

24-2026-cv

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

VERMONT FEDERATION OF SPORTSMEN'S CLUBS, POWDERHORN
OUTDOOR SPORTS CENTER, INC., JPC, INC., DBA Black Dog Shooting
Supplies, PAUL DAME, MARSHA J. THOMPSON,

Plaintiffs-Appellants,

v.

MATTHEW BIRMINGHAM, Director of the Vermont State Police, in his
official and personal capacities, CHARITY CLARK, Attorney General of the
State of Vermont, in her official and personal capacities, SARAH GEORGE,
State's Attorney for Chittenden County, in her official and personal capacities,

Defendants-Appellees.

On Appeal from the U.S. District Court for the District of
Vermont (No. 2:23-CV-710)
The Honorable William K. Sessions, III, Judge

**BRIEF OF AMICI CURIAE BRADY CENTER TO PREVENT
GUN VIOLENCE AND GIFFORDS LAW CENTER TO
PREVENT GUN VIOLENCE IN SUPPORT OF APPELLEES
AND AFFIRMANCE**

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CORPORATE DISCLOSURE STATEMENT

Amici Brady Center to Prevent Gun Violence and Giffords Law Center to Prevent Gun Violence state that each organization does not have parent organizations. *Amici* do not issue stock and therefore no publicly held corporation owns 10% or more of their stock.

TABLE OF CONTENTS

CORPORATE DISCLOSURE STATEMENT	i
STATEMENT OF INTEREST	1
SUMMARY OF ARGUMENT	2
ARGUMENT	5
I. The Waiting Period Law Is Constitutional At <i>Bruen</i> 's First Step.....	5
A. The Right to "Keep" and "Bear" Arms Does Not Include a Right to Acquire Firearms Instantly	5
B. The Waiting Period Law Does Not "Meaningfully" Constrain" the Right to "Keep" and "Bear" Arms.....	8
II. The Vermont Waiting Period Addresses The Unprecedented Public Health Catastrophe Of Firearm Suicides And Other Acts Of Impulsive Firearm Killings	10
A. Suicide And Impulsive Killing By Firearm Is A Modern Phenomenon	10
B. The Founders And Ensuing Generations Did Not Experience This Crisis	12
III. Waiting Periods Reduce Harm And Benefit The Public By Effectively Addressing The Public Health Calamity	16
A. Waiting Periods Reduce Firearm Suicides.....	17
B. Waiting Periods Reduce Firearm Homicides.....	19
IV. Analogous Waiting-Related Regulations Provide Ample Historical Precedent For The Waiting Period Law.	20
A. Gun Licensing	22
B. Surety Laws	23
C. Suicide As A Crime.....	25
D. Restrictions On The Intoxicated.....	26
CONCLUSION.....	28
CERTIFICATE OF COMPLIANCE	
CERTIFICATE OF SERVICE	

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Antonyuk v. Chiumento</i> , 89 F.4th 271 (2d Cir. 2023)	9
<i>Antonyuk v. James</i> , 120 F.4th 941 (2d. Cir. 2024)	21, 22, 23
<i>Bowers v. Hoage</i> , 76 F.2d 996 (D.C. Cir. 1935).....	25
<i>Corbett v. Hochul</i> , 22-3210-cv, 2025 WL 3252371 (2d Cir. Nov. 21, 2025).....	23
<i>District of Columbia v. Heller</i> , 554 U.S. 570 (2008).....	5, 6, 7, 8
<i>Giambalvo v. Suffolk Cnty., New York</i> , 155 F.4th 163 (2d Cir. 2025)	9, 22
<i>In re Joseph G.</i> , 34 Cal. 3d 429 (1983)	25
<i>Muscarello v. United States</i> , 524 U.S. 125 (1998).....	7
<i>N.Y. State Firearms Ass'n v. James</i> , 157 F.4th 232 (2d Cir. 2025)	8, 9, 21
<i>N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen</i> , 597 U.S. 1 (2022).....	<i>passim</i>
<i>Rocky Mountain Gun Owners v. Polis</i> , 701 F. Supp. 3d 1121 (D. Colo. 2023).....	20, 27
<i>Teixeira v. Cnty. Of Alameda</i> , 873 F.3d 670 (9th Cir. 2017)	21
<i>United States v. Rahimi</i> , 602 U.S. 680 (2024).....	6, 23, 24

<i>United States v. Simmons</i> , 150 F.4th 126 (2d Cir. 2025)	24
<i>United States v. Vereen</i> , 152 F.4th 89 (2d Cir. 2025)	6, 8, 21
<i>United States v. Vlha</i> , 142 F.4th 1194 (9th Cir. 2025)	8
<i>Vt. Fed'n of Sportsmen's Clubs v. Birmingham</i> , 741 F. Supp. 3d 172 (D. Vt. 2024)	<i>passim</i>
<i>Washington v. Glucksberg</i> , 521 U.S. 702 (1997).....	25
<i>Zherka v. Bondi</i> , 140 F.4th 68 (2d Cir. 2025)	24
Statutes	
13 V.S.A. § 4019a.....	2, 9
1655 Va. Acts 401, Act of March 10, 1655, Act XII	26, 27
1750 Pa. Laws 208, <i>An Act For The More Effectual Preventing Accidents Which May Happen By Fire, And For Suppressing Idleness, Drunkenness, And Other Debaucheries</i> , § II.....	27
<i>Supplement to the Revised Statutes of Wisconsin</i> , 848, Ch. 181, § 4397B(3) (A.L. Sanborn & J.R. Berryman EDS., 1883)	26
1825 Tenn. Priv. Acts 306, ch. 292 § 3	26
Rules	
Fed. R. App. P. 29(a)(2).....	2
U.S. Constitution	
U.S. Const., amend. II.....	<i>passim</i>
U.S. Const., amend. XIV	14

