

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JEREMY W. LANGLEY,)
TIMOTHY B. JONES and)
MATTHEW WILSON,)

v.)

Case No. 23-CV-192

BRENDAN KELLY, in his official)
capacity as Director of the Illinois)
State Police, and COLE PRICE SHANER,)
in his official capacity as States Attorney of)
Crawford County, Illinois,)

Defendants.)

RESPONSE TO MOTION TO CONSOLIDATE

Comes now Plaintiffs, by and through Thomas G. Maag and the Maag Law Firm, LLC, and in response to the Defendant’s Kelly’s Motion to Consolidate, states as follows:

This case is brought to challenge significant portions of Illinois recent firearms and accessories ban, which if not the most stringent firearm ban in the United States, is certainly in the running for it. This particular case, apparently, was the first to be filed in any court in the state, being originally filed in the Circuit Court of Crawford County, the home County of named Plaintiffs.

The Defendant Kelly, who in the experience of undersigned counsel, rarely actually removes cases to federal court, due to the perceived fear of the state that doing so may waive sovereign immunity, did, in fact, remove this case to federal court, obviously thinking this Court a more favorable forum than its own state courts. That is Defendant Kelly’s right, but it is interesting.

Other similar cases have been filed directly in this Court, including:

1. Harrel, et al. v. Raoul, et al., USDC SDIL No. 23-141-SPM (filed on January 17, 2023);
2. Federal Firearms Licensees of Illinois, et al. v. Pritzker, et al., USDC SDIL No. 23-215-JPG (filed January 24, 2023); and
3. Barnett, et al. v. Raoul, et al., USDC SDIL No. 23-209-JPG (filed January 24, 2023)

This particular case, while apparently the first to be filed in the state, was not removed by Defendant Kelly until January 23, 2023.

Senior Judge Gilbert was originally assigned to this case, but recused himself, presumably because Defendant Kelly is a state employee, which is understood to be his longstanding practice. This case, was subsequently reassigned to Judge Rosenstengel, apparently based on the random judicial assignment system generally used by this Court. Other cases similar cases assigned to Judge Gilbert were reassigned to Judge Rosenstengel, following the recusal of Judge Gilbert, apparently also by random assignment, the Court's norm. However, the lowest case number in this Court, and the first filed in this Court, remains assigned to Judge McGlynn.

Longstanding practice of this Court, going all the way back to when it was the Eastern District of Illinois, with few exceptions, is and was if consolidation was to take place, to consolidate into the lowest case number, which would be 23-CV-141-SPM. The reason was two-fold. First, for administrative convenience, making it easier to determine what case was the case consolidated into. The second reason, more substantive, to avoid judge shopping.

While certainly, exceptions to the general rule exist. For instance, despite local rules absolutely prohibiting the filing of sur-reply briefs for at least two generations, a diligent researcher will have little difficulty finding multiple orders, signed by multiple current and

former judges of this court, granting leave to do so. But generally there must be a compelling reason to deviate from the norm.

That being said, while consolidation may well make sense for these files, which likely do have common questions of law and fact to be decided, there is no compelling reason to deviate, as suggested by Defendant Kelly, from the usually policy of consolidating into the lowest case.

To that end, Plaintiffs in this case TAKE NOT POSITION on whether to consolidate this case with the above listed cases, but they DO NOT OBJECT to same. That being said, if consolidation is to take place, all such consolidated files should be consolidated into the lower case number of file in this Court, which is 23-cv-141-SPM.

Dated: 1-27-2022 s

Respectfully Submitted,

By:s/Thomas G. Maag

Thomas G. Maag #6272640
Maag Law Firm, LLC
22 West Lorena Avenue
Wood River, IL 62095
Phone: 618-216-5291
tmaag@maaglaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed using the CM/ECF system, which will send notification to all registered users, and a copy was mailed to the following non-registered user, via US Mail,

State's Attorney
Crawford County Courthouse
105 Douglas St.
Robinson, IL 62454

Dated: 1-27-2023

Bys/Thomas G. Maag

