia, on the theory that this Court “applied no recognized Art. I, § 13 or *Bruen* test,” merely “paid lip service to *Bruen*,” and ultimately “charted its own course....” Exhibit A, Emergency Motion to Stay Circuit Court Order Pending Review at 3, 12. That motion has since been withdrawn, with Defendant apparently now unwilling to have the Supreme Court of Virginia decide his “emergency” claims.

Instead, Defendant now moves this Court to stay the proceedings in this case, suddenly taking the position that this Court’s preliminary injunction decision is not such an “emergency” that must be undone after all, and in fact representing that it should continue for a year or more. Suddenly now, Defendant claims that “this Court expressly applied *Heller* and *Bruen*” after all, and so the U.S. Supreme Court’s forthcoming *Viramontes* decision suddenly “will now provide authoritative guidance” that will “bear directly” on Plaintiffs’ challenge. Mot. at 1. Thus, Defendant claims a stay will “conserve substantial resources and avoid litigating under a framework the U.S. Supreme Court is poised to clarify.” *Id.* at 5.

Even so, at least three federal courts already have taken the *opposite* approach, allowing litigation of “assault weapons” challenges to proceed following the *Viramontes* certiorari grant. For example, even though it will be *directly bound* by the Supreme Court’s ultimate Second

Amendment decision, on July 6, 2026, the en banc Third Circuit did not stay its consideration of *ANJRPC, Inc. v. Att’y Gen. N.J.*, Nos. 24-2415, 24-2450, 24-2506, but rather *ordered supplemental briefing* on the effects of recent Second Amendment decisions on its forthcoming opinion. And then on July 17, 2026, the full Third Circuit issued its decision and struck down New Jersey’s bans on “assault firearms” and “large capacity ammunition magazines,” becoming the first federal circuit to recognize that the Second Amendment protects these popular weapons. *See ANJRPC, Inc. v. Att’y Gen. N.J.*, 2026 U.S. App. LEXIS 21156 (3d Cir. July 17, 2026). Expressly rejecting the argument that the court should have stayed the case “because the Supreme Court will address the constitutionality of AR-15 bans next term,” the Third Circuit explained that “our decision in these cases resolves a question the Supreme Court has not committed to addressing: the constitutionality of a law restricting possession of magazines that can hold more than 10 rounds of ammunition.” *Id.* at *19 n.12.

Meanwhile, on July 9, 2026, a divided panel of the Seventh Circuit upheld Illinois’ “assault weapons” ban in a flagrant interest-balancing opinion, drawing a lengthy dissent which explained that, under *Heller* and *Bruen*, jurisdictions cannot constitutionally ban “the best-selling rifle in America and its standard magazine.” *Barnett v. Raoul*, 2026 U.S. App. LEXIS 20150, at *58 (7th Cir. July 9, 2026) (Brennan, C.J., dissenting). And on July 14, 2026, the District of Rhode Island refused to stay a challenge to a *magazine ban* any further, explaining that this area of law “is evolving constantly. It is neither prudent nor acceptable to let this case linger longer.” Text Order, *Ocean State Tactical, LLC v. Rhode Island*, No. 1:22-cv-00246-JJM-PAS (D.R.I. July 14, 2026). In short, several federal courts have proceeded as normal after the *Viramontes* grant, and there is no reason for this Court to proceed any differently. Indeed, if the Seventh Circuit can thumb its nose at the Supreme Court in spite of *Viramontes*, there is no reason this Court cannot formalize

its preliminary injunction into a final judgment. For the reasons that follow, Defendant’s Motion should be denied.

LEGAL STANDARD

Whether to stay proceedings pending disposition of another case “‘calls for the exercise of judgment,’” and a court “‘must weigh competing interests and maintain an even balance.’” *Primov v. Serco, Inc.*, 296 Va. 59, 67 (2018) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936)). The “burden of making out the justice and wisdom of a departure from the beaten track l[ies] heavily on the ... suppliant for relief....” *Landis*, 299 U.S. at 256. Thus, “the suppliant for a stay must make out a *clear case of hardship or inequity* in being required to go forward, if there is even a fair possibility that the stay for which he prays will work damage to some one else. *Only in rare circumstances* will a litigant in one cause be compelled to stand aside while a litigant in another settles the rule of law that will define the rights of both.” *Id.* at 255 (emphases added).

ARGUMENT

These are not “rare circumstances.” Defendant has not even begun to make out a “clear case of hardship and inequity” in his being required to move forward. And he has ignored all the “damage to some one else” – Plaintiffs and the public – that will occur if this case is stayed. And in arguing for a stay, Defendant (i) makes arguments diametric to those in his other filings; (ii) overlooks that *Viramontes* will not resolve even a majority of the issues here; (iii) seeks to recast Plaintiffs’ claim as something they expressly disavowed; (iv) requests that this Court pause litigation for a *year* for the development of persuasive authority on only a subset of issues; (v) hypocritically laments the spending of “taxpayer funds” to defend the Challenged Statutes while expressing no similar compunction about the cost to taxpayers of enforcing the Challenged Statutes while the case is stayed; (vi) objects to the degree of preparation required for a final

judgment, most of which is unnecessary or already completed; and (vii) ignores that Plaintiffs still may be prosecuted by all manner of other law enforcement officials during the pendency of any stay given the present scope of injunctive relief. Defendant's self-serving Motion to Stay Proceedings should be denied.

I. To Seek a Stay, Defendant Is Forced to Argue Diametrically from Positions Taken in Opposing Plaintiffs' Motion for Preliminary Injunction, and in His Recent Motion to Dismiss.

Defendant claims that, because "this Court expressly applied *Heller* and *Bruen*" to analyze Plaintiffs' Article I, Section 13 claim, the U.S. Supreme Court's forthcoming *Viramontes* decision will "bear directly" on Plaintiffs' case. Mot. at 1. Indeed, Defendant expects *Viramontes* will not just "clarify" "how the U.S. Supreme Court applies *Heller*, *Bruen*, and related federal precedent," but in fact "will ... provide *authoritative guidance*" to this Court. *Id.* at 5, 3, 1 (emphasis added). And so, he requests that this Court stay its proceedings here pending *Viramontes*.

But Defendant's sudden and situationally convenient agreement on the applicability of *Heller* and *Bruen* rings hollow. Only recently, Defendant opposed preliminary relief on the grounds that "*Heller*'s framework cannot legitimately be imported to interpret" Article I, Section 13. Defendant Katz's Opposition to Motion for Preliminary Injunction at 12. In fact, Defendant argued that the Virginia Constitution's very "*architecture* forecloses the analytical move the U.S. Supreme Court made in *Heller* with regard to the Second Amendment." *Id.* (emphasis added). Thus, Defendant surmised that Article I, Section 13 protects only "a collective, militia-tethered right," not an *individual* right. *Id.* at 10.

Yet even more recently than that, Defendant claimed something else entirely. Seeking to stay this Court's preliminary injunction pending a now-abandoned appeal to the Virginia Supreme Court, Defendant faulted this Court for *not* applying *Heller* and *Bruen* at all. Indeed, he claimed

that this Court “applied no recognized Art. I, § 13 or *Bruen* test,” merely “paid lip service to *Bruen*,” and ultimately “charted its own course....” Exhibit A at 3, 12.

