

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

BLAKE BEELER, et al.,

Plaintiffs,

v.

JEFF LONG,

Defendant.

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No. 3:21-cv-152

Judge Katherine A. Crytzer

Magistrate Judge Debra C. Poplin

**JOINT MOTION TO APPROVE SETTLEMENT AGREEMENT AND
CONTINGENT MOTION FOR DISMISSAL**

The Parties hereby jointly request that this Court approve their mutually agreed settlement and compromise, entitled “Settlement Agreement and Release of Liability” (attached as **Exhibit 1**), solely to retain ancillary jurisdiction for future enforcement. Upon such approval, the parties request dismissal of this action with prejudice.

RELEVANT PROCEDURAL BACKGROUND

On February 15, 2023, this Court held a status conference, and at its conclusion, stayed this action for thirty days to permit the Parties to consider the issues discussed at the conference, specifically those related to resolution of this case. (D.E. 45.) On March 17, 2023, the Parties filed a “Joint Notice of Settlement Agreement” (D.E. 48), indicating that they had reached agreement resolving this case, and requested until March 24, 2023, to submit additional documentation to resolve the case in accordance with the terms of the settlement agreement. On March 20, 2023, the Court granted the Parties’ request and set a deadline of March 24, 2023, for the Parties to either “(1) file an agreed stipulation under Federal Rule of Civil Procedure

41(a)(1)(A)(ii) or (2) submit an agreed order of dismissal under E.D. Tenn. ECF Rule 4.8.” (D.E. 49.)

LEGAL STANDARDS

The doctrine of ancillary jurisdiction allows federal courts to exercise jurisdiction “over some matters (otherwise beyond their competence) that are incidental to other matters properly before them.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 380 (1994). It allows federal courts to retain jurisdiction over a settlement once the underlying case has been dismissed, for the purpose of enforcing the terms of the settlement. *See id.*

Interpreting *Kokkonen*, the Sixth Circuit has explained that a Court need only include a reasonable indication in its dismissal order that it intends to retain jurisdiction:

Examining the provision-retaining-jurisdiction language of *Kokkonen*, we have held that the Supreme Court's ruling in that case “requires [only] a reasonable indication that the court has retained jurisdiction, ‘such as a provision “retaining jurisdiction” over the settlement agreement.’” Moreover, we have cited with approval the rulings of sister circuits adhering to the broader interpretation of the *Kokkonen* language, including the Fifth Circuit's holding in *Bell v. Schexnayder*, 36 F.3d 447, 448 (5th Cir.1994), “that the district court had properly retained jurisdiction by including language in its dismissal order that gave the parties the right to reopen the judgment if a settlement was not consummated within sixty days.” *RE/MAX*, 271 F.3d at 643 (footnote omitted).

Moore v. U.S. Postal Serv., 369 F. App'x 712, 716 (6th Cir. 2010) (citing *RE/MAX Int'l, Inc. v. Realty One, Inc.*, 271 F.3d 633, 641 (6th Cir. 2001)).

RELIEF REQUESTED

The Parties respectfully request the Court approve their Settlement Agreement (“Agreement”), dismiss this case with prejudice, and retain ancillary jurisdiction for the purpose of enforcing the terms of the Agreement.

In their original efforts to resolve this litigation, the Parties proposed an agreed order for approval by the Court. (D.E. 41, 41-1.) That proposed order was placed in abeyance (D.E. 45), and during discussions with the Court at the February 15, 2023 status conference, the Parties and the Court discussed “a . . . way for the Court to enter an order agreeing to enforce the parties’ settlement agreement but also to retain jurisdiction” (February 15, 2023, Transcript, 21:21-23 (attached as **Exhibit 2**).)

With that discussion in mind, the Parties negotiated and executed the attached Agreement, which provides that the Parties “will file this [Agreement] in the [litigation] seeking dismissal of the [litigation] and jointly requesting that the Court retain jurisdiction for the sole purpose of enforcing this [Agreement]” (Exhibit 1 § III.6.)

The Court’s March 20, 2023, Order contemplates dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) or an agreed order of dismissal under E.D. Tenn. ECF Rule 4.8. (D.E. 49.) The Parties are not able to utilize Rule 41(a)(1)(A)(ii) because it operates as an immediate dismissal, which would not take into account the request above that the Court retain jurisdiction. Plaintiffs must also ensure that a dismissal does not foreclose a motion for attorneys’ fees. Therefore, the Parties suggest an order pursuant to either Rule 41(a)(2) or ECF Rule 4.8.

Rule 41(a)(2) provides that an action may be dismissed at a “plaintiff’s request by Court order, on terms that the court considers proper” With that in mind, the Parties jointly request that the Court dismiss this action **with prejudice** and enter an order of dismissal that provides for the Court’s ancillary jurisdiction and the opportunity for Plaintiffs to file a motion for attorneys’ fees.

To the extent that ECF Rule 4.8 is a more appropriate vehicle to accomplish these tasks, the Parties submit a Proposed Order (**Exhibit 3**) pursuant to ECF Rule 4.8 should the Court wish to enter it in lieu of an order pursuant to Fed. R. Civ. P. 41(a)(2).

