

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OAKLAND TACTICAL SUPPLY LLC, et al.,

Plaintiffs,

Civil Action No. 18-CV-13443

vs.

HON. BERNARD A. FRIEDMAN

HOWELL TOWNSHIP,

Defendant.

**ORDER VACATING ECF NOS. 84, 85, AND 91 AND REQUIRING
ADDITIONAL BRIEFING FROM THE PARTIES PURSUANT TO THE
COURT OF APPEALS' AUGUST 5, 2022, OPINION AND JUDGMENT**

This matter is presently before the Court on the Court of Appeals' August 5, 2022, opinion and judgment (ECF No. 94), which vacated this Court's September 10, 2020, grant of judgment on the pleadings in favor of defendant and February 9, 2021, order denying plaintiffs' motion for reconsideration. The Court of Appeals remanded the case to "allow [this Court] to consider the plausibility of Oakland Tactical's Second Amendment claim in light of the Supreme Court's recent decision in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022)." (*Id.*, PageID.2197).

In *Bruen*, the Supreme Court clarified the proper test for assessing Second Amendment claims, like those raised in the present case. The Court explained:

When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation. Only then may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command."

Bruen, 142 S. Ct. at 2129-30. In accordance with the Court of Appeals' opinion and judgment,

IT IS ORDERED that the Court's September 10, 2020, opinion and order (ECF No. 84) granting defendant's motion to dismiss; the Court's corresponding judgment in favor of defendant (ECF No. 85); and the Court's February 9, 2021, opinion and order (ECF No. 91) denying plaintiffs' motion for reconsideration are vacated.

IT IS FURTHER ORDERED that, within thirty days of the date of this order, defendant submit supplemental briefing in support of its motion to dismiss on (1) "whether Oakland Tactical's proposed course of conduct is covered by the plain text of the Second Amendment"; and (2) "whether historical evidence—to be produced by the Township in the first instance—demonstrates that the [Howell Township Zoning] Ordinance's shooting regulations are consistent with the nation's historical tradition of firearm regulation." (ECF No. 94, PageID.2200-01) (citing *Bruen*, 142 S. Ct. at 2134-35, 2138).

IT IS FURTHER ORDERED that plaintiffs submit a response brief within fourteen days thereafter.

s/Bernard A. Friedman
Hon. Bernard A. Friedman
Senior United States District Judge

Dated: August 31, 2022
Detroit, Michigan