Legislative Materials

VT H0230 § 1 (2023).....18

Other Authorities

Allen C. Guelzo, <i>Our Ancient Faith: Lincoln, Democracy and the American Experiment</i> 50-51 (Knopf 2024)	13
Andrew Conner, et al., <i>Suicide Case-Fatality Rates in the United States, 2007 to 2014: A Nationwide Population-Based Study</i> , 171 ANN. INTERN. MED., 885 (2019)	11, 18
Annette Choi, <i>Children and teens are more likely to die by guns than anything else</i> , CNN (Mar. 29, 2023)	11
Bradley Kawano, et al., <i>Restrictive Firearm Laws and Firearm-Related Suicide</i> , 236 J. AM. COLL. OF SURG. 37 (2023)	19
<i>Children and Teens</i> , Everytown Research & Policy	11
David Card and Gordon B. Dahl, <i>Family Violence and Football: The Effect of Unexpected Emotional Cues on Violent Behavior</i> , THE QUARTERLY JOURNAL OF ECONOMICS 126 no. 1 (2011).....	19
David Lester, <i>Decriminalization of Suicide in Canada and Suicide Rates</i> , 71 PSYCHOL. REP. 738 (1992).....	26
David Lester, <i>Decriminalization of Suicide in New Zealand and Suicide Rates</i> , 72 PSYCHOL. REP. 1050 (1993).....	25
David M. Studdert et al., <i>Handgun Ownership and Suicide in California</i> , 382 NEW ENG. J. MED. 2220, 2221	17
Declaration of Randolph Roth ¶ 12, <i>Miller v. California Attorney General Bonta</i> , Case No. 19-01537 (S.D. Cal. 2019).....	15, 16
<i>The Decriminalisation of Attempted Suicide: Policy Position Statement</i> , Int'l Ass'n for Suicide Prevention 1 (2020).....	25
Derek Brouwer, <i>Gun Group Sues Over Vermont's New Waiting-Period Law</i> , Seven Days (Dec. 18, 2023)	10
1 Dictionary of the English Language 106 (4th ed.) (reprinted 1978)	7

Gary Brucato et al., <i>An Analysis of Motivating Factors in 1,725 Worldwide Cases of Mass Murder Between 1900-2019</i> , 34 J. FORENSIC PSYCHIATRY & PSYCHOL. 261 (2023).....	12
German Lopez, <i>What Many People Get Wrong About Suicide</i> , Vox (Sep. 17, 2015).....	17
<i>Gun Violence: Purchase Waiting Periods</i> , Nat'l All. on Mental Illness (May 22, 2023).....	18, 27
J. Davidson, K. R. Scherer, and H. H. Goldsmith, <i>The Role of Affect in Decision Making</i> , Handbook of Affective Sciences (2003).....	19
Johns Hopkins Bloomberg School of Public Health, <i>New Report Highlights U.S. 2022 Gun-Related Deaths: Firearms Remain Leading Cause of Death for Children and Teens, and Disproportionately Affect People of Color</i> (2024).....	11
Kevin Sweeney, <i>An Eighteenth-Century Gun Culture Shaped by Constraints</i> , Duke Center for Firearms Law (Sep. 6, 2023)	14, 15
Lindsay Nichols, <i>Suicide: The Untold Story of American Gun Violence</i> , Giffords (Sep. 27, 2023)	10
Lisa A. B. Shields, et al., <i>Trends of Suicide in the United States During the 20th Century</i> , Tsokos, NJ. (eds) Forensic Pathology Revs., vol. 3. Humana Press, 2 (2005).....	13, 14
Lulu Garcia-Navarro, <i>Vermont Mother Works To Get A Waiting Period For Gun Purchases After Son's Suicide</i> , NPR (Dec. 23, 2018)	2, 3
Makennan McBride, <i>Gun Suicides Among Kids Are Soaring</i> , Giffords (Sep. 24, 2024)	11
Matthew Miller et al., <i>Household Firearm Ownership and Rates of Suicide Across U.S. States</i> , 62 J. TRAUMA 1029 (2007).....	17
Michael Anestis & Joye Anestis, <i>Suicide Rates and State Laws Regulating Access and Exposure to Handguns</i> , 10 AM. J. PUB. HEALTH, VOL. 105, 2049 (2015).....	20

Michael Luca, Deepak Malhotra, and Christopher Poliquin, <i>Handgun Waiting Periods Reduce Gun Deaths</i> , HARV. BUS. SCH. VOL. 114, NO. 46, 12162 (2017)	18, 19
N. Webster, Am. Dictionary of the Eng. Language (1828) (reprinted 1989)	7
<i>National Center for Health Statistics: Mortality Data on CDC Wonder, Underlying Cause of Death</i> , CDC (Jan. 14, 2026),	10
Neal Goswami, <i>Vermont lawmakers consider waiting period on gun purchases</i> , WCAX 3 (Feb. 28, 2019),	2, 3
<i>Past Summary Ledgers</i> , Gun Violence Archive	12
Randolph Roth, <i>Why Guns Are and Aren't the Problem: The Relationship between Guns and Homicide in American History, Firearms and the Common Law: History and Memory</i> , Washington, D.C.: Smithsonian Institution Scholarly Press, 117 (2019)	15
Robert J. Spitzer, <i>Gun Law History in the United States and Second Amendment Rights</i> , 80 L. & CONTEMP. PROBS. 55 (2017)	21
Saul Cornell, <i>Constitutional Mischiefs and Constitutional Remedies: Making Sense of Limits on the Right to Keep and Bear Arms in the Founding Era</i> , 51 FORDHAM URB. L. J. 25 (2023).....	12, 15
Saul Cornell, <i>The Right to Carry Firearms Outside of the Home: Separating Historical Myths from Historical Realities</i> , 39 FORDHAM URB. L. J. 1695 (2012)	14
Sergio Sanz-Gómez et al., <i>Impulsivity in Fatal Suicide Behaviour: A Systematic Review and Meta-Analysis of Psychological Autopsy Studies</i> , 337 PSYCHIATRY RES. 115952 (2024).....	17
<i>Suicide Data and Statistics</i> , CDC (Mar. 26, 2025).....	10, 11
<i>Suicide Prevention</i> , WHO	11
Taylor Dobbs, <i>Essex Parents Say Gun Waiting Period Would Have Saved Their Son</i> , Seven Days (Feb. 28, 2019)	2, 3

<i>Waiting Periods Can Help Stop Suicides. Here's How</i> , Giffords (Apr. 2, 2019)	17
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STATEMENT OF INTEREST

Amicus curiae Brady Center to Prevent Gun Violence (“Brady”) is the nation’s oldest non-partisan, non-profit organization dedicated to reducing gun violence through education, research, legal advocacy, and political action. Brady works to free America from gun violence by passing and defending gun violence prevention laws, reforming the gun industry, and educating the public about responsible gun ownership. Brady has a substantial interest in ensuring that the Constitution is construed to allow democratically elected officials to address the Nation’s gun-violence epidemic, and to safeguard the interest of every American in living safe and secure lives in their homes and communities.

Amicus curiae Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”) is a non-profit policy organization serving lawmakers, advocates, legal professionals, gun-violence survivors, and others who seek to reduce gun violence. Founded in 1993 after a gun massacre at a San Francisco law firm, the organization was renamed Giffords Law Center in October 2017 after joining forces with the gun-safety organization led by former Congresswoman Gabrielle Giffords. Today, through partnerships with gun violence researchers, public-health experts, and community organizations, Giffords Law Center researches, drafts, and defends laws, policies, and programs proven to effectively reduce gun violence.¹

¹ Plaintiffs-Appellants and Defendants-Appellees have consented to *amici* filing this brief. See

SUMMARY OF ARGUMENT

Impulsive gun violence kills many and wreaks havoc on public safety. In Vermont, suicides are the leading cause of gun death. Nationally, firearms-related suicides and firearms-related mass-casualty disasters are tragically common. Seeking to combat this crisis plaguing the state, Vermont enacted 13 V.S.A. § 4019a, hereinafter “the Waiting Period Law,” which imposes a 72-hour waiting period on firearm purchases.

Rep. Alyssa Black (D-Essex), a leading sponsor of the Waiting Period Law, knows firsthand how quickly suicidal ideation could turn to irreversible tragedy. Rep. Black lost her son Andrew to death by suicide using a firearm. Andrew was 23, a vibrant young man who liked hiking, hockey, and brewing beer.² In the hours before his death, Andrew went into an emotional spiral set off by a social media post.³ His father’s guns were in the house “15 feet away,” but they were “locked up and secured.”⁴ Andrew awoke, researched a handgun online, went to a local gun shop

Fed. R. App. P. 29(a)(2). Giffords Law Center to Prevent Gun Violence and Brady Center to Prevent Gun Violence submit this brief in support of Defendants-Appellees. No counsel for a party authored this brief in whole or in part. No person other than *amici* or their counsel contributed money to fund this brief’s preparation or submission.

² Lulu Garcia-Navarro, *Vermont Mother Works To Get A Waiting Period For Gun Purchases After Son’s Suicide*, NPR (Dec. 23, 2018, 8:01am ET), <https://www.npr.org/2018/12/23/679592466/vermont-mother-works-to-get-a-waiting-period-for-gun-purchases-after-sons-suicid>.

³ Taylor Dobbs, *Essex Parents Say Gun Waiting Period Would Have Saved Their Son*, Seven Days (Feb. 28, 2019), <https://www.sevendaysvt.com/news/essex-parents-say-gun-waiting-period-would-have-saved-their-son-26202234/>.

⁴ Neal Goswami, *Vermont lawmakers consider waiting period on gun purchases*, WCAX 3 (Feb.

and purchased a gun in less than 30 minutes at the store. Less than five hours later he shot himself, shortly before his parents would have returned home from work.⁵ Rep. Black has testified that she could “almost feel the doubt” in the messages Andrew recorded in his final hours and that “he was trying to give himself more time.”⁶ In one of his final messages, Andrew said that he had done something bad but was “too late” to reverse it.⁷ He then sent a photo of his new gun on his bed and said goodbye.⁸

Tragically, Rep. Black’s story is not unique in America. Andrew’s father testified that the Blacks had been contacted by people all over the country with “eerily similar stories” to their own.⁹ Rep. Black advocated for a waiting period because it would have given Andrew “time to come out” of the “dark hole that he had put himself into.”¹⁰

The current epidemic of impulsive acts of gun violence is a modern scourge, without precedent in Vermont or the country. It represents a public safety threat beyond the wildest imaginations of the Framers of the Constitution and the Second

28, 2019, 4:15pm ET), <https://www.wcax.com/content/news/Vermont-lawmakers-consider-waiting-period-on-gun-purchases-506507861.html>.

⁵ Dobbs, *supra* note 3; Garcia-Navarro, *supra* note 2.

⁶ Dobbs, *supra* note 3.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Goswami, *supra* note 4.

Amendment. Colonists were overwhelmingly not able to acquire firearms on demand and could not inflict impulsive violence on themselves or others in mass numbers with ready-made retail firearms instantly available for sale, as can be done today with ease. Infamous duels of that era illustrate this point: death by gun outside war tended to be extensively orchestrated and planned, not instantaneous.

The Waiting Period Law's core purpose is to reduce gun deaths in Vermont, specifically by preventing impulsive acts of gun violence, including suicide and homicide. The Waiting Period Law provides a critical moment of pause to prevent impulsive acts of violence against oneself or others. It does so by implementing a brief respite to avoid rash devastation.

Like its historical analogues, the Waiting Period Law addresses circumstances where individuals are particularly prone to poor choices with deadly consequences. Intoxicated people historically have been made to wait to access firearms; surety laws historically imposed a wait in part to check whether applicants were prone to violence; background checks have long resulted in waits; those previously convicted of felonies have been historically made to wait or refrain altogether; and much the same goes for individuals with certain mental health histories.

In a thoroughly reasoned opinion, the district court correctly found the Waiting Period Law constitutional. This brief explains aspects of why this is the

correct outcome.¹¹ Part I shows that the Waiting Period Law’s narrow, time-limited regulation of certain commercial firearm sales does not implicate the plain text of the Second Amendment. And, even if it did, any historical *Bruen* analysis of the Waiting Period Law must consider that the harms the law targets—the plague of death by firearms, including impulsive acts during “seeing red” moments—did not exist when the Founders ratified the Second Amendment, nor in the ensuing decades. Part II describes the new and tragic reality of firearm suicides and impulsive gun killing, precisely what the Waiting Period Law addresses. Part III shows that waiting period laws, like Vermont’s, work. Finally, Part IV provides ample historical analogues of laws intended to prevent suicide, laws that regulated firearms through imposing waiting times, and others that kept guns from presumptively dangerous persons or situations.

ARGUMENT

I. The Waiting Period Law Is Constitutional At *Bruen*’s First Step

A. The Right to “Keep” and “Bear” Arms Does Not Include a Right to Acquire Firearms Instantly

“Like most rights, the right secured by the Second Amendment is not unlimited.” *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008). In evaluating a firearms regulation, the Supreme Court has instructed courts to apply a two-step

¹¹ Amici also endorse the other arguments advanced by the District Court for the District of Vermont for affirming the ruling below.

“test rooted in the Second Amendment’s text, as informed by history.” *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 19 (2022). First, a court must determine “whether the Second Amendment’s text applies to the challenged regulation[.]” *United States v. Vereen*, 152 F.4th 89, 94 (2d Cir. 2025). If the challenged law does implicate the Second Amendment’s plain text, then the court proceeds to determine “whether the challenged regulation is consistent with the principles that underpin our regulatory tradition.” *United States v. Rahimi*, 602 U.S. 680, 692 (2024).

The Second Amendment says that “[a] well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” U.S. Const. amend. II. It speaks of no right to obtain a firearm immediately. The “substance of the right” set forth in the Second Amendment, *Heller*, 554 U.S. at 581, consists of only two verbs: to “keep” and to “bear.” The Supreme Court has defined both verbs, and neither establishes a right to buy or obtain new firearms instantly.

This is hardly a novel reading of the Amendment. As the court below explained:

[T]he *Heller* Court concluded that the Second Amendment guarantees “the individual right to possess and carry weapons in case of confrontation.” Notably absent from the Supreme Court’s guidance in *Heller* is any discussion of an ancillary, non-textual right to acquire firearms.

Vt. Fed'n of Sportsmen's Clubs v. Birmingham, 741 F. Supp. 3d 172, 208 (D. Vt. 2024) (citations omitted). Plain-text analysis is facial analysis, and a right to “keep,” and to “bear,” does not “facially include a right to immediately obtain a firearm through a commercial sale.” *Id.* at 207.

Begin with “keep.” *Heller* first defines it to mean “[t]o retain; not to lose” and “[t]o have in custody.” 554 U.S. at 582 (quoting 1 *Dictionary of the English Language* 106 (4th ed.) (reprinted 1978) (“Johnson”) (internal quotation marks omitted) (alteration in original)). Looking to Webster’s Dictionary, the Supreme Court found a similar definition: “[t]o hold; to retain in one’s power or possession.” *Id.* (quoting N. Webster, *Am. Dictionary of the Eng. Language* (1828) (reprinted 1989) (internal quotation marks omitted) (alteration in original)). Neither definition suggests nor even implies the verbs “obtain,” “acquire,” “transact,” or “purchase” immediately. To the contrary, “keep” is synonymous with “retain”: to maintain possession of something one already has.

The Amendment’s second verb, to “bear,” is even more removed from a supposed right to have instant access to newly obtained firearms. As the *Heller* Court explained, to “bear” means to “carry,” and when used together with “arms,” means “carrying for a particular purpose—confrontation.” *Id.* at 584 (citing *Muscarello v. United States*, 524 U.S. 125 (1998)).

Accordingly, both *Heller* and *Bruen* couch the Second Amendment right in the language of possession and use: “to possess a handgun,” *Bruen*, 597 U.S. at 8–9 (citing *Heller*, 554 U.S. at 626), and “the possession and use of [weapons.]” *Heller*, 554 U.S. at 721. To find within the Second Amendment an ever-present right to acquire or buy a firearm at once would require rewriting the text to create a new, different right well beyond the text’s “normal and ordinary” meaning. *Id.* at 576.

B. The Waiting Period Law Does Not “Meaningfully Constrain” the Right to “Keep” and “Bear” Arms

The plain text of the Second Amendment speaks of the right of individuals to “keep” and “bear” arms for lawful self-defense, and not some right to acquire firearms on demand. However, to ensure the full exercise of the right to “keep” and “bear” arms, the Second Amendment does at times protect “activities ancillary to the core possessory right.” *United States v. Vlha*, 142 F.4th 1194, 1198 (9th Cir. 2025).

Under the ancillary rights doctrine, this “unenumerated ancillary conduct” is “only protected to the extent that [it is] necessary to the realization of the textually specified right to keep and bear arms.” *N.Y. State Firearms Ass’n v. James*, 157 F.4th 232, 244 (2d Cir. 2025). (quoting *Vereen*, 152 F.4th at 94). Phrased differently, laws regulating the “acquiring, transporting, and storing [of] firearms only implicate the text of the Second Amendment if they *meaningfully constrain* the right to possess and carry arms.” *Id.*

A regulation that delays purchase or acquisition of a firearm—in this case for, at most, the period of a long weekend—does not “meaningfully constrain” the right to keep or bear arms. This Court has already pointed out that background checks and firearm safety courses are presumptively constitutional even though they “necessarily require some amount of processing time.” *Giambalvo v. Suffolk Cnty., New York*, 155 F.4th 163, 184 (2d Cir. 2025) (noting delays from a background check do not implicate the Second Amendment’s plain text); *see also N.Y. State Firearms Association*, 157 F. 4th at 244 (explaining the ancillary rights doctrine). And this Court has previously observed that a waiting period of thirty days for purchase of a firearm should not qualify as a “lengthy wait time.” *Id.* (citing *Antonyuk v. Chiumento*, 89 F.4th 271, 315, 330 (2d Cir. 2023) (citation omitted)).

The Waiting Period Law does not “meaningfully constrain” an individual’s right to “have weapons” or “carry” them. 13 V.S.A. § 4019a. It prohibits no one from possessing or using firearms. *Id.* The Waiting Period Law is instead transactional, imposing a temporary delay before purchasers can acquire a new firearm. *Id.* Stated otherwise, “Plaintiffs may keep and bear arms without immediately acquiring them.” *Vt. Fed’n*, 741 F. Supp. 3d at 209.

II. The Vermont Waiting Period Addresses The Unprecedented Public Health Catastrophe Of Firearm Suicides And Other Acts Of Impulsive Firearm Killings

The Waiting Period Law confronts the recent and tragic phenomenon of individuals acquiring new firearms to engage in self-harm or other acts of impulsive violence. In Vermont today, the vast majority of gun deaths are suicides.¹² Because the present crisis of impulsive gun violence is a modern phenomenon, it requires a “more nuanced approach” than merely assessing whether earlier generations addressed the problem through similar means. *Bruen*, 597 U.S. at 27.

A. Suicide And Impulsive Killing By Firearm Is A Modern Phenomenon

Across modern American society, firearms have become a pervasive cause of death by suicide,¹³ posing a contemporary problem the Founders could not—and did not—envision.¹⁴ Suicide is a major public health problem that claims one life in the

¹² National Center for Health Statistics: Mortality Data on CDC Wonder, Underlying Cause of Death, CDC (Jan. 14, 2026), <https://wonder.cdc.gov/deaths-by-underlying-cause.html>; see also Derek Brouwer, *Gun Group Sues Over Vermont’s New Waiting-Period Law*, Seven Days (Dec. 18, 2023), <https://www.sevendaysvt.com/news/gun-group-sues-over-vermonts-new-waiting-period-law-39739968>.

¹³ Firearms are by far the most common cause of suicides, representing 55%—more than double the next most common method (suffocation). *Suicide Data and Statistics*, CDC (Mar. 26, 2025), <https://www.cdc.gov/suicide/facts/data.html> (“CDC Suicide Statistics”); see also Lindsay Nichols, *Suicide: The Untold Story of American Gun Violence*, Giffords (Sep. 27, 2023), <https://giffords.org/analysis/suicide-the-untold-story-of-american-gun-violence/>.

¹⁴ See Section I. B.

United States every 11 minutes.¹⁵ “For each suicide, there are an estimated twenty suicide attempts.”¹⁶

The use of a firearm significantly increases the likelihood of lethality for those who attempt suicide when compared to suicide attempted by other means.¹⁷ According to The Centers for Disease Control and Prevention, suicide is currently “one of the leading causes of death in the United States.”¹⁸ The risk has become particularly acute for young people and children. For the twenty-five-to-thirty-four age group, suicide is the second most common cause of death.¹⁹ For children under eighteen, gun suicides surged forty percent from 2013 to 2022.²⁰

¹⁵ CDC Suicide Statistics, *supra* note 13.

¹⁶ *Suicide Prevention*, WHO, https://www.who.int/health-topics/suicide#tab=tab_1 (last visited Jan. 16, 2026).

¹⁷ A 2019 national study found that while only 8.5% of all suicidal acts between 2007 and 2014 were fatal, 89.6% of suicidal acts with a firearm resulted in death. Andrew Conner, et al., *Suicide Case-Fatality Rates in the United States, 2007 to 2014: A Nationwide Population-Based Study*, 171 ANN. INTERN. MED., 885, 887 (2019); *see also* *Gun Suicide*, Giffords, <https://giffords.org/issues/gun-suicide> (last visited Jan. 16, 2026).

¹⁸ CDC Suicide Statistics, *supra* note 13. In 2023, there were more than 48,000 firearm-related deaths in the United States. More than half were suicides. In 2022, gun violence was the leading cause of death among children ages 1 to 17. Johns Hopkins Bloomberg School of Public Health, *New Report Highlights U.S. 2022 Gun-Related Deaths: Firearms Remain Leading Cause of Death for Children and Teens, and Disproportionately Affect People of Color* 2 (2024). Deaths from guns have increased in this age group by 106% since 2013. *Id.* at 1; *see also* *Children and Teens*, Everytown Research & Policy, <https://everytownresearch.org/issue/child-and-teens> (last visited Jan. 16, 2026); Annette Choi, *Children and teens are more likely to die by guns than anything else*, CNN (Mar. 29, 2023, 8:41am ET), <https://www.cnn.com/2023/03/29/health/us-children-gun-deaths-dg/index.html>.

¹⁹ CDC Suicide Statistics, *supra* note 13.

²⁰ Makennan McBride, *Gun Suicides Among Kids Are Soaring*, Giffords (Sep. 24, 2024), <https://giffords.org/analysis/gun-suicides-among-kids-are-soaring>.

Firearms are also widely used in other acts of impulsive violence, which are similarly more deadly when a firearm is used. In 2025 alone, the United States endured 408 mass shootings, an average of more than one mass shooting a day.²¹ The “vast majority” of mass murders are “impulsive and emotionally driven, following adverse life circumstances.”²²

B. The Founders And Ensuing Generations Did Not Experience This Crisis

The present and dire threat of firearm suicides and impulsive killings was not one confronting the Framers or Reconstruction-era legislators, and would have been vastly beyond even their worst imaginations and fears.²³

In part, this is because Americans did not have the option of immediately purchasing firearms at the Founding. In 1791, and throughout much of the nineteenth century, delayed delivery of goods was a practical reality of the country’s commerce. Even as late as Abraham Lincoln’s birth in 1809, an American could move no faster than horse or sailboat or river flow; much of the country had little-to-no currency to

²¹ *Past Summary Ledgers*, Gun Violence Archive, <https://www.gunviolencearchive.org/past-tolls> (last visited Jan. 4, 2026).

²² Gary Brucato et al., *An Analysis of Motivating Factors in 1,725 Worldwide Cases of Mass Murder Between 1900–2019*, 34 J. FORENSIC PSYCHIATRY & PSYCHOL. 261, 261 (2023).

²³ Saul Cornell, *Constitutional Mischiefs and Constitutional Remedies: Making Sense of Limits on the Right to Keep and Bear Arms in the Founding Era*, 51 FORDHAM URB. L. J. 25, 38 (2023) (“Gun homicide, mass shootings, and suicide, the three forms of gun violence that dominate the modern gun debate, were simply not problems for those who enacted the Second Amendment.”).

speak of; and the economy in much of the country was still primarily agricultural.²⁴

Put simply, commerce moved much more slowly—and Americans of the time experienced well over 72 hours of waiting to acquire a gun.

Available data also suggests that firearms became a common tool for self-inflicted killing only within the last century or so.²⁵ We know of no historical evidence to suggest, much less establish, that the present epidemic of firearms suicides was an issue the Founders would have witnessed, anticipated, or addressed.²⁶ And, for obvious, logistical reasons, it would have been severely physically challenging to use an eighteenth-century musket or long rifle in a suicide attempt. Rather, firearm-related suicides appear to have been a rarity in the Founding and Reconstruction eras, remaining so until the twentieth century.²⁷

Even as late as 1860, after firearm technology began to evolve beyond muzzle-loaded weapons, firearms remained an uncommon method of suicide.²⁸ Firearms became the second-most common method of suicide only in 1900 and then the most common method in 1910—more than a century after the Second

²⁴ Allen C. Guelzo, *Our Ancient Faith: Lincoln, Democracy and the American Experiment* 50-51 (Knopf 2024).

²⁵ See Lisa A. B. Shields, et al., *Trends of Suicide in the United States During the 20th Century*, Tsokos, NJ. (eds) Forensic Pathology Revs., vol. 3. Humana Press, 2 (2005).

²⁶ See *id.*

²⁷ *Id.*

²⁸ *Id.*

Amendment was ratified and decades after the Fourteenth Amendment incorporated it to the states.²⁹ Firearms have remained the predominant method of suicide in the United States in each decade since.³⁰

Similarly, impulsive homicides, facilitated by immediate access to newly acquired firearms, were not the significant societal concern at the founding that they are today. “Interpersonal violence, including gun violence, simply was not a problem in the Founding era that warranted much attention[.]”³¹ This is in large measure because of the era’s “economic and technological constraints” and limited firearm production and distribution.³² Eighteenth-century America had limited means of producing new firearms—building a musket from scratch could take a week or more.³³ Most new firearms had to be imported from England, while American gunsmiths typically focused on repairing firearms. For example, “[a] rare surviving account book of an inland gunsmith . . . indicates that he made only three new guns over a period of 20 years from 1768 to 1788, while performing 452 repairs on

²⁹ *Id.*

³⁰ *See id.*

³¹ Saul Cornell, *The Right to Carry Firearms Outside of the Home: Separating Historical Myths from Historical Realities*, 39 FORDHAM URB. L.J. 1695, 1713 (2012).

³² Kevin Sweeney, *An Eighteenth-Century Gun Culture Shaped by Constraints*, Duke Center for Firearms Law (Sep. 6, 2023), <https://firearmslaw.duke.edu/2023/09/an-eighteenth-century-gun-culture-shaped-by-constraints>.

³³ *Id.*

existing firearms.”³⁴ Import statistics suggest that “the number of newly made firearms available for sale during the later eighteenth century would have been modest in comparison to the size of the growing population[.]”³⁵

Beyond the difficulty of instantly obtaining a firearm, the weapons then available were poor instruments for murder and suicide. As Professor Randolph Roth has explained, “[b]lack powder, muzzle-loading weapons, were too unreliable and took too long to load to make them effective tools of homicide and most crimes of passion.”³⁶ Professor Roth’s studies have shown that homicides around the time of the Founding “were committed almost exclusively with hands and feet or weapons that were close to hand: whips, sticks, hoes, shovels, axes, or knives”—not firearms.³⁷ “Given this fact it is easy to understand why modern discussions of guns and individual self-defense were so rare in Founding-era public debate.”³⁸

³⁴ *Id.*

³⁵ *Id.*

³⁶ Cornell, *supra* note 23, at 38.

³⁷ Declaration of Randolph Roth ¶ 12, *Miller v. California Attorney General Bonta*, Case No. 19-01537 (S.D. Cal. 2019) (citing Randolph Roth, *Why Guns Are and Aren’t the Problem: The Relationship between Guns and Homicide in American History*, Firearms and the Common Law: History and Memory, Washington, D.C.: Smithsonian Institution Scholarly Press, 117 (2019)).

³⁸ *Id.*

In this matter, the court below arrived at the same conclusion. Here, the trial court explained:

[R]ash and impulsive decisions to buy firearms and shoot others or the self were not a problem at the [F]ounding . . . because guns were infrequently used for violence (and when they were, the muzzle-loading nature of the weapons made it difficult to use them impulsively).

Vt. Fed'n, 741 F. Supp. 3d at 213. Simply put, “[g]uns were not the weapons of choice in homicides that grew out of the tensions of daily life.”³⁹ Accordingly, a nuanced approach is required here.

III. Waiting Periods Reduce Harm And Benefit The Public By Effectively Addressing The Public Health Calamity

It bears emphasizing that waiting periods save lives. They prevent impulse killings. They work. *Bruen* does not prohibit courts from considering whether a law is effective. To the contrary, *Bruen* asks courts to consider “how and why” a law operates, *Bruen*, 597 U.S. at 29, which necessarily requires looking at the ways that a law is effective.

Moreover, when determining whether to grant a preliminary injunction, courts must consider both the merits and the balance of equities and the public interest. These verifiable, beneficial results of waiting period laws go directly to these

³⁹ *Id.*

preliminary injunction factors, as the district court properly determined here. *Vt. Fed'n*, 741 F. Supp. 3d at 214.

A. Waiting Periods Reduce Firearm Suicides

Because firearms are the deadliest method of suicide, access to firearms increases the likelihood that an attempted suicide will result in death. And because suicidal urges are usually transitory, waiting periods are an effective means of preventing suicide.

Research shows that suicide typically stems from a temporary moment of distress and resulting crisis, rather than an act planned far in advance.⁴⁰ Individuals acting impulsively are more likely to select violent suicide methods such as firearms.⁴¹ States where firearms are more readily accessible have higher suicide rates.⁴²

Waiting periods interpose a “cooling off” period, during which a transitory suicidal crisis can pass.⁴³ Because suicidal crises often escalate quickly and

⁴⁰ David M. Studdert et al., *Handgun Ownership and Suicide in California*, 382 NEW ENG. J. MED. 2220, 2221; *see also* German Lopez, *What Many People Get Wrong About Suicide*, Vox (Sep. 17, 2015), <https://www.vox.com/2015/7/30/9068255/suicide-impulsive-gun-control> (“[T]he majority of suicide attempts are within three hours [of people deciding to kill themselves].”).

⁴¹ *See generally* Sergio Sanz-Gómez et al., *Impulsivity in Fatal Suicide Behaviour: A Systematic Review and Meta-Analysis of Psychological Autopsy Studies*, 337 PSYCHIATRY RES. 115952 (2024).

⁴² *See generally*, Matthew Miller et al., *Household Firearm Ownership and Rates of Suicide Across U.S. States*, 62 J. TRAUMA 1029 (2007).

⁴³ *Waiting Periods Can Help Stop Suicides. Here's How*, Giffords (Apr. 2, 2019),

suddenly, “limiting access to means of suicide can play a significant role in prevention[.]”⁴⁴ Even if a waiting period does not deter an individual from attempting suicide, merely redirecting the individual to a different, less lethal, method may be expected to prevent a loss of life. The next-most lethal methods of suicide—drowning and hanging—are significantly less deadly, resulting in death 56.4% and 52.7% of the time, respectively, compared with the nearly 90% fatality rate for firearms.⁴⁵ Other methods, such as drug poisoning, are even less lethal.⁴⁶

Scientific research confirms that brief waiting periods effectively reduce suicide deaths. One, which the Vermont General Assembly relied upon in enacting The Waiting Period Law, found that “waiting period laws that delay the purchase of firearms by a few days can reduce gun homicides by roughly 17 percent.”⁴⁷ Another recently found that background checks and mandatory waiting periods correlate with

<https://giffords.org/stories/waiting-periods-can-help-stop-suicides-heres-how/>.

⁴⁴ *Gun Violence: Purchase Waiting Periods*, Nat'l All. on Mental Illness (May 22, 2023), <https://www.nami.org/advocacy-at-nami/policy-positions/stopping-harmful-practices/gun-violence-purchase-waiting-periods/>.

⁴⁵ See Conner, et al., *supra* note 17, at 887.

⁴⁶ *Id.* at 885.

⁴⁷ VT H0230 § 1 (2023). Another study of states with waiting periods found that they led “to a 7-11% reduction in gun suicides . . . which is equivalent to 22-35 fewer gun suicides per year for the average state.” Michael Luca, Deepak Malhotra, and Christopher Poliquin, *Handgun Waiting Periods Reduce Gun Deaths*, HARV. BUS. SCH. VOL. 114, NO. 46, 12162, 12162-12165 (2017).

lower firearm-related suicide rates in states that have implemented such laws as compared to those that have not.⁴⁸

B. Waiting Periods Reduce Firearm Homicides

Waiting period laws are demonstrably effective in reducing firearm-related homicides. Factors that incite violence against others, such as anger and rage, can be short-lived.⁴⁹ Studies of states that have implemented waiting period laws show that waiting periods have “a large and robust effect” on reducing homicides.⁵⁰ As of 2017, based on an analysis of forty-five years’ worth of data, researchers found that waiting periods “reduce gun homicides by roughly 17%.”⁵¹ The 17% reduction in firearm homicides equates to about thirty-six “fewer gun homicides per year for a state with an average number of gun deaths.”⁵² If every state without waiting period requirements enacted legislation like the Waiting Period Law, the United States could avoid about “910 gun homicides per year.”⁵³

⁴⁸ See generally Bradley Kawano, et al., *Restrictive Firearm Laws and Firearm-Related Suicide*, 236 J. AM. COLL. OF SURG. 37 (2023); see also Giffords, *supra* note 43.

⁴⁹ See generally J. Davidson, K. R. Scherer, and H. H. Goldsmith, *The Role of Affect in Decision Making*, Handbook of Affective Sciences (2003); David Card and Gordon B. Dahl, *Family Violence and Football: The Effect of Unexpected Emotional Cues on Violent Behavior*, THE QUARTERLY JOURNAL OF ECONOMICS 126, no. 1 (2011).

⁵⁰ See Luca et al., *supra* note 47, at 12162-12165.

⁵¹ *Id.* at 12162.

⁵² *Id.* at 12163.

⁵³ *Id.* at 12164.

Horrifyingly, yet not surprisingly, states that have removed mandatory waiting periods have seen spikes in death by suicide. In the year following South Dakota’s repeal of its forty-eight-hour waiting period requirement, the state’s overall suicide rate increased by 7.6%, more than twice the 3.3% increase across the United States during the same period.⁵⁴ And between 2010 and 2013, South Dakota’s overall suicide rate climbed even higher, to 8.9%.⁵⁵

Given these considerations, the district court correctly confirmed the demonstrable public safety benefits of a firearm waiting period, and that the harm Defendants-Appellees stand to suffer if the Court were to enjoin the Waiting Period Law—particularly the loss of many Vermont lives—significantly outweighs the threatened injury here claimed. *Rocky Mountain Gun Owners v. Polis*, 701 F. Supp. 3d 1121, 1149 (D. Colo. 2023) (“saving approximately one hundred people . . . outweighs the aggregate harm of minimal expenditures of time and sacrificed business opportunities.”) (“RMGO”).

IV. Analogous Waiting-Related Regulations Provide Ample Historical Precedent For The Waiting Period Law.

Because the Waiting Period Law does not implicate the Second Amendment’s plain text, there is no occasion to progress to step two of the *Bruen* analysis here.

⁵⁴ See Michael Anestis & Joye Anestis, *Suicide Rates and State Laws Regulating Access and Exposure to Handguns*, 10 AM. J. PUB. HEALTH, VOL. 105, 2049, 2053 (2015).

⁵⁵ See *id.*

See, e.g., N.Y. State Firearms Ass'n, 157 F.4th at 250. Should this Court nonetheless do so, it should find the Waiting Period Law well in line with historical laws intended (a) to prohibit suicide, (b) to prohibit firearm acquisition by those prone to abuse them, and (c) to impose waiting periods "relevantly similar" to the Waiting Period Law's three-day pause. *Bruen*, 597 U.S. at 29 (citation omitted).

As detailed above, because the Waiting Period Law addresses an "unprecedented societal concern," the historical analysis requires a "nuanced approach." *Id.* at 27. The "analogical reasoning" that *Bruen* instructs "requires only that the government identify a well-established and representative historical analogue, not a historical *twin*." *Id.* at 30 (emphasis kept). So even if a modern-day regulation is not a dead ringer for historical precursors, it still may be analogous enough to pass constitutional muster." *Id.*; *see also Antonyuk v. James*, 120 F.4th 941, 970–71 (2d. Cir. 2024).

There are indeed historical analogues for the Waiting Period Law. "[C]olonial governments substantially controlled the firearms trade." *Teixeira v. Cnty. Of Alameda*, 873 F.3d 670, 685 (9th Cir. 2017). From the Founding Era through the nineteenth century and into the twentieth century, governments regulated the sale and transfer of firearms. *See Vereen*, 152 F.4th at 100.⁵⁶

⁵⁶ *See also* Robert J. Spitzer, *Gun Law History in the United States and Second Amendment Rights*, 80 L. & CONTEMP. PROBS. 55, 75 (2017) (surveying state gun laws from the Founding until 1934 and identifying "[a]t least eight states [that] regulated, barred, or licensed firearms

Four categories of historical analogues are particularly germane to the Waiting Period Law: gun licensing regimes that inherently delay the sale and purchase of firearms; surety laws that likewise impose delay while prohibiting firearm acquisition by those prone to misuse them; laws criminalizing suicide; and prohibitions on the use of firearms by intoxicated persons.

A. Gun Licensing

Gun licensing regimes are inherently waiting period laws. *See Vt. Fed'n*, 741 F. Supp. 3d at 210. *Bruen* specifically recognized shall-issue licensing regulations as constitutionally permissible. 597 U.S. at 38 n.9 (“nothing in our analysis should be interpreted to suggest the unconstitutionality of the 43 States’ ‘shall-issue’ licensing regimes”) (citation omitted). Also, the Second Circuit recently found constitutional a licensing regime that necessarily imposed a delay before acquisition of firearms. *Giambalvo*, 155 F.4th at 184; *see also Antonyuk*, 120 F.4th at, 985, n.32 (finding that shall issue permits are an appropriate historical analogue for commercial regulations that temporarily delay the purchase of firearms, and that like laws are presumptively constitutional, as they merely ensure that firearms purchasers are law-abiding citizens). Specifically, this Court rejected the view that a waiting period of thirty days constitutes a “lengthy wait time” for constitutional purposes. *Giambalvo*, 155 F.4th at 184.

sales”).

Shall-issue licensing requirements “do not necessarily prevent ‘law-abiding, responsible citizens’ from exercising their Second Amendment right to public carry.” *Id.* (citation omitted); *Vt. Fed’n*, 741 F. Supp. 3d at 212–13; *Antonyuk v. James*, 120 F.4th at 985, n.32. *See also Corbett v. Hochul*, 22-3210-cv, 2025 WL 3252371 at *1–*3 (2d Cir. Nov. 21, 2025) (holding constitutional the need to complete an 18-hour training course prior to purchasing a firearm, as supported by historical “shall-issue” regimes).

B. Surety Laws

Surety laws, stretching back to the Founding and before, were also waiting period laws, used historically as a form of “preventive justice” that “targeted the misuse of firearms.” *Rahimi*, at 696–97 (providing a “mechanism for preventing [gun] violence before it occurred”) (internal quotations omitted). These laws required individuals who were “likely to breach the peace” to “post bond before carrying weapons in public.” *Bruen*, 597 U.S. at 5, 56 (internal quotation marks and citation omitted). The posted bond “would be forfeited if [the individual] breached the peace or injured others.” *Id.* at 56–57 (internal quotation marks and citation omitted).

The Supreme Court has resolved that surety laws, as such, do not impose “a substantial burden on public carry.” *Id.* at 5. And because they were intended “merely for prevention and not meant as any degree of punishment,” courts have

found surety laws to be a constitutional means of protecting public health and safety.

See id. at 57 (internal quotation marks and citations omitted).

In *Rahimi*, the Supreme Court addressed whether an individual found by a court to pose a credible threat to the physical safety of another may be temporarily disarmed, and found such a prohibition consistent with the Second Amendment. 602 U.S. at 702. In so resolving, the Court invoked surety laws, noting that our country's tradition of firearm regulation allows government to disarm individuals who present a credible threat to the physical safety of others based on surety schemes. *Id.* The same rationale supports temporary delays for the purpose of preventing impulsive self-inflicted harm and harm to others.