Respectfully Submitted,

s/ Jay L. Johnson
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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed electronically and served through the electronic filing system on this the 24th day of March 2023, upon the following:

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Counsel for Plaintiffs

s/ Miranda Jones
Miranda Jones

SETTLEMENT AGREEMENT AND RELEASE OF LIABILITY

It is the intent of the parties to this Settlement Agreement and Release of Liability (the “AGREEMENT”) to fully settle all claims and potential claims against the State of Tennessee, including its employees, agents, agencies, and instrumentalities (collectively, the “STATE”), that relate to or arise out of the complaint and lawsuit filed by Firearms Policy Coalition (“FPC”), Blake Beeler (“BEELER”), and Logan Ogle (“OGLE”) (collectively, “PLAINTIFFS”) against Jeff Long (“DEFENDANT”), in his official capacity as Commissioner of the Tennessee Department of Safety and Homeland Security, captioned *Beeler, et al. v. Long*, Case No. 3:21-cv-00152 (E.D. Tenn.)

I. ADDITIONAL DEFINITIONS

The “LITIGATION” is defined to mean the lawsuit captioned *Beeler, et al. v. Long*, Case No. 3:21-cv-00152 (E.D. Tenn.)

The “PARTIES” to this Agreement is defined to mean FPC, BEELER, OGLE, and LONG.

The “CLAIMS” this Agreement resolves is defined to mean any and all actual or potential claims that have been brought or could have been brought in the LITIGATION, or that in any way relate to the LITIGATION.

The “CHALLENGED FRAMEWORK” is defined to mean any enforcement of Tenn. Code Ann §§ 39-17-1307(a)(1), (a)(2), (g)(1), 39-17-1351(b)-(c), and 1366(b)(3), and—to the extent they exist—any related regulations, policies, procedures, practices, and customs that DEFENDANT may administer, implement, and/or enforce pursuant to Tenn. Code Ann §§ 39-17-1307(a)(1), (a)(2), (g)(1), 39-17-1351(b)-(c), and 1366(b)(3) in order to restrict individuals aged eighteen years old to twenty years old from carrying handguns or obtaining permits to carry handguns on the basis of age alone. The CHALLENGED FRAMEWORK does not encompass any enforcement of Tenn. Code Ann §§ 39-17-1307(a)(1), (a)(2), (g)(1), 39-17-1351(b)-(c), and 1366(b)(3), and any related regulations, policies, procedures, practices, and customs that DEFENDANT administers, implements, and/or enforces pursuant to Tenn. Code Ann §§ 39-17-1307(a)(1), (a)(2), (g)(1), 39-17-1351(b)-(c), and 1366(b)(3), that restricts individuals from carrying handguns or obtaining permits to carry handguns for some reason or reasons other than *age alone*.

II. BACKGROUND

The PARTIES, having reached agreement, state the following background facts in support of this AGREEMENT:

1. Prior to the filing of this LITIGATION, DEFENDANT, in his official capacity as Commissioner of the Tennessee Department of Safety and Homeland Security, actively enforced, administered, or implemented laws, and—to the extent they exist—any related regulations, policies, procedures, practices, and customs, regulating the possession and carrying of handguns

that restricted individuals aged eighteen years old to twenty years old from carrying handguns or obtaining permits to carry handguns on the basis of age alone.

2. On April 22, 2021, PLAINTIFFS filed their complaint in this action. On September 6, 2022, PLAINTIFFS filed their First Amended Complaint to declare unconstitutional and enjoin the CHALLENGED FRAMEWORK. PLAINTIFFS argued that, on account of their age alone, the CHALLENGED FRAMEWORK made them categorically ineligible for an enhanced handgun carry permit under Tenn. Code Ann. § 39-17-1351 or a concealed handgun carry permit under Tenn. Code Ann. § 39-17-1366, categorically ineligible for any permitless carry under Tenn. Code Ann. § 39-17-1307, and otherwise generally barred them from exercising the full scope of public carry rights they would otherwise be entitled to exercise.

3. The CHALLENGED FRAMEWORK regulating the possession and carrying of handguns restricts individuals aged eighteen years old to twenty years old from carrying handguns or obtaining permits to carry handguns on the basis of age alone.

4. The United States Supreme Court issued its decision in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 213 L. Ed. 2d 387, 142 S. Ct. 2111 (2022), on June 23, 2022.

5. The parties agree that the CHALLENGED FRAMEWORK violates the Second and Fourteenth Amendments to the United States Constitution.

III. TERMS OF AGREEMENT

1. DEFENDANT, in his official capacity as Commissioner of the Tennessee Department of Safety and Homeland Security, as well as his officers, agents, employees, and all others acting under his direction and control, will not implement or enforce the CHALLENGED FRAMEWORK to prevent individuals aged eighteen years old to twenty years old from carrying handguns or obtaining permits to carry handguns on the basis of age alone.

