

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

No. 23-1900

RONALD KOONS et al.,
Plaintiffs-Appellees,

v.

MATTHEW J. PLATKIN et al.,
Defendants-Appellants

AARON SIEGEL et al.,
Plaintiffs-Appellees,

v.

MATTHEW J. PLATKIN et al.,
Defendants-Appellants

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
(Nos. 22-cv-7463, 22-cv-7464 (RMB))

Uncontested Motion to Expedite Appeal

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INTRODUCTION

Defendant-Appellants—the New Jersey Attorney General and Superintendent of State Police—file this motion under L.A.R. 4.1, seeking expedited consideration of this appeal from the district court’s opinion and order preliminarily enjoining enforcement of portions of P.L. 2022 N.J. Laws ch. 131 (“Chapter 131”). *See Koons v. Platkin*, No. 22-7464, Docket Entry (D.E.) 124, 125.¹ This appeal warrants expedited consideration because the preliminary injunction interferes with a critical public-safety tool adopted by the New Jersey Legislature.

All parties have consented to expedited consideration of this appeal on the agreed-upon timeline below. *See infra* at 4.

BACKGROUND

On December 22, 2022, New Jersey enacted Chapter 131 to update its public-carry laws in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022). Chapter 131 eliminated the “justifiable need” standard for a carry permit that had been invalidated by *Bruen*. The law updated other aspects of the permitting process, including the number character references, modifying certain disqualifiers, and adjusting permitting fees to account for inflation. *See* Ch. 131 §§ 1(i), 2, 3. Further, Chapter 131 designated certain “sensitive places” where civilian carry of firearms is prohibited, and prohibited carry in vehicles unless unloaded and

¹ Unless otherwise stated, docket entries refer to *Koons*, No. 22-7464.

secured. *Id.* §§ 7(a)(1)-(23); 7(b)(1). It also enacted a rule that individuals cannot carry firearms within another’s private property without that owner’s consent. *Id.* § 7(a)(24). Certain portions of the law have yet to take effect, including a requirement to obtain liability insurance before carrying a firearm in public. *Id.* § 4.

On the same day Chapter 131 was signed into law, two separate challenges were filed against the new legislation: *Siegel v. Platkin*, No. 22-7463 and *Koons v. Platkin*, No. 22-7464. Both actions sought a temporary restraining order (TRO) and preliminary injunction (PI). *Siegel* D.E. 4; *Koons* D.E. 8. On January 13, *Siegel* was consolidated into the *Koons* docket. D.E. 50.

On January 9, 2023, the district court granted a TRO in *Koons*, enjoining enforcement of the prohibition on concealed carry in several “sensitive places”: section 7(a)(12) (public libraries and museums); (a)(15) (places that serve alcohol); and (a)(17) (entertainment facilities). The court also enjoined section 7(a)(24), the private-property rule, and § 7(b)(1), the vehicle regulation. *Koons* D.E. 35. On January 30, the court issued a TRO in the *Siegel* case, covering each of the provisions enjoined in *Koons*, and adding injunctions as to section 7(a)(10) (parks, beaches, recreational facilities, exclusive of playgrounds) and 7(a)(18) (casinos), and enjoining two long-preexisting state regulations, N.J.A.C. 7:2-2.17 (prohibiting unauthorized guns in state parks) and N.J.A.C. 13:69D-1.13 (prohibiting unauthorized guns on casino floors). D.E. 52.

On May 16, 2023, the district court granted in part Plaintiff-Appellees' motions for preliminary injunction. D.E. 124, 125. The PI added to the list of enjoined sensitive places, now enjoining sections (a)(6) (public gatherings); (a)(7) (zoos); (a)(21) (healthcare facilities but only as to ambulatory care centers and medical offices) and (a)(23) (movie sets). D.E. 124, 125. It also narrowed the courts' prior injunction as to the private-property rule, now allowing enforcement as it relates to private property *not* held open to the public. *Id.* The court also enjoined the insurance requirement, which otherwise would have taken effect on July 1, 2023. *Id.*; Ch. 131 §§ 4, 12. The district court rejected the vast majority of Plaintiffs' challenges to the permitting scheme, and ruled only that the State may not require applicants' references to appear for an in-person interviews and that follow-up investigations must be limited to public safety. D.E. 124, 125.