But that’s not the end of it. *Even more* recently – after the filing of Defendant’s Motion to Stay – Defendant has flip-flopped once again in his July 15, 2026 Motion to Dismiss, reverting to his original position that Article I, Section 13 “guarantee[s] ... a collective right” and “federal Second Amendment doctrine” is inapposite. Defendant’s Motion to Dismiss ¶¶29, 26. In fact, Defendant rebukes *Heller* entirely, claiming “Plaintiffs cannot demonstrate that assault firearms ... are ‘arms’ protected by §13 or the Second Amendment” (*id.* ¶32), despite *Heller*’s plain statement that “*all firearms constituted ‘arms.’*” *District of Columbia v. Heller*, 554 U.S. 570, 581 (2008) (emphasis added).¹

For those keeping score: *First*, Defendant claimed this Court should *not* apply *Heller* and *Bruen*. *Second*, he faulted this Court for *not* applying *Heller* and *Bruen*. And *third*, now that it is convenient to stall a final judgment and permanent relief, Defendant claims this Court should wait to see “how the U.S. Supreme Court applies *Heller*” (Mot. at 3), a case that recognized the *individual* right to keep and bear arms. And yet, because Defendant has never withdrawn or waived any of his prior arguments as to why *Heller* and *Bruen* do not apply, nothing will stop him from simply rearguing his original position if and when *Viramontes* comes out against him. In fact, Defendant already has done just that, in his recently filed Motion to Dismiss. In other words, it is entirely unclear why anyone should believe Defendant will accept a ruling against “assault

¹ See also *ANJRPC*, 2026 U.S. App. LEXIS 21156, at *42 (“Even the narrowest Founding-era definition of ‘Arms’ addressed by the *Heller* Court ‘stated that all firearms constituted “arms.”’ ... Because semi-automatic rifles are firearms, they are ‘Arms’ within the meaning of the Second Amendment.”).

weapons” bans in *Viramontes*, when he will not even accept *Heller* and *Bruen*’s far more foundational rulings as relevant.

Taking the lead of his *amicus curiae*, Defendant simply changes his argument to match the needs of the moment.² Of course, “a party may not approbate and reprobate by taking successive positions in the course of litigation that are either inconsistent with each other or mutually contradictory.” *Rowe v. Commonwealth*, 277 Va. 495, 502 (2019). Defendant rejects the Supreme Court’s existing precedents, yet now demands this Court wait for another of its precedents built upon those he rejects. Defendant rejects that federal authorities apply, yet demands another federal authority before this case can proceed.³ Defendant disputes that Article I, Section 13 so much as protects an individual right, yet eagerly awaits a case premised on individual rights. This Court should deny Defendant’s Motion on this ground alone and allow this case to proceed to final judgment.⁴

² Indeed, as Plaintiffs previously noted, Defendant’s *amicus curiae* has changed his tune as well. Plaintiffs’ Response to Brief of Professor A.E. Dick Howard as *Amicus Curiae* at 2. Indeed, “in 2020, Professor Howard urged interpretive parity with the Second Amendment when the federal standard was ‘judge-empowering interest balancing.’” *Id.* at 2 n.1. *See also* Exhibit B, *Crump* Plaintiffs’ Reply in Opposition to Application for Order to Transfer Pursuant to Va. Code § 8.01-267.4 at 1 (noting that, in seeking to consolidate and transfer the various state constitutional lawsuits against the Challenged Statutes, “Applicants have changed many of the arguments they originally made in their Application”).

³ If this Court needed another federal authority to assure itself that its preliminary ruling was correct, this Court need look no further than the en banc Third Circuit’s highly persuasive application of *Heller* and *Bruen* in *ANJRPC*, 2026 U.S. App. LEXIS 21156, which dealt with practically identical historical regulations to the ones Defendant Katz offered here. *See id.* at *49-53; *cf.* Defendant Katz’s Opposition to Motion for Preliminary Injunction at 25-27. The Third Circuit dispensed with each, observing that New Jersey “could not overcome the dearth of relevantly similar Founding-era restrictions.” *ANJRPC*, 2026 U.S. App. LEXIS 21156, at *63.

⁴ Nor does Defendant’s concern over “potentially duplicative litigation” hold water. Mot. at 1. If, as seems likely, *Viramontes* is ultimately unhelpful to Defendant, no doubt he will reassert that interpretation of the Second Amendment sheds no light on the meaning of Article I, Section 13. There is no reason to stall this litigation just to hear this all-too-predictable about-face later. Indeed, *he has not even withdrawn his prior arguments*, and in fact *reiterated them* after requesting this stay.

II. *Viramontes* Will Address Only the Possession of Semi-Automatic Rifles, Whereas the Challenged Statutes Also Reach Handguns, Shotguns, and Magazines, and the Public Carry of the Same.

Next, Defendant asserts that *Viramontes* is “likely to narrow the disputed issues and materially simplify the remaining litigation.” Mot. at 4. But it is difficult to see how it will resolve most of the issues in this case. The Supreme Court granted certiorari in *Viramontes* and *Grant* only as to “[w]hether the Second and Fourteenth Amendments guarantee the right to possess AR-15 platform and similar semiautomatic rifles.”⁵ Thus, *Viramontes* will not address the Challenged Statutes’ coverage of certain handguns and shotguns, and certainly will not reach possession of firearm magazines. See Compl. ¶¶62, 64, 67. In other words, *Viramontes* at best will answer only one of the many questions presented here. Of course, as the Third Circuit’s recent decision demonstrates, *Heller* and *Bruen* already provide plenty of guidance for resolving *those* additional constitutional questions, and there is no reason to stay this case pending further application of *Heller* and *Bruen* to only a subset of banned weapons.

Moreover, the Supreme Court ultimately will “decide cases ‘based on the historical record’ and arguments ‘compiled by the parties’ before” it. *United States v. Hemani*, 2026 U.S. LEXIS 2559, at *16 (June 18, 2026). There is no telling what sort of merits litigation strategy the governmental litigants will pursue in *Viramontes*, and it may be that the historical record compiled there will differ from that already compiled here. For instance, in *Hemani*, the government relied only on “habitual drunkard laws” to justify 18 U.S.C. § 922(g)(3) (banning possession of firearms by unlawful drug users), and the Court issued a “narrow” ruling based on the “shortcomings in the

⁵ Petition for Writ of Certiorari at i, *Viramontes v. Cook County*, No. 25-238 (U.S. Aug. 27, 2025), <https://tinyurl.com/28aedtrj>; see also *ANJRPC*, 2026 U.S. App. LEXIS 21156, at *19 n.12 (“our decision in these cases resolves a question the Supreme Court has not committed to addressing: the constitutionality of a law restricting possession of magazines that can hold more than 10 rounds of ammunition”).

government’s submission....” *Id.* at *29, *31. A sparser record may call for a different analysis here, and Plaintiffs should not have to wait to see what the *Viramontes* record will yield when Defendant already has developed his here. And again, if *Viramontes* ultimately comes out *against* Defendant, it will hardly be a surprise to hear him say that *Viramontes* is, in fact, *irrelevant* – just as he has claimed, when it suits him, as to *Heller* and *Bruen*.

III. Defendant Erroneously Argues that a Federal Constitutional Question Is “Central” to Plaintiffs’ Complaint.

Defendant also claims that resolution of a *federal* constitutional claim is somehow “central” to this case. Mot. at 1. But while a favorable Supreme Court decision in *Viramontes* seems likely to issue and ultimately would be persuasive here, it would not bind Virginia courts as to the meaning of Article I, Section 13, and is wholly unnecessary to resolve this case. *Accord* Defendant’s Motion to Dismiss ¶27 (stating “interpretations of the [Second Amendment] inform, but do not necessarily govern, the construction of” Article I, Section 13). Indeed, Plaintiffs *expressly disclaimed* any federal Second Amendment claim, and instead have proceeded exclusively under the Virginia Constitution.⁶ Were it otherwise, Defendant undoubtedly would have sought federal removal, so that the Fourth Circuit’s erroneous decision in *Bianchi v. Brown*, 111 F.4th 438 (4th Cir. 2024), would control. Thus, without a federal claim, it is wholly unnecessary to await a federal decision here. As Plaintiffs explained at oral argument, the Court’s existing precedents lay the groundwork for deciding against the Challenged Statutes – and Plaintiffs submit that the need to grant *Viramontes* was only because the lower federal courts have continued to thumb their noses at the Supreme Court’s teachings. *See* Transcript of June 25, 2026 Hearing on Plaintiffs’ Motion for Temporary Injunction at 7-9 (explaining application of *Heller*

⁶ Defendant has been quick to point this out, repeatedly. *See* Transcript of June 25, 2026 Hearing on Plaintiffs’ Motion for Temporary Injunction at 16 ll.19-22, 17 ll.22-24.

and *Bruen*); *Heller*, 554 U.S. at 592, 629 (recognizing an “individual right” and explaining that bans on weapons in common use are “invalid”); *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 297 (2025) (unanimous opinion) (“The AR-15 is the most popular rifle in the country.”); *Smith & Wesson*, 605 U.S. at 297 (“‘military style’ assault weapons, ... includ[ing] AR-15 rifles, AK-47 rifles, and .50 caliber sniper rifles,” are “both widely legal and bought by many ordinary consumers”); *Staples v. United States*, 511 U.S. 600, 612 (1994) (semi-automatic rifles “traditionally have been widely accepted as lawful”); *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 47 (2022) (not even historical tradition can “justif[y] ... laws restricting ... weapons that are unquestionably in common use today”).