2. DEFENDANT, in his official capacity as Commissioner of the Tennessee Department of Safety and Homeland Security, shall provide a copy of this AGREEMENT to the Tennessee District Attorneys General Conference, the Tennessee Sheriffs' Association, and the Tennessee Association of Chiefs of Police.

3. DEFENDANT, in his official capacity as Commissioner of the Tennessee Department of Safety and Homeland Security, shall implement any and all procedures necessary to accept and review enhanced handgun carry permit applications under Tenn. Code Ann. § 39-17-1351 and concealed handgun carry permit applications under Tenn. Code Ann. § 39-17-1366 submitted by individuals aged eighteen years old to twenty years old and shall not deny issuance of such a permit on the basis of age alone. This provision shall be satisfied by the implementation of an application acceptance, processing, and permit issuance system that allows for acceptance of permit applications and issuance of permits, and any associated training to employees who interface with or otherwise implement the system and application process.

4. DEFENDANT, in his official capacity as Commissioner of the Tennessee Department of Safety and Homeland Security, shall, no later than ninety days from the Court's ruling on retaining jurisdiction as contemplated in Section III.6, begin processing enhanced handgun carry permit applications under Tenn. Code Ann. § 39-17-1351 and concealed handgun carry permit applications under Tenn. Code Ann. § 39-17-1366 received from individuals aged eighteen years old to twenty years old. DEFENDANT shall issue the requested permits in a time and manner that is equivalent or substantially similar to the time and manner for issuance of permits to qualified applicants who are 21 years of age or older.

5. DEFENDANT, in his official capacity as Commissioner of the Tennessee Department of Safety and Homeland Security, agrees that PLAINTIFFS may file an unopposed motion pursuant to 42 U.S.C. § 1988(b) in the LITIGATION for an award of attorneys' fees and costs in the amount of \$47,250.00.

6. Within fifteen days after execution of this AGREEMENT, the PARTIES will file this AGREEMENT in the LITIGATION, seeking dismissal of the LITIGATION and jointly requesting that the Court retain jurisdiction for the sole purpose of enforcing this AGREEMENT against the PARTIES. The rights and benefits conferred by this AGREEMENT, and the promises made herein, are enforceable only by the PARTIES to this agreement, but not by any third-party or collateral beneficiary, whether known or unknown, nor by any party in privity with the PARTIES.

7. This AGREEMENT is a final and conclusive resolution of the LITIGATION. All unadjudicated damages, injuries, claims, demands, or causes of action—known or unknown—arising from, related to, or in any way connected to the LITIGATION, that have accrued through the date of this AGREEMENT, that were or could have been brought by the PARTIES, their privies, or their agents, whether current or former, in their official and individual capacities, against one another, shall be deemed released, waived, dismissed, withdrawn, and/or denied as moot, except as may be necessary to enforce the terms of AGREEMENT., provided, however, that, consistent with Section III.8, nothing in this AGREEMENT shall preclude DEFENDANT, PLAINTIFFS or FPC from bringing an action to enforce the terms of this AGREEMENT.

8. Before initiating any action to enforce the terms this AGREEMENT for an alleged violation, PLAINTIFFS shall notify DEFENDANT and attempt to discuss the alleged violation with DEFENDANT and shall further allow DEFENDANT a reasonable time, which shall in no event exceed 30 days from DEFENDANT'S receipt of notice of an alleged violation, to cure the alleged violation. Further, any action to enforce the terms of this AGREEMENT shall be limited to the PARTIES, and not by any third-party or collateral beneficiary, whether known or unknown, nor by any party in privity with the PARTIES.

SIGNATURE PAGE FOLLOWS



BLAKE BEELER

Date: 3-16-23

LOGAN OGLE

Date:

WILLIAM SACK
FIREARMS POLICY COALITION

Date:

JEFF LONG
*In his Official Capacity as Commissioner
Of the Department of Safety and Homeland
Security and on behalf of the State of Tennessee*

Date:

BLAKE BEELER

Date:



LOGAN O'LEARY



Date:

WILLIAM SACK
FIREARMS POLICY COALITION

Date:

JEFF LONG
*In his Official Capacity as Commissioner
Of the Department of Safety and Homeland
Security and on behalf of the State of Tennessee*

Date:

BLAKE BEELER

Date:

LOGAN OGLE

Date:



BRANDON COMBS
FIREARMS POLICY COALITION, INC.

March 17, 2023

Date:

JEFF LONG

*In his Official Capacity as Commissioner
Of the Department of Safety and Homeland
Security and on behalf of the State of Tennessee*

Date:

BLAKE BEELER

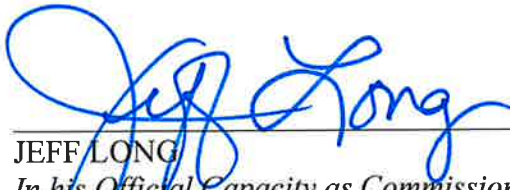
Date:

LOGAN OGLE


Date:

BRANDON COMBS
FIREARMS POLICY COALITION

Date:



JEFF LONG
*In his Official Capacity as Commissioner
Of the Department of Safety and Homeland
Security and on behalf of the State of Tennessee*



Date: