

**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
WHITESIDE COUNTY, ILLINOIS**

Sinnissippi Rod & Gun Club, Inc., and)	
Simon Eichelberger,)	
Plaintiffs,)	
v.)	No. 2019MR151
Kwame Raoul, in his official capacity as)	
Illinois Attorney General; and)	
Brendan F. Kelly, in his official capacity as)	
Director of Illinois State Police,)	Injunctive relief requested
Defendants.)	

COMPLAINT FOR DECLARATORY RELIEF

**(TO DECLARE UNCONSTITUTIONAL ILLINOIS
STATUTES CRIMINALIZING OPEN CARRY
OF FIREARMS BY ILLINOIS CITIZENS)**

I. BACKGROUND

1. At a time when municipal police have been militarized to the point of having machine guns and tanks, and when the national standing army approaches half a million in size, an armed citizenry is essential for maintaining the balance of power between the people and the government, and for preservation of the civic republicanism and liberties inherent in every citizen.

2. This case is a constitutional challenge to Illinois prohibition on "open carry"—a statute that criminalizes law-abiding Illinois citizens from openly carrying firearms for protection of themselves, their families, and others.

3. The Plaintiffs herein, an Illinois rod and gun club, and a member of the Club, ask this Court to declare the Illinois statute criminalizing open carry (720 ILCS 5/24-1(a)(10)) unconstitutional under the Second Amendment to the United States Constitution. Plaintiffs

and their counsel ask for no attorney fees in this action, as their goal is to uphold the U.S. Constitution, not to make money off it.

4. Plaintiffs maintain that close reading of the U.S. Supreme Court Second Amendment precedent reveals that "open carry" is constitutionally permitted, indeed preferred, method for bearing arms under the United States Constitution.

5. Venue is proper in the Circuit Court of Whiteside County.

II. PARTIES AND FACTS

6. Plaintiff Sinnissippi Rod & Gun Club is an Illinois not-for-profit corporation. Most of its members have FOID (Firearm Owners Identification) cards and are licensed to conceal-carry their firearms. Among its members are NRA Certified Firearms Instructors and Illinois certified Conceal Carry License (CLL) instructors. Most of its members would carry a loaded and functional handgun openly in public for self-defense and defense of others, but they refrain from doing so because they fear arrest and prosecution, as they understand it is unlawful to open-carry handguns in Illinois.

7. Plaintiff Simon Eichelberger is an Illinois citizen and member of the Sinnissippi Rod & Gun Club. Mr. Eichelberger holds a valid FOID card and is licensed to conceal-carry his firearms. He is a NRA Certified Firearms Instructor and Illinois certified Conceal Carry License instructor. He would carry a loaded and functional handgun openly in public for self-defense and defense of others, but he refrains from doing so because he fears arrest and prosecution, as he understands it is unlawful to open-carry handguns in Illinois.

8. Defendant Kwame Raoul is sued in his official capacity as the Attorney General of the State of Illinois, responsible for executing and administering the laws of the State of Illinois, including 720 ILCS 5/24-1. Defendant Attorney General Raoul has enforced the

challenged laws against Plaintiffs and is in fact presently enforcing the challenged laws against Plaintiffs.

9. Defendant Brendan F. Kelly is sued in his official capacity as the Director of the Illinois State Police, responsible for executing and administering the laws of the State of Illinois, including 720 ILCS 5/24-1. Defendant Director Kelly has enforced the challenged laws against Plaintiffs and is in fact presently enforcing the challenged laws against Plaintiffs.

III. CAUSES OF ACTION

Declaratory Judgment That Illinois Criminal Prohibition Against Open Carry Violates the Second Amendment to the U.S. Constitution

10. Plaintiffs re-allege all the factual allegations contained above and incorporates them herein by reference.

11. Under 735 ILCS 5/2-701 Plaintiffs request a declaration that Illinois statute (720 ILCS 5/24-1(a)(10)), to the extent that it criminalizes open carry of firearms by citizens of Illinois, and any other Illinois statute to the extent that it criminalizes open carry (such as, arguably, 720 ILCS 5/24-1.6(a)), is and/or are unconstitutional under the Second Amendment to the U.S. Constitution, as interpreted by the U.S. Supreme Court in District of Columbia v. Heller, 554 U.S. 570 (2008) (as precedents cited by the Heller court leave no doubt that the Second Amendment presupposes first and foremost open carry of firearms), and as implied from the Illinois Supreme Court decisions of People v. Aguilar, 2 N.E.3d 321 (2013), People v. Mosley, 33 N.E.3d 137 (2015), and People v. Chairez, 104 N.E.3d 1158 (2018) (which put in question the constitutionality of the remaining sections of these statutes).

12. Defendants' enforcement of these unconstitutional statutes infringe Plaintiffs' Second Amendment rights (as applied to the states through the Fourteenth Amendment) and

irreparably damage Plaintiffs. Plaintiffs' injuries are irreparable because Plaintiffs are entitled to enjoy their constitutional rights without fear of criminal penalties.

WHEREFORE, Plaintiffs request that the Court:

- A. Declare the statute(s) unconstitutional to the extent that they are applied to prohibit Illinois citizens who are otherwise qualified from openly carrying firearms in conformity with their Second Amendment rights;
- B. Award Plaintiffs no attorney fees and costs, as none are requested; and,
- C. Grant Plaintiffs other relief the Court deems appropriate and just.

SINNISSIPPI ROD & GUN CLUB, INC.
SIMON EICHELBERGER

By: /s/ Dmitry Feofanov
One of Plaintiffs' Attorneys

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