IV. The Length of Time Before the Supreme Court Likely Rules on *Viramontes* Militates Against a Stay.

Defendant vaguely asserts that “[t]he timing and present posture of the proceedings favor a stay.” Mot. at 5. But in fact the opposite is true. Given the timing of the Supreme Court’s certiorari grant, oral arguments could take place in November of this year, with an opinion potentially expected in June of 2027. In other words, Defendant asks this Court to pause litigation for *nearly a year* – at minimum – so that the Supreme Court can rule only as to a subset of the weapons banned here. And in the meantime, the Commonwealth has repeatedly expressed its intent to enforce the Challenged Statutes in every jurisdiction where it can.⁷ Because this Court’s current preliminary injunction reaches only the Virginia State Police, and not other law enforcement entities, there is more than “a fair possibility that the stay for which [Defendant] prays will work damage to some one else” (*Landis*, 299 U.S. at 255) – not only Plaintiff Crump, should he stray into a jurisdiction hellbent on enforcing the Challenged Statutes, but also countless

⁷ Brandon Jarvis, *Attorney General’s Office Says Virginia Assault Weapons Ban Is in Effect Across Most of the State*, Virginia Scope (July 1, 2026), <https://tinyurl.com/4zyhp4rd>.

Virginians, who could be prosecuted by various activist Commonwealth’s Attorneys while this case lies dormant.

V. Because the Commonwealth Anticipates Continuing Spending Judicial Resources to Prosecute Violations of the Challenged Statutes, Defendant Cannot Complain of Spending Resources to *Defend* Their Constitutionality.

Next, Defendant complains that defending the Challenged Statutes pre-*Viramontes* will be a “waste of taxpayer dollars.” Mot. at 6. But the Attorney General already has demanded that Commonwealth’s Attorneys and all law enforcement agencies not named as defendants continue to enforce the Challenged Statutes. Responding to the statements of numerous Commonwealth’s Attorneys who have independently declined to enforce the Challenged Statutes on constitutional grounds, Attorney General Jay Jones recently asserted that “Commonwealth’s Attorneys are elected to enforce our laws, which is what we expect them to do when these laws take effect on July 1.”⁸ Indeed, on July 1, the Attorney General insisted that the Challenged Statutes remain in effect, making the novel claim that they must be enforced in all jurisdictions *except* those where circuit courts have issued injunctions: “[T]he attorney general’s office emphasized that the court orders do not bind individuals or local law enforcement agencies that were not named as defendants in the lawsuits. ‘The new laws remain in force,’ the office said in the update.”⁹

In other words, Defendant’s ‘woe is me’ theatrics about “taxpayer dollars” cannot be believed. The Commonwealth has no compunction about spending *significant* state resources to enforce a law even after this Court and another in Washington County determined the law to likely be unconstitutional. It is rather late in the day for Defendant to argue that the Commonwealth should not at least *defend in this Court* what it insists on *enforcing in other courts*.

⁸ Brandon Jarvis, *Some Commonwealth’s Attorneys Vow to Not Enforce New Gun Ban in Virginia*, *Virginia Scope* (May 25, 2026), <https://tinyurl.com/muapb72n>.

⁹ Brandon Jarvis, *Attorney General’s Office*, *supra*.

VI. Defendant's Additional Arguments About the Costs of Briefing and Trial Preparation Are Unpersuasive.

Next, Defendant expresses concern about the purported time and effort needed for the parties to produce “historical submissions” to assist this Court’s decisionmaking. Mot. at 5. But on the same page, Defendant also claims the opposite – noting that the parties already have “submitted extensive briefing and historical materials, [and] Defendant Katz presented declarations from six subject-matter experts....” *Id.* Since, in Defendant’s telling, much of the work already has been done, it is entirely unclear why it would be a monumental lift for the parties to proceed to summary judgment or to trial. Plaintiffs do not intend to seek discovery. Plaintiffs have no intention of hiring experts or providing a lengthy historical record – that is Defendant’s burden. And while Defendant is free to proffer additional historical materials, there does not appear to be any additional relevant analogue to the Challenged Statutes. Surely Defendant – with his litany of “experts” who have been involved in “assault weapons” ban litigation across the country – would know about them and have offered them by now.

Defendant’s remaining objections fall flat. Defendant seeks to avoid “potentially extensive discovery” (Mot. at 5), but Plaintiffs do not want discovery. Defendant seeks to avoid making further “historical submissions” (*id.*), but Plaintiffs will produce none, and Defendant already has patted himself on the back for the voluminous record he compiled. Defendant seeks to avoid “trial preparation” (*id.*), but this case can be resolved via summary judgment. And Defendant seeks to avoid “dispositive briefing” (*id.*), but such briefing will look largely the same as the filings already submitted. There is, and will be, nothing new under the sun since the preliminary injunction hearing.

At bottom, Defendant’s arguments about costs are meritless. Certainly, the Commonwealth is not concerned about the “taxpayer dollars” that will be spent defending the

Challenged Statutes in court. Nor does the Commonwealth seem perturbed that taxpayer resources will fund the public's own disarmament. Defendant cannot have it both ways. If it is not too expensive and difficult to enforce the law, then neither can it be too expensive and difficult to defend it in court. The Attorney General's office is the largest law firm in the Commonwealth, and it has plenty of lawyers already on staff to handle this case. If Plaintiffs (an individual and advocacy organizations of limited staff and resources) are willing to proceed, the Commonwealth surely can do the same. Defendant has advanced no colorable theory of prejudice to himself should this case proceed.

VII. Given that the Commonwealth Intends to Continue Prosecuting the Challenged Statutes in Every Jurisdiction Without an Injunction, Plaintiffs Are Exposed to Continuing Injury in the Absence of a Final Judgment.

Finally, Defendant claims 'no harm, no foul,' because he "does not seek to suspend, narrow, or reconsider the preliminary injunction," and so "Plaintiffs would therefore retain the practical benefit of the interim relief they obtained." Mot. at 6. Thus, Defendant claims, "[a] stay of further proceedings will not expose Plaintiffs to the injuries they asserted in seeking preliminary relief." *Id.* Not so.

Although Plaintiffs sought relief against "all law enforcement divisions, agencies, and officers" (Compl. Prayer for Relief ¶4), this Court's preliminary injunction protects Plaintiffs only against *Defendant*, not any Commonwealth's Attorneys or other officials that will continue enforcing the Challenged Statutes during the pendency of this lawsuit. Indeed, as explained in Section V, *supra*, the Attorney General "expect[s]" those officials to prosecute gun owners, and many have declined to disavow the Challenged Statutes' enforcement.

Consider the possibility of that happening to Plaintiff Crump. Should he engage in his proposed course of conduct and then travel through a jurisdiction that enforces the Challenged

Statutes on his way home, he very well could be arrested and charged. And then, forced to defend against his criminal charges on constitutional grounds, Plaintiff Crump would point to this Court and *Santolla* as persuasive authorities – forcing him to litigate his entire case *again* while *this one* is stayed. This Court should not bless such an absurd result.

Thus, without a permanent injunction (which might expand relief) or a declaratory judgment (which would apply statewide), Plaintiffs currently benefit from only a patchwork of protection. Indeed, the *Santolla* injunction reaches all law enforcement, but appears to protect only the named plaintiffs in that case.¹⁰ Meanwhile, this Court’s injunction enjoins only one law enforcement entity, but extends protection statewide as to all persons. Add to that scattered disavowals from various local officials, plus Defendant’s recommendation that other law enforcement continue to enforce the Challenged Statutes, and the need for an expeditious final judgment becomes clear.

VIII. Whether the Commonwealth Can Later Prosecute Violations of the Challenged Statutes While a Preliminary Injunction Was in Effect Is an Open Question.

Further demonstrating the need for a final judgment as opposed to an open-ended stay, it is far from clear whether a temporary injunction protects against future enforcement for past conduct that occurred during the injunction’s pendency, should the present injunction ever be dissolved or otherwise vacated. In fact, government counsel *refused* to disavow future prosecutions of violations Defendant is currently enjoined from pursuing. See Exhibit C, July 9, 2026 Email from Defendant’s Counsel to Plaintiffs’ Counsel.

¹⁰ See <https://shared.nrapvf.org/sharedmedia/1512202/2026-va-santolla-amendment-to-letter-opinion.pdf> at 3 (“the injunction imposed by the Court’s prior ruling shall be extended to statewide application and enjoin all law enforcement agencies of the Commonwealth and its localities, to include law enforcement officers as defined in §9.1-101 of the Code of Virginia and Commonwealth Attorneys from enforcement of the provisions of the Bans within all localities and jurisdictions of the Commonwealth”).

As the Supreme Court once recounted, it was “urged that the preliminary injunction issued by the District Court is a complete defense to civil or criminal penalties.” *Edgar v. Mite Corp.*, 457 U.S. 624, 630 (1982). But that appears to be an open question. As the Court noted, “that is not a frivolous question by any means; it is an issue to be decided when and if the [government] initiates an action.” *Id.* For his part, Justice Powell believed that “[n]either the terms of the preliminary injunction nor prior equity practice provides any support for an interpretation of the District Court’s order as a grant of total immunity from future prosecution.” *Id.* at 649 (Powell, J., concurring).

Recently, the Fifth Circuit weighed in, noting in *Braidwood Mgmt. v. Becerra*, 104 F.4th 930 (5th Cir. 2024), that the parties had negotiated a settlement on the theory that “the district court’s injunction was incapable of immunizing them from statutory penalties in the event the district court’s judgment was later vacated or reversed...” *Id.* at 939, *rev’d on other grounds sub nom. Kennedy v. Braidwood Mgmt.*, 606 U.S. 748 (2025). But the question remains open. See Michael T. Morley, *Erroneous Injunctions*, 71 Emory L.J. 1137, 1137 (2022) (emphasis added) (“Once an ... injunction has been reversed, vacated, or dissolved, the government may enforce the challenged legal provision against the plaintiff if it violates that provision in the future. *It is less clear, however, whether the government may similarly prosecute that plaintiff or impose other punitive measures against it for violating the challenged provision while the injunction was in effect. ... [T]he Supreme Court expressly left this issue unresolved in Edgar....*”).

In other words, because the Challenged Statutes have only been *preliminarily* enjoined, the risk remains that Plaintiffs and others might be subjected to future enforcement if this Court’s injunction – which on “its face does nothing more than temporarily restrain conduct” (*Edgar*, 457 U.S. at 651 (Stevens, J., concurring in part and concurring in the judgment)) – were later dissolved.

That is the case not only for Plaintiffs' future actions, but for actions that were taken during the pendency of this Court's injunction. That is cold comfort for Plaintiffs, and it militates against issuance of a stay, and instead for a prompt merits resolution of their claims.

CONCLUSION

For the foregoing reasons, Defendant's Motion should be denied. This case can be expeditiously resolved on cross-motions for summary judgment, without the need for voluminous discovery or significant further exposition of the parties' arguments. Indeed, not much more is needed to convert this Court's preliminary ruling into a durable final judgment – the arguments already have been made, and Plaintiffs' right to relief is clear.

Respectfully submitted,

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

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CERTIFICATE OF SERVICE

The undersigned certifies that, on July 20, 2026, a true and accurate copy of the foregoing Opposition was emailed to the following:

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EXHIBIT A

IN THE SUPREME COURT OF VIRGINIA

COLONEL JEFFREY S. KATZ, in his
official capacity as Superintendent of
the Virginia State Police,

Petitioner/Defendant,

V.

JOHN CRUMP, *et al.*,

Respondents/Plaintiffs.

Record No.: 26-

Emergency Motion to Stay Circuit Court Order Pending Review

Petitioner Colonel Jeffrey S. Katz, in his official capacity as Superintendent of the Virginia State Police, by counsel, moves this Honorable Court to immediately stay the June 30, 2026, Order of the Circuit Court for Lancaster County pending disposition of his forthcoming petition for review under Code § 8.01-626 and Rule 5:17A. Petitioner has informed counsel for Respondents of his intent to file this motion, and Respondents indicated that they will oppose the motion. Rule 5:4(a)(1). Given the time-sensitive nature of this case, Petitioner respectfully requests that the Court waive the 10-day response period in Rule 5:4(a)(2).

INTRODUCTION

This emergency motion arises from an order that halts the Petitioner's enforcement of recently enacted laws that regulate assault firearms and large-capacity magazines statewide. The injunction stops Petitioner Colonel Jeffrey S. Katz, in his official capacity as Superintendent of the Virginia State Police, as well as anyone acting on his behalf, from enforcing these laws. The order expressly creates a conflict—overriding the ruling of a circuit court judge denying an injunction *in his own county*. It overrides the decision of another circuit court not to usurp this Court's power and instead defer to the Court's decision to empanel a trio of judges to determine whether the cases raising the same claims should be consolidated. And it disagrees with the reasoning of the other circuit court that reached a similar conclusion enjoining enforcement. The disparate views of the circuit courts plainly establish that this case presents novel issues that do not warrant the extraordinary relief of an injunction—certainly not one that arrogates statewide power over counties where judges have refused to enter an injunction.

Staying this ultra vires injunction does not require the Court to resolve every question about Art. I, § 13, assault firearms, or large-capacity magazines on an emergency motion. It requires only recognizing that a single circuit court should not suspend enforcement of duly enacted public-safety statutes statewide before this Court has an opportunity for review, especially where another circuit court denied materially similar preliminary relief against the same laws and same defendant only days earlier and yet another circuit court refused to rule on an injunction in light of proceedings regarding consolidation.

The circuit court's ruling rests on multiple serious errors. The court applied no recognized Art. I, § 13 or *Bruen* test when it focused on feature-by-feature lethality and stated that there appeared to be “no rational basis” for the statutory characteristics (the other court that indicated it would grant preliminary relief at least could recognize the rational basis). It treated Art. I, § 13 as effectively controlled by federal Second Amendment doctrine, even though Respondents brought only a state constitutional claim and this Court has cautioned against outsourcing the meaning of Virginia's Constitution to federal courts. It made a sweeping common use finding without a provision-specific analysis and

without grappling with Katz’s expert evidence. And it conducted no historical tradition analysis before enjoining enforcement of an array of criminal, permitting, public-carry, magazine, and forfeiture provisions.

The equitable considerations point the same way. Without a stay, the injunction will disrupt implementation of laws designed to address public-safety risks, inflict sovereign injury by preventing enforcement of presumptively valid statutes, and create confusion among regulated parties, firearm dealers, law-enforcement officers, prosecutors, and the public by leaving a fragmented enforcement regime in place while review proceeds. A stay would preserve both sides’ positions while allowing this Court to determine, on expedited review, whether the preliminary injunction was lawful.

BACKGROUND

The General Assembly enacted, and the Governor signed, laws regulating assault firearms and large-capacity magazines, including SB 749, HB 1524, and HB 217 (“Challenged Laws”). The provisions enjoined by the circuit court include restrictions on importation, sale, manufacture, purchase, transfer, and public carry of defined assault firearms and restrictions on large-capacity ammunition feeding devices,

as well as related disqualification, penalty, and forfeiture provisions. These provisions were set to take effect on July 1, 2026.¹

Respondents filed this action in the Circuit Court of Lancaster County on May 15, 2026, challenging the statutes under Art. I, § 13 of the Constitution of Virginia. They did not bring a federal Second Amendment claim. Respondents sought emergency relief based on asserted future plans to acquire, transfer, receive, and publicly carry covered firearms and magazines. It is one of four pre-enforcement suits filed in circuit courts that assert the unconstitutionality of the Challenged Laws under Virginia’s Constitution.