On the same day, Defendant-Appellees filed a notice of appeal, for which this motion seeks expedited review. They also seek an emergency motion for a partial stay pending appeal, filed alongside this motion.

ARGUMENT

This Court should expedite consideration of the appeal for three reasons. *First*, under 28 U.S.C. § 1657(a), federal courts “shall expedite the consideration of . . . any action for temporary or preliminary injunctive relief,” a requirement that this Court has recognized. *In re Grand Jury Matter*, 906 F.2d 78, 83 (3d Cir. 1990).

Second, this particular appeal warrants expedited consideration. As long as the district court’s preliminary injunction remains in effect, the State is unable to avail itself of critical tools enacted by the Legislature and intended to protect New Jerseyans from gun violence. As detailed in the motion for stay pending appeal, the injunction threatens public safety by allowing loaded guns in crowded theaters, bars, protests, and Fourth of July celebrations in parks, as well as zoos and libraries where children gather—just to name a few. While the State “suffers . . . irreparable injury” any time it is “enjoined . . . from effectuating statutes,” the injury is especially profound where there is “an ongoing and concrete harm to . . . law enforcement and public safety interests.” *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers).

Third, all parties consent to expedited review of this appeal. Plaintiff-Appellees have consented to the following schedule:²

June 30: Appellants’ opening brief

July 31: Appellees’ brief

August 14: Appellants’ reply brief.

² On January 30, 2023, the district court granted the New Jersey State Legislature’s Presiding Officers’ Motion to Intervene. *See* D.E. 53. On May 17, 2023, this Court issued an order requiring the Presiding Officers to advise the Court by May 31, 2023 whether they will participate in this appeal. The order also states that any brief filed by the Presiding Officers will be due on the same day as the brief of the party they support. Defendant-Appellants has conferred with the Presiding Officers, who indicate agreement to this schedule if they seek to participate in the appeal.

CONCLUSION

This Court should grant the uncontested motion for expedited consideration and set the parties' agreed-upon briefing schedule.

Respectfully submitted,

MATTHEW J. PLATKIN
Attorney General of New Jersey

By: /s/ Angela Cai
Deputy Solicitor General

Dated: May 22, 2023

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 27(d) and L.A.R. 31.1(c), I certify that:

1. This brief complies with the type-volume limitations of Fed. R. App. P. 27(d)(2)(A) because the brief contains 964 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f), and thus does not exceed the 5,200-word limit.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because the brief has been prepared in a proportionally spaced typeface using the Microsoft Word word-processing system in Times New Roman that is at least 14 points.

3. This brief complies with L.A.R. 31.1(c) in that prior to being electronically submitted, it was scanned by the following virus-detection software and found to be free from computer viruses:

Company: McAfee, Inc.

Product: McAfee VirusScan Enterprise + AntiSpyware Enterprise, version 8.8.

Dated: May 22, 2023

/s/ Angela Cai
Angela Cai
Deputy Solicitor General
Office of the New Jersey Attorney General

CERTIFICATION OF BAR MEMBERSHIP

I certify that that I am a member in good standing of the bar of the United States Court of Appeals for the Third Circuit.

Dated: May 22, 2023

/s/ Angela Cai
Angela Cai
Deputy Solicitor General
Office of the New Jersey Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2023, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Third Circuit using the appellate CM/ECF system. Counsel of record for all parties are registered CM/ECF users and will be served by the appellate CM/ECF system. I have also emailed a copy of this motion to all counsel.

Dated: May 22, 2023

/s/ Angela Cai
Angela Cai
Deputy Solicitor General
Office of the New Jersey Attorney General