

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

SUSANNAH WARNER KIPKE, *et al.*, *
Plaintiffs, *

v. * No. 1:23-cv-01293-GLR

WES MOORE, *et al.*, *
Defendants. *

* * * * *

MOTION FOR RELIEF FROM ORDER

Defendants, through their undersigned counsel and pursuant to Rule 60 of the Federal Rules of Civil Procedure, file this motion for relief from the orders entered on September 29, 2023 in *Kipke v. Moore*, Civil Action No. GLR-23-1293 (the “*Kipke Lawsuit*”), ECF 32, and *Novotny v. Moore*, Civil Action No. GLR-23-1295 (the “*Novotny Lawsuit*”), ECF 41 (collectively “Orders”), and, in support thereof, defendants state as follows:

1. This Court ruled on the pending motions for preliminary injunction on September 29, 2023. *Kipke Lawsuit*, ECF 31, 32; *Novotny Lawsuit*, ECF 40, 41.
2. The Court, in relevant part, granted a preliminary injunction as it relates to the “private building consent rule.” *Kipke Lawsuit*, ECF 31 at 26-31; *Novotny Lawsuit*, ECF 40 at 26-31.

3. The private building consent rule is set to be codified at § 6-411(d) of the Criminal Law Article, which was the focus of the challenge by the *Kipke* and *Novotny* plaintiffs. *Kipke* Lawsuit, ECF 1 ¶ 52; *Novotny* Lawsuit ¶ 50.

4. Other aspects of § 6-411 were not challenged in this litigation. Notably, this includes § 6-411(c), which relates to dwellings: “A person wearing, carrying, or transporting a firearm may not enter or trespass in the dwelling of another unless the owner or the owner’s agent has given express permission, either to the person or to the public generally, to wear, carry, or transport a firearm inside the dwelling.” 2023 Md. Laws ch. 680.

5. Indeed, the *Kipke* and *Novotny* complaints expressly state that they are not challenging this aspect of the law. *Kipke* Lawsuit, ECF 1 ¶ 29(a) (stating that property and dwellings are treated differently under the law, and that dwellings are “not at issue in this lawsuit.”); *Novotny* Lawsuit, ECF 1 ¶ 16 (indicating that “Plaintiffs do not challenge Section 6-411(c).”).

6. The Orders entered by this Court, however, do not make this distinction with regard to § 6-411, stating: “IT IS FURTHER ORDERED that the Motions for Preliminary Injunction are GRANTED as to the claims to enjoin enforcement of Maryland’s laws restricting the carrying of firearms in . . . (2) private buildings or property without the owner’s consent, to be codified at Md. Code Ann., (2023), Crim. Law § 6-411)” and that the “State Defendants are ENJOINED from enforcing these laws.” *Kipke* Lawsuit, ECF 32; *Novotny* Lawsuit, ECF 41.

7. This Court's order thus enjoins enforcement of aspects of State law, i.e., § 6-411(c), that were not challenged by either set of plaintiffs.

8. Pursuant to Rule 60, "[t]he court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record."

9. This motion for relief from order seeks to have the Orders modified to specify that it is only enjoining what will be codified at § 6-411(d) of the Criminal Law Article, which will allow the State to enforce the other, unchallenged aspects of the law.

10. No harm or prejudice will be caused to any party if the requested relief is granted.

11. The State does not waive any of its rights by seeking this modification, including, but not limited to, the right to seek reconsideration, appeal, or stay.

WHEREFORE, for the reasons stated herein, defendants respectfully request that this Honorable Court grant this motion for relief from order and modify its Orders to specify that only § 6-411(d) is being enjoined.

Respectfully submitted,

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/s/ James N. Lewis

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October 2, 2023

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that, on this 2nd day of October, 2023 the foregoing was served, along with a proposed order, by CM/ECF on all registered CM/ECF users.

/s/ James N. Lewis

James N. Lewis