Petitioner Katz opposed preliminary relief. He argued that Respondents had not satisfied Rule 3:26; that their facial challenge swept beyond any cognizable injury or constitutional violation; that Art. I, § 13 must be interpreted according to its own text, history, ratification record, and placement in Virginia’s Constitution; that large-capacity magazines are accessories rather than protected arms; that assault firearms and

¹ On June 29, 2026, Executive Amendment 14 to HB 30 was signed into law, which delays the effective date of the amendments to Code § 18.2-287.4 prohibiting the public carrying of certain assault firearms until July 1, 2027.

large-capacity magazines are not commonly used for lawful self-defense and are dangerous and unusual; and that Virginia and the Nation have a historical tradition of regulating especially dangerous weapons and accessories.

Following the June 25 hearing, the circuit court orally granted Plaintiffs' motion for a preliminary injunction. Ex. A at 89 (6/25/26 Hearing Tr.). Even though the court held that only one plaintiff (Crump) had standing, it concluded that he was more likely than not to succeed on the merits, that he would face irreparable harm, and that the balance of equities and public interest favored preliminary relief. *Id.* at 81–82, 87, 88–89. The court's merits analysis focused heavily on whether the statutory features increase a firearm's lethality and stated that there appeared to be “no rational basis” for the characteristics listed in the law. Ex. A at 83–88.

The court's order enjoins Katz and his successors, officers, agents, servants, and employees from enforcing the listed provisions of the Challenged Laws. Ex. A at 89. But the court specifically stated that the injunction did not apply to any other law enforcement officer or Commonwealth's Attorney because they were not parties to the case. *Id.*

The preliminary injunction is set to remain in effect until December 31, 2026. *Id.* at 91. The court also denied Katz’s oral motion to stay the preliminary injunction pending appellate review. Ex. A at 48, 81; *see also* Ex. B at 2 (*Crump* Order Granting Preliminary Injunction).

Related litigation confirms that the preliminary posture remains unsettled. Defendant in this case, along with other defendants, filed an application to transfer all state court cases under Code § 8.01-267.4 to one venue. This Court designated a three-judge panel to hear the Application, and that hearing will occur on July 6, 2026. In *Curtis v. Katz*, another circuit court denied preliminary relief *before the ruling here* in a materially similar challenge to the same statutory scheme. Ex. C (*Curtis* opinion); Ex. D (*Curtis* order). The *Curtis* plaintiffs advanced overlapping Art. I, § 13 theories, including an argument that the 1971 amendment created an individual right co-extensive with the Second Amendment and that the challenged firearms and magazines are protected because they are in “common use.” Ex. C at 3. The *Curtis* court denied preliminary relief after concluding that the plaintiffs had not shown likely success on the merits and that the balance of hardships and public interest did not support preliminary interference with laws

enacted by the General Assembly and approved by the Governor. *Id.* at 6. Thus, injunctive relief had been denied in Spotsylvania County by a court of competent jurisdiction, and the order at issue here overrode that decision.

Other cases remain in different procedural postures. In *Santolla v. Katz*, the Circuit Court for Washington County issued a letter opinion indicating that it would grant preliminary relief, although no order has been entered at the time of this filing. Ex. E (*Santolla* opinion). The opinion there acknowledges the rational basis for the Challenged Laws, noting “[t]here should be little doubt that the intent and purpose of these laws are reflective of a laudable goal.” *Id.* at 3. And in *Black v. Commonwealth*, the Circuit Court for Fauquier County declined to reconsider its earlier order removing a preliminary-injunction hearing from the docket pending action by the aforementioned designated three-judge panel, explaining that “the Supreme Court of Virginia has spoken,” that a panel had been designated, and that plaintiffs’ dissatisfaction with the panel’s pace was no basis to undermine the Supreme Court’s directive or the pending panel proceedings. Ex. F at 1 (*Black* order). So two courts have at least indicated an intent to provide injunctive relief, and two

courts have refused to enter an injunction. Yet the injunction here purports to govern the Petitioner's actions all over the Commonwealth—including in the two jurisdictions where judges considered and refused to enter an injunction.

LEGAL STANDARD

A stay pending appeal is an exercise of the Court's equitable discretion. *See Primov v. Serco, Inc.*, 296 Va. 59, 67 (2018). In determining whether to grant a stay, Virginia courts consider the totality of the circumstances, including: (1) the movant's likelihood of success on the merits; (2) whether the movant will suffer irreparable harm absent a stay; (3) whether issuance of the stay will substantially injure other parties; and (4) where the public interest lies. *Jeffrey v. Commonwealth*, 77 Va. App. 1, 13 (2023) (citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

The purpose of a stay is to preserve the status quo and protect the effectiveness of appellate review. A stay is particularly appropriate where denial would render the appeal ineffectual or permit consequences that cannot later be undone. *See, e.g., Akiachak Native Cmty. v. Jewell*, 995 F. Supp. 2d 7, 17 (D.D.C. 2014), *vacated on other grounds as moot*,

827 F.3d 100 (D.C. Cir. 2016). Those principles apply with special force here, where the order prevents the Commonwealth from enforcing statutes duly enacted by the General Assembly and signed by the Governor. And because a preliminary injunction is an extraordinary remedy, courts “should pay particular regard [to] the public consequences” before allowing such relief to remain in place. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (internal quotation marks omitted).

ARGUMENT

I. Katz is likely to succeed on the merits, or at minimum, presents serious questions warranting a stay.

At this stage, Katz need not show that every merits question will ultimately be resolved in his favor. A stay is warranted because the circuit court’s order rests on serious legal errors and because the conflicting rulings among the circuit courts show that Respondents’ entitlement to extraordinary preliminary relief is, at minimum, debatable. *Curtis* involved the same statutory scheme, the same defendant, and overlapping legal theories, including the claim that the challenged firearms and magazines are protected because they are in “common use.” Ex. C at 3. Yet the *Curtis* court denied preliminary relief

after concluding that plaintiffs had not shown a likely constitutional violation. *Id.* at 6. The high threshold for a preliminary injunction has therefore not been met where one circuit court denies preliminary relief in a materially similar challenge to the same laws and another suspends enforcement of those laws through the end of the year on a contested preliminary record.

In any event, the circuit court’s ruling here suffers from several independent merits errors. *First*, the court applied no recognized Art. I, § 13 or *Bruen* test. *Second*, the court purported to treat federal Second Amendment doctrine as controlling despite Respondents’ decision to sue only under the Constitution of Virginia. *Third*, the court contravened federal Second Amendment doctrine as articulated by the U.S. Court of Appeals for the Fourth Circuit and made a broad “common use” finding based on no evidence while ignoring Petitioner’s extensive evidence. *Fourth*, the court failed to conduct the historical tradition analysis that Respondents’ own theory required—an analysis already conducted by the Fourth Circuit in holding that similar Maryland laws did not violate the Second Amendment.

A. The circuit court applied no recognized Art. I, § 13 or *Bruen* test.

The circuit court's merits analysis was far afield from any established method for determining whether firearms legislation violates the right to keep and bear arms. Katz argued below that Art. I, § 13 must be interpreted under Virginia's own constitutional framework, including its text, history, structure, ratification record, and placement in a section devoted to military matters. Respondents argued instead that the court should apply the federal Second Amendment framework from *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022). But while the court paid lip service to *Bruen*, it did not faithfully apply either approach.

Instead, the court charted its own course and focused on whether individual features regulated by the Challenged Laws increase a firearm's lethality. The court concluded that "[t]here appears to be no rational basis for the characteristics listed which would transform a legal firearm into an illegal assault firearm." Ex. A at 87. It further determined that none of the listed characteristics make the covered firearms "more lethal." *Id.* at 84; *see also id.* at 83, 86, 87, 88.

That was legal error. There is no freestanding "lethality" test in Art. I, § 13 jurisprudence or in federal Second Amendment doctrine. The

relevant questions are not whether each statutory feature, viewed in isolation, makes a firearm more lethal. The relevant questions include whether Art. I, § 13 protects the asserted conduct, whether large-capacity magazines are protected arms, whether the regulated firearms and magazines are commonly used for lawful self-defense, whether they are dangerous and unusual, and whether the Challenged Laws are consistent with the relevant historical tradition of regulation.

The court’s rational-basis language compounds the problem. Respondents themselves argued that rational-basis review is unavailable under *Bruen*. But even if rational basis were relevant, the court misapplied it. Rational basis is “the most deferential standard of judicial review.” *Advanced Towing Co., LLC v. Fairfax Cnty. Bd. of Supervisors*, 280 Va. 187, 191 (2010). A legislative judgment may rest on “any reasonably conceivable state of facts” and “rational speculation unsupported by evidence or empirical data.” *Id.* at 191–92 (quoting *FCC v. Beach Communic’ns, Inc.*, 508 U.S. 307, 313–15 (1993)). And *Heller* itself recognized that even the *handgun* ban invalidated there, “like almost all laws, would pass rational-basis scrutiny.” *District of Columbia v. Heller*, 554 U.S. 570, 628 n.27 (2008).

Nor did the court explain what evidence supported its feature-by-feature lethality determinations. Katz presented extensive expert evidence addressing the distinctive risks posed by assault firearms and large-capacity magazines, including increased casualty counts, reduced reload intervals, heightened danger to law enforcement, and the use of features that serve combat-functional ends. The court did not address that un rebutted evidence. That omission itself is clear error given that preliminary injunctions must be based on “credible facts,” Rule 3:26(d)(i), and warrants a stay pending review.

B. The circuit court failed to analyze Art. I, § 13 on its own terms.

Respondents brought this case solely under Art. I, § 13 of the Constitution of Virginia and expressly disclaimed reliance on the Second Amendment. Where the texts of the federal and Virginia Constitutions differ, “interpretations of the former inform but do not necessarily govern the construction of the latter.” *Vlaming v. W. Point Sch. Bd.*, 302 Va. 504, 530 (2023). This Court has warned against “outsourcing to the federal courts” its decision-making authority over the Constitution of Virginia. *Id.* at 564.

Art. I, § 13 differs from the Second Amendment in important respects. It contains the conjunction adverb “therefore,” which links the right-to-keep-and-bear-arms language to the militia clause in a way the federal Second Amendment does not. It appears within a section devoted to military matters. And its operative right-to-keep-and-bear-arms language was added in 1971, with a Virginia-specific ratification history that must be considered on its own terms.

The court instead relied on *DiGiacinto v. Rector & Visitors of George Mason Univ.*, 281 Va. 127 (2011), for the proposition that Art. I, § 13 is co-extensive with the Second Amendment. Ex. A at 85. But *DiGiacinto*’s statement was limited. The Court analyzed the state and federal rights together “for the purposes of this opinion” and “concerning all issues in the instant case.” *DiGiacinto*, 281 Va. at 134. And the actual issue in *DiGiacinto* was whether a public university could regulate firearms on university property. It did not decide whether Art. I, § 13 is categorically co-extensive with the Second Amendment for all purposes, much less whether it protects assault firearms and large-capacity magazines from the Challenged Laws here.

The circuit court therefore erred by treating *DiGiacinto* as dispositive and by failing to analyze Art. I, § 13 according to its own text, history, structure, and ratification context. That independent state constitutional question is substantial by itself and warrants a stay pending review.

C. The circuit court’s common use and historical tradition conclusions are unsupported on this record.

The court also summarily declared that the firearms and magazines regulated by the Challenged Laws are in common use and constitute protected bearable arms. Ex. A at 86. That conclusion is unsupported by the kind of analysis required even under Respondents’ preferred federal framework.

The court did not address Katz’s argument that large-capacity magazines are accessories rather than protected arms. Several federal appellate courts have accepted that position or rejected challenges to comparable restrictions. *See Duncan v. Bonta*, 133 F.4th 852, 867–68 (9th Cir. 2025) (en banc); *Bevis v. City of Naperville*, 85 F.4th 1175, 1195–97 (7th Cir. 2023). Nor did the court meaningfully address Katz’s evidence that the relevant inquiry is common use for lawful self-defense, not raw ownership numbers. The court did not grapple with evidence

that reliable estimates of assault firearm ownership are contested, that the regulated weapons are rarely used in self-defense, and that large-capacity magazines over 15 rounds are rarely needed for lawful self-defense.

The court also failed to engage in *any* historical tradition analysis of firearms regulation. Ex. A at 86. *Bruen* requires the government to justify modern firearm regulations by reference to historical tradition when the plain text covers the conduct at issue. 597 U.S. at 24. Once again, Katz presented evidence that Virginia and the Nation have long regulated especially dangerous weapons and accessories, including weapons used in murders and assaults in the early nineteenth century and later technologies enabling mass-casualty violence. And once again, the court did not take this evidence into account.

Nor did the court address *Bruen*'s recognition that “cases implicating unprecedented societal concerns or dramatic technological changes may require a more nuanced approach” to the historical inquiry, 597 U.S. at 27, or the fact that appellate courts—including the Fourth Circuit, whose ruling is binding on the federal courts in Virginia—that have reviewed the constitutionality of restrictions on assault weapons

and large-capacity magazines have unanimously upheld them. *See, e.g., Bianchi v. Brown*, 111 F.4th 438, 473 (4th Cir. 2024) (en banc); *Capen v. Campbell*, 134 F.4th 660, 663 (1st Cir. 2025); *Hanson v. District of Columbia*, 120 F.4th 223, 248 (D.C. Cir. 2024). In fact, the court’s analysis on this point consisted of one sentence: “[i]t’s unlikely that the government can meet the *Bruen* burden of proof at trial.” Ex. A at 86. That is far from the “careful analysis” long required by this Court when assessing the constitutionality of a statute. *Hall v. Commonwealth*, 188 Va. 72, 78 (1948).

For all of these reasons, when the proper legal framework is applied, Petitioner is likely to prevail on the merits.

II. A stay is necessary to prevent irreparable public and institutional harm, including fragmented enforcement and confusion.

A. The injunction inflicts sovereign and public-safety harms.

The circuit court gave virtually no consideration to whether the Commonwealth and the public would suffer irreparable harm from enjoining enforcement of the Challenged Laws, merely stating that “[t]here is a minimal risk to the nonmovant.” Ex. A at 88. But that conclusion overlooks the practical, sovereign, and public-safety

consequences of barring enforcement of laws enacted by the General Assembly and approved by the Governor. Any time a State is enjoined from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury. *Maryland v. King*, 133 S. Ct. 1, 3 (2012) (Roberts, C.J., in chambers). That principle has particular force where, as here, the Challenged Laws are presumptively constitutional and a circuit court has suspended enforcement on a preliminary record.

The public-safety harms are concrete. Katz's evidence addressed the distinctive risks posed by assault firearms and large-capacity magazines, including increased rounds fired before reloading, higher casualty counts in mass-casualty events, increased danger to law enforcement, and the heightened risks associated with weapons and accessories that enable rapid fire and extended firing without reloading. Preventing enforcement of the Challenged Laws interrupts the General Assembly's public-safety judgment before final adjudication.

Halting enforcement of the Challenged Laws does not preserve the constitutional status quo. The General Assembly made a public-safety judgment that assault firearms and large-capacity magazines present distinctive risks, and Katz's un rebutted evidence documented the

elevated lethality those weapons and accessories bring to mass-casualty events. A preliminary injunction that suspends those laws before final adjudication does not maintain neutrality. It displaces the Commonwealth’s presumptively valid public-safety judgment.

Curtis recognized the same public-safety and institutional harms. The court there acknowledged that plaintiffs’ asserted constitutional injury would be irreparable if they established a likely violation, but held that the asserted injury did not outweigh the potential harm to the Commonwealth and the public. Ex. C at 6. The court emphasized that the Challenged Laws were enacted by the General Assembly and approved by the Governor to promote public safety, and that preventing implementation “even for a short period creates a risk of harm greater than those posed to the Plaintiffs.” *Id.* The circuit court here reached the opposite balance after giving those harms almost no weight. Ex. A at 88. That imbalance warrants a stay.

B. The partial injunction creates fragmented enforcement and public confusion.

The injunction also creates substantial practical confusion. It binds Katz, his successors, officers, agents, servants, and employees, but it does not bind independent Commonwealth’s Attorneys, sheriffs, local police

departments, or other law-enforcement officials who are not parties and do not act on Katz's behalf. The result is not a clear statewide rule, but a fragmented and uncertain enforcement regime.

Courts recognize that confusion is relevant to the stay inquiry. In *Project Vote/Voting for Am., Inc. v. Long*, 275 F.R.D. 473, 475 (E.D. Va. 2011), the court considered whether a stay would mitigate a likelihood of confusion. The same concern applies here. That concern is heightened by related proceedings involving the same laws in different procedural postures: *Curtis* denied preliminary relief, *Santolla* issued a letter opinion indicating that preliminary relief would be granted, and *Black* is proceeding before a designated three-judge panel after the Fauquier Circuit Court declined to disturb this Court's directive or the panel's pending consideration. Exs. C, D, E, F. Without a stay, regulated parties will be forced to navigate months of uncertainty about whether VSP-administered transactions may proceed while many independent local prosecutors and law-enforcement officials may still enforce the same laws.

III. The balance of harms and public interest favor preserving enforcement pending review.

The balance of harms and public interest strongly favor a stay. The public has an interest in implementation of laws enacted by its representatives and approved by the Governor unless and until those laws are held invalid. The Challenged Laws are presumptively constitutional, and “any reasonable doubt regarding a statute’s constitutionality” must be resolved “in favor of its validity.” *Montgomery Cnty. v. Va. Dep’t of Rail & Pub. Transp.*, 282 Va. 422, 435 (2011) (internal quotation marks omitted). The fact that the Challenged Laws were enacted to protect public safety only strengthens that conclusion. Absent the showing Rule 3:26 requires, the public interest favors allowing those laws to remain enforceable while appellate review proceeds.

The breadth of the injunction reinforces the need for a stay. The order enjoins enforcement of an array of criminal, permitting, disqualification, public-carry, large-capacity-magazine, and forfeiture provisions through December 31, 2026, without requiring a bond. Ex. B. Respondents sought facial relief against an entire statutory scheme, but Katz argued below that at least some applications are plainly

constitutional. Even if some narrower preliminary relief could be justified, the public interest does not favor maintaining an order that suspends broad public-safety laws beyond any provision-specific showing made on this record.

Respondents face no comparable injury from a temporary stay pending expedited review. The Challenged Laws do not prevent Crump from possessing covered firearms he already lawfully owns. They do not prevent him from using lawful alternative firearms for self-defense. At most, a stay may delay his ability to acquire, transfer, receive, or publicly carry additional covered items while this Court reviews the preliminary injunction. That temporary and limited hardship does not outweigh the Commonwealth's sovereign and public-safety harms, nor the public confusion created by fragmented enforcement.

Nor does the assertion of constitutional rights automatically resolve the public-interest inquiry. Respondents have not established significant harm in a few months' delay to buying a new weapon designed to inflict mass-casualty violence, and the new open carry law does not take effect until 2027. A stay would preserve both sides' positions. Respondents' claims will remain fully reviewable, and if they ultimately prevail,

appropriate relief can be granted. *See Winter*, 555 U.S. at 32–33; *Cangiano v. LSH Bldg. Co.*, 271 Va. 171, 179 (2006) (grant of equitable relief lies within the court’s discretion upon a finding of entitlement). But without a stay, the Commonwealth and the public will be forced to operate for months under a fragmented and uncertain enforcement regime before this Court has decided the merits.

CONCLUSION

For the foregoing reasons, the Court should stay the injunction ordered by the circuit court in this matter.

Respectfully submitted,

COLONEL JEFFREY S. KATZ, in his
official capacity as Superintendent of the
Virginia State Police

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CERTIFICATE OF SERVICE

On July 2, 2026, this document was electronically filed with the
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EXHIBIT B

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

IN RE:

***Santolla et al. v. Katz et al.*, No. CL26001139-00 (Washington County)**

***Crump et al. v. Katz et. al.*, No. CL26000201-00 (Lancaster County)**

***Curtis et al. v. Katz et. al.*, No. CL26002454-00 (Spotsylvania County)**

***Black et al. v. Hook*, No. CL26000241-00 (Fauquier County)**

**CRUMP PLAINTIFFS' REPLY IN OPPOSITION TO APPLICATION FOR
ORDER TO TRANSFER PURSUANT TO VA. CODE § 8.01-267.4**

Applicants' brief is a case study on shifting the goalposts while ignoring the underlying legal test that must be met prior to any consolidation. For the reasons already provided in the *Crump* plaintiffs' opposition, and for the additional reasons below, this Court should deny the Application.

ARGUMENT

A. Applicants Change Their Arguments, but Still Fail to Justify Consolidation.

Applicants insist that the *Crump*, *Santolla*, *Curtis*, and *Black* Challenges to Virginia's unprecedented ban on popular firearms and ammunition magazines all "involve common questions of law and fact, and arise out of the same transaction, occurrence or series of transactions or occurrences...." Brief of Defendant Commonwealth of Virginia, Superintendent Katz, and Commonwealth Attorney Defendants Spicer, Barr, Hamel & Reid in Support of Application to Transfer Pursuant to Va. Code § 8.01-267.4 ("Br.") at 4. But in support of that claim, Applicants have changed many of the arguments they originally made in their Application. *See* Application for Appointment of Circuit Court Panel and Order to Transfer Pursuant to Va. Code § 8.01-267.4 ("App."). Even so, none of Applicants' new arguments is availing.

First, Applicants previously claimed that the Challenges “arise from the same Act” (App. at 5), whereas now they claim that the Challenges “all challenge the same Law(s)” (Br. at 5). But that is simply incorrect. Only *Crump* and *Santolla* challenge SB727 (Va. Code § 18.2-287.4), which bans the *public carry* of “assault firearms” as opposed to merely their acquisition and disposition. See *Crump* Plaintiffs’ Opposition to Application for Order to Transfer Pursuant to Va. Code § 8.01-267.4 (“Crump Opp.”) at 5. *Curtis* and *Black* do not challenge that law.

Second, Applicants previously claimed the Challenges “assert that the Act violates the same constitutional provision” (App. at 5), whereas now they claim that the Challenges “allege *identical legal theories*” (Br. at 5, emphasis added).¹ But as the *Crump* plaintiffs already explained, *Black* uniquely raises a Second Amendment claim, and the remaining Challenges proceed under Article I, Section 13, while *Curtis* uniquely proceeds predominantly under Section 13’s Militia Clause. *Crump Opp.* at 5-6. Those are hardly “*identical legal theories*.” Indeed, Applicants do not even believe their own claim, later conceding that the plaintiffs each raise their “own unique or *novel legal theories*.” Br. at 8 (emphasis added). Even so, Applicants demur that “divergence of legal theories does not obviate that they all raise the same legal question....” *Id.*

But that just shifts the goalposts. It was Applicants who first claimed the Challenges’ legal theories were “identical,” but now apparently agree that they are not. Ultimately, however, each of the Challenges raises different questions, not only of law but also of *fact*. Unsurprisingly, Applicants ignore the Challenges’ different and unique factual underpinnings – a point the *Crump* plaintiffs already briefed. See *Crump Opp.* at 4-7.

¹ Curiously, Applicants then list the purportedly “identical legal theories” as separated by an “or.” Br. at 5. But if all the Challenges raised the same theories, Applicants would have listed them using an “and.”

Third, Applicants attempt to alter the statutory standard, demurring that, if the cases were consolidated, no set of plaintiffs would be required to “waive or disclaim any of their unique theories or arguments.” Br. at 8. But that is not the test for consolidation. The question is whether common questions *predominate*. See Crump Opp. at 6. If waiver or disclaimer were the controlling standard, then four entirely different cases – one tort, one property, one criminal, and one constitutional – theoretically could be consolidated and transferred to the same court, so long as none of the litigants was required to “waive or disclaim” something.

Fourth, Applicants claim that “the existence of distinct theories for distinct plaintiffs should not defeat a transfer.” Br. at 8. But Applicants cite no authority for that proposition, because the opposite is the case – differing facts, claims, and legal theories make the cases *distinct*, not the same. Again, these Challenges do not all arise from the same proverbial plane crash. The plaintiffs “are, at best, the separate victims of different accidents with different causes, even if the same company made each plane.” Crump Opp. at 7.

Fifth, Applicants previously claimed only that the Challenges all “request a judgment *declaring* the Act unconstitutional” and “request *injunctive* relief.” App. at 5. Of course, that is hardly a feature supporting consolidation, since *every* constitutional challenge involves a request for that sort of relief. A free speech case is not consolidated with a right to keep and bear arms case merely because both seek declaratory and injunctive relief.

