

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

KATHERINE NOVOTNY, et al.

*Plaintiffs,*

Case No. 1:23-cv-01295

v.

WESTLEY MOORE, in his official capacity as  
Governor of Maryland, et al.

*Defendants.*

**REPLY IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT AND  
RESPONSE IN OPPOSITION TO  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

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The *Novotny* Plaintiffs have moved for summary judgment on the basis of their arguments in support of their Motion for Preliminary Injunction and in opposition to Defendants' Motion to Dismiss. Defendants similarly move for summary judgment, and oppose Plaintiffs' motion for summary judgment, on the basis of their own arguments in the briefing on those earlier motions. Because Defendants have not added to their prior briefing, Plaintiffs remain content to rely on theirs as well. For the reasons in Plaintiffs' Memorandum in Support of Motion for Preliminary Injunction, *Novotny v. Moore*, No. 1:23-cv-01295, Doc. 24-1 (May 24, 2023), and Consolidated Reply Memorandum in Support of Motion for Preliminary Injunction and Memorandum in Opposition to Defendants' Motion To Dismiss, *Novotny*, Doc. 38 (July 12, 2023), the Court should deny Defendants' Motion for Summary Judgment, grant Plaintiffs' Motion for Summary Judgment, and enter judgment for Plaintiffs.

Since Plaintiffs submitted this briefing, courts have ruled in several cases involving related issues. *See United States v. Daniels*, --- F.4th ----, 2023 WL 5091317 at \*8 (5th Cir. 2023) ("Even if the public understanding of the right to bear arms did evolve, it could not change the meaning

of the Second Amendment, which was fixed when it first applied to the federal government in 1791.”); *Teter v. Lopez*, --- F.4th ----, 2023 WL 5008203 (9th Cir. 2023) (holding that butterfly knives were protected arms and that the State had failed to show that a ban was justified by a historical analogue dating back to the Founding); *N.R.A. v. Bondi*, 72 F.4th 1346 (11th Cir. 2023) (granting en banc review and vacating panel’s decision that 1868 was more probative than 1791 for conducting the historical inquiry); *Wolford v. Lopez*, --- F. Supp. 3d ----, 2023 WL 5043805 \*24 (D. Haw. 2023) (granting a TRO enjoining Hawaii’s bans in “sensitive” areas, including parks, and expressly disagreeing with this Court’s decision in *Maryland Shall Issue, Inc. v. Montgomery Co.*, stating “[t]his Court is not convinced that evidence of one local ordinance and one state law is sufficient to find that there was a national historical tradition of prohibiting the carrying of firearms in parks at the time of the Fourteenth Amendment’s ratification”); *Rocky Mountain Gun Owners v. Polis*, 2023 WL 5017253 at \*18 (D. Colo. 2023) (invalidating a State ban on purchases of firearms by persons under 21, noting “[w]hile it remains an open question as to how a court should weigh historical understandings of the Second Amendment at the time that the Fourteenth Amendment was adopted, [*Bruen*, 142 S. Ct.] at 2138, because the Governor fails to point to any evidence during the founding era that a total prohibition on the sale of firearms to minors was consistent with the right to bear arms, the Court gives little weight to evidence from the time of the Fourteenth Amendment’s ratification to limit the scope of the right to keep and bear arms”).

Dated: August 11, 2023

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

Counsel certifies that the foregoing document was electronically served on all counsel of record via the CM/ECF system on this 11th of August, 2023.

Respectfully submitted,

/s/ David H. Thompson  
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