The Second Circuit has recently come to comparable conclusions. In *Zherka*, this Court held that felons may be constitutionally restricted from firearms possession. *Zherka v. Bondi*, 140 F.4th 68, 77–79, 96 (2d Cir. 2025) (laws restricting firearms possession by convicted felons are constitutional). *Simmons* held the same for those convicted of domestic violence misdemeanors. *United States v. Simmons*, 150 F.4th 126, 132–34 (2d Cir. 2025) (historical analogues support restricting firearms possession for individuals convicted of misdemeanor domestic violence).

As with the laws upheld in *Rahimi*, *Zherka*, and *Simmons*, which delay firearms access for far longer than the Waiting Period Law, and even permanently,

the Waiting Period Law does not substantially burden rights, but imposes a reasonable, temporary delay to prevent foreseeable harm.

C. Suicide As A Crime

At the time of the Founding, laws existed that were intended to prevent suicides. These laws historically addressed suicide as part of criminal law to deter self-inflicted death. At common law, “suicide was considered a crime against the laws of God and man, the lands and chattels of the criminal were forfeited to the King . . . and he was deemed a murderer of himself and a felon.” *Bowers v. Hoage*, 76 F.2d 996, 998 (D.C. Cir. 1935) (citation omitted). In the United States, many “early American colonies adopted the common-law approach” and had laws declaring suicide a crime. *Washington v. Glucksberg*, 521 U.S. 702, 712 (1997). The common law treated suicide this way to deter it. *See Bowers*, 76 F.2d at 998; *Glucksberg*, 521 U.S. at 712.

As society’s understanding of mental health evolved, states came to understand that criminal bans mainly stigmatized those suffering from suicidal ideation and did little to deter suicide. *See In re Joseph G.*, 34 Cal. 3d 429, 433 (1983) (“[C]riminal punishment is singularly ineffectual to deter attempts to commit suicide.”).⁵⁷ Waiting periods, similar to these criminal prohibitions that were

⁵⁷ *See also The Decriminalisation of Attempted Suicide: Policy Position Statement*, Int’l Ass’n for Suicide Prevention 1 (2020) (“The criminalisation of attempted suicide undermines national and international prevention efforts and impedes access among vulnerable individuals and groups to suicide prevention and mental health services.”); *see generally* David Lester, *Decriminalization*

in place at the Founding, are intended to deter suicide. But, as discussed above, instead of relying on stigmatizing like their historical criminal law counterparts, waiting periods are more likely to be effective and less burdensome than their historical analogues as they rely on modern social science and empirical evidence to save lives. In this way, waiting periods are not only consistent with earlier legislative attempts to prevent suicide, but also an improvement in the means of achieving that same goal through legislation that relies on contemporary social science and statistical evidence that was unavailable previously.

D. Restrictions On The Intoxicated

Our Nation has a longstanding tradition, stretching back centuries, barring the use of firearms while consuming alcohol.⁵⁸ The district court ably surveyed this

of Suicide in New Zealand and Suicide Rates, 72 PSYCHOL. REP. 1050 (1993) (finding the decriminalization of suicide in New Zealand in 1961 did not lead to an increase in the suicide rate during the ten years afterwards); *see generally* David Lester, *Decriminalization of Suicide in Canada and Suicide Rates*, 71 PSYCHOL. REP. 738 (1992) (finding that the decriminalization of suicide in Canada did not lead to an increase rate of suicide).

⁵⁸ *See, e.g.*, 1655 Va. Acts 401, Act of March 10, 1655, Act XII (“What persons or persons soever shall, after publication hereof, shoot any guns at drinking . . . that such person or persons so offending shall forfeit 100 lb. of tobacco to be levied”); *see also* 1825 Tenn. Priv. Acts 306, ch. 292 § 3 (“That said mayor and aldermen may, and shall, have power and authority to make any rules and laws regulating the police of said town . . . to restrain and punish drinking . . . shooting and carrying guns, and enact penalties and enforce the same”); *Supplement to the Revised Statutes of Wisconsin*, 848, Ch. 181, § 4397B(3) (A.L. Sanborn & J.R. Berryman EDS., 1883) (“It shall be unlawful for any person in a state of intoxication to go armed with any pistol or revolver. Any person violating the provisions of the act shall be punished by imprisonment.”).

history, and aptly found colonial era laws historically analogous to the Waiting Period Law.⁵⁹

The analogy is clear: intoxication restrictions and the Waiting Period Law are both temporary measures targeting impulsive gun use.⁶⁰ Intoxication is normally a temporary and often brief manipulation of the senses, which can greatly impair even a law-abiding citizen's ability to safely keep and bear arms. Likewise, law-abiding citizens in the heat of heightened emotions or mental health crises are also in a brief, temporary state where their perception and logical reasoning do not function as they do for the average law-abiding citizen. *See Vt. Fed'n*, 741 F. Supp. 3d at 212.⁶¹ Waiting period laws like Vermont's are an effective means of addressing this agitated, foggy state of mind.⁶² If anything, waiting period laws like Vermont's are more modestly constraining than their historical predecessors: "the [Vermont] waiting period [here] does not 'disarm the populace' because it does not impact an individual's right to use a previously-purchased firearm. In this sense, the intoxication laws are *more* restrictive than Vermont's waiting period because they

⁵⁹ *Vt. Fed'n*, 741 F. Supp. 3d at 211 (citing 1655 Va. Acts 401, Acts of March 10, 1655, Act XII; 1750 Pa. Laws 208, *An Act For The More Effectual Preventing Accidents Which May Happen By Fire, And For Suppressing Idleness, Drunkenness, And Other Debaucherries*, § II). The district court also cites *RMGO* on this point. *RMGO*, 701 F. Supp. 3d at 1142-45.

⁶⁰ *See* notes 57 and 58, *supra*.

⁶¹ *Nat'l All. on Mental Illness*, *supra* note 44.

⁶² *See* notes 57 and 58, *supra*.

eliminated an individual’s right to use *any* firearm.” *Vt. Fed’n*, 741 F. Supp. 3d at 212 n.30.

Gun licensing regimes that inherently delay the sale and purchase of firearms; surety laws that impose delay while prohibiting firearm acquisition by those prone to misuse them; laws criminalizing suicide; and prohibitions on the use of firearms by intoxicated persons—these four examples demonstrate that the Waiting Period Law is well in line with the “relevantly similar” Nation’s history of regulating firearms.

CONCLUSION

For the foregoing reasons, the Court should affirm the decision of the trial court.

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I certify that on January 16, 2026 I electronically filed the foregoing brief with the Clerk of Court for the U.S. Court of Appeals for the Second Circuit through the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

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