Apparently realizing the weakness of their prior claim, Applicants now go further, claiming that the Challenges “seek the *exact same relief*.” Br. at 5 (emphasis added). But that is demonstrably untrue, and the proof is in the pudding. The *Crump* plaintiffs not only *sought* but already have *obtained different relief* compared to the other Challenges – a preliminary injunction against Defendant Katz and the Virginia State Police only, as opposed to the *Santolla* injunction,

which additionally binds certain Commonwealth’s Attorneys. Moreover, the Challenges each seek unique relief – only *Crump* and *Black* additionally raise vagueness claims, for example, each on different grounds. *See Crump Opp.* at 5.

Sixth, Applicants point to federal “courts addressing multiple suits challenging new gun regulations,” which “consolidated those matters....” Br. at 5; *see also id.* n.5. But Applicants’ comparison fails spectacularly, for two reasons. First, each of Applicants’ federal examples involved the consolidation of similar cases filed *in the same federal district*. In contrast, the Challenges were filed in *four* different circuit courts located in *three* different judicial districts (15, 20, and 28) across the Commonwealth. And second, most of Applicants’ examples (Oregon, New Jersey, District of Columbia) involved cases filed in jurisdictions covered by just *one federal district court*. Nor does the remaining “D. Ill. [sic, S.D. Ill.]” (Br. at 5 n.5) *Barnett* case support Applicants. Each of the cases consolidated with *Barnett* was filed in the same *Southern District* of Illinois. *See Barnett v. Raoul*, 756 F. Supp. 3d 564 (S.D. Ill. 2024). Meanwhile – tellingly – *Bevis v. City of Naperville*, 657 F. Supp. 3d 1052 (N.D. Ill. 2023), a similar *Northern District* case, *was not consolidated* with the Southern District cases, despite its similarity. Applicants’ federal cases thus prove intra-district consolidation – but not inter-district consolidation. Appellants hoist themselves by their own petard.

B. Applicants Reiterate Their Other Arguments, Which Still Fail.

Next, Applicants simply regurgitate that the supposedly “common questions of law and fact” presented by the Challenges “predominate and are significant to the actions.” Br. at 6. But Applicants do not engage with the *Crump* plaintiffs’ arguments to the contrary, which need not be repeated here. *See Crump Opp.* at 6-7.

C. Consolidation and Transfer Would Prejudice the Plaintiffs at This Stage.

Previously, Applicants claimed the Challenges were all “in the same relative stage....” App. at 6. But now, *three* hearings have been held with *three* different results,² and so all Applicants can now say is that the Challenges “are in early stages.” Br. at 6. But that is no reason to disrupt the plaintiffs’ constitutional challenges solely for the Commonwealth’s benefit. The toothpaste is out of the tube.

Next, Applicants oppose potentially “duplicative and inconsistent rulings” and the prospect that public employees may have to travel to defend the Challenged Statutes. Br. at 6, 7. But these arguments are merely copy-pasted from the Application, and they fail for the reasons already briefed. *See Crump Opp.* at 8, 2-3.

Applicants’ accusation that the *Crump* plaintiffs made an “unsupported assertion” is similarly unavailing. Br. at 7 n.6. Applicants dispute that the Challenges “will not require the Superintendent’s personal involvement at multiple distant courthouses” (*Crump Opp.* at 9), claiming such argument is “unsupported” (Br. at 7 n.6). To the contrary, the *Crump* plaintiffs supported their assertion with years of their *own litigation experience*, wherein “*never once* has the Superintendent (or his designee) been deposed, testified, or otherwise been required to be present for any proceeding.” *Crump Opp.* at 9. And in any case, the *Crump* plaintiffs are willing and able to take any depositions and to conduct all discovery in Richmond, if it would mean the *Crump* case could proceed in Lancaster County as originally filed.

Finally, Applicants at long last attempt to address *Plaintiffs’* interests – after entirely neglecting such analysis in their Application. *See Crump Opp.* at 9-10. But Applicants’ argument

² The *Curtis* motion for preliminary injunction was denied, while the *Crump* and *Santolla* motions for preliminary injunction were granted as to different defendants.

that “Plaintiffs will not be prejudiced” boils down to Applicants’ request for a “central forum most geographically convenient to all parties.” Br. at 7. But being forced to travel to a courthouse *other than of their choosing* – even if in a purportedly “central” location – does not show that the plaintiffs *will not be prejudiced*, as the Crump plaintiffs already explained. *See* Crump Opp. at 9-11. Moreover, Applicants previously suggested consolidation and transfer to Lancaster or Spotsylvania Counties (App. at 7) – a request that Applicants seemingly abandon now in favor of a more open-ended request (Br. at 7-8). It seems that Applicants simply would prefer transfer to the jurisdiction *where they are most likely to win*. That is not the purpose of the consolidation statute, and this Court should not indulge Applicants’ self-serving request.

CONCLUSION

For the foregoing reasons, the Application should be denied.

Respectfully submitted,

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

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CERTIFICATE OF SERVICE

The undersigned certifies that, on July 1, 2026, a true and accurate copy of the foregoing

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EXHIBIT C

David Browne

From: Nygaard, Gretchen E. <GNygaard@oag.state.va.us>
Sent: Thursday, July 09, 2026 7:10 PM
To: David Browne; wjo@mindspring.com; oliver@amblerlawoffices.com; gilbert@amblerlawoffices.com; Rob Olson
Cc: Hedblom, Jacqueline C.; Brown, Calvin C.; Claiborne, Jr., Robert S.; Burgess, Pebbles L.; Fallon, Ethan P.; Taylor, R. Trent
Subject: RE: Crump v. Katz - Response Requested

Thanks David,

As to Item 1, I do not see an issue with agreement to a time frame on the end of any stay.

On Items 2-3, we cannot agree to bind individuals that are not a party to this case. However, given the statewide injunction in Washington County, I do not believe you need to seek that from this Court. I can inform you that we have made this same representation to all Plaintiffs in these pending cases – including that we will not be appealing the Washington County injunction during the pendency of any stay.

Thank you,
Gretchen

From: David Browne <dbrowne@sblawva.com>
Sent: Thursday, July 9, 2026 7:04 PM
To: Nygaard, Gretchen E. <GNygaard@oag.state.va.us>; wjo@mindspring.com; oliver@amblerlawoffices.com; gilbert@amblerlawoffices.com; Rob Olson <robert.jeffrey.olson@gmail.com>
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Subject: RE: Crump v. Katz - Response Requested

Gretchen,

We are still reviewing your e-mail with some of our stakeholders, but we wanted to propose a tentative plan that we would then have to get approved. The parties would present a consent order to the Circuit Court effecting the following terms:

1. The case, including the Commonwealth's deadlines for responsive pleadings and all discovery, is stayed until 14 days after the Supreme Court decides Viramontes, unless extended, dissolved, modified, or enlarged by further order.
2. The preliminary injunction will be modified such that it enjoins the Commonwealth of Virginia, and all law enforcement divisions, agencies, officers, and Commonwealth's Attorneys, from enforcing the Challenged Statutes during that time period.
3. The Commonwealth of Virginia, and all law enforcement divisions, agencies, officers, and Commonwealth's Attorneys, would be permanently enjoined from enforcing the Challenged Statutes as to any person, activity, action, conduct, or item, for any violation of any of the Challenged Statutes that occurred during the period that the preliminary injunction was in effect.

Please let us know whether this tentative framework would be agreeable, if we are able to get it agreed to on our end. Absent this agreement, we intend to oppose the motion to stay the case, and will move for summary judgment in the very near future.

Thank you,

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Subject: Crump v. Katz - Response Requested

Good afternoon counsel,

Given the Supreme Court's June 30, 2026 grant of cert in *Viramontes v. Cook County* and *Grant v. Higgins* (challenging assault weapons bans in Connecticut and Cook County Illinois), the OAG plans to file a motion to stay the proceedings in this case pending the Supreme Court's ruling. We do not plan to appeal the PI entered in this case – as in, the PI would remain place during the stay we seek. Further, tomorrow, we plan to withdraw our motion to stay the PI pending appeal currently before the SCV.

Thank you for responding whether you would oppose this motion. In order to prepare our filing in advance of court closures, thank you for your response by 2pm tomorrow.

Best,
Gretchen



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