

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

DARREN A. BRITTO, *et al.*,

Plaintiffs,

v.

2:23-CV-019-Z

BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES,

Defendant.

ORDER


Before the Court is Plaintiffs’ Motion for Preliminary Injunction (“Motion”) (ECF No. 14), filed on February 7, 2023. There are at least seven substantially similar cases pending in federal court — including three in this District. The Fort Worth Division recently denied preliminary injunction in a case involving comparable plaintiffs, injuries, and relief requested. *See Mock v. Garland*, No. 4:23-CV-095-O, 2023 WL 2711630 (N.D. Tex. Mar. 30, 2023) (O’Connor, J.). On review of that denial, an emergency motions panel for the United States Court of Appeals for the Fifth Circuit enjoined the Rule (Factoring Criteria for Firearms with Attached Stabilizing Braces, 88 Fed. Reg. 6,478 (Jan. 31, 2023)) pending the expedited appellate review of the District Court’s decision. *Mock v. Garland*, No. 23-10319 (5th Cir. May 23, 2023) (order granting preliminary injunction). The Fifth Circuit’s preliminary injunction, however, only covers the plaintiffs of the *Mock* case.

In response to the Fifth Circuit’s preliminary injunction pending appeal, the Dallas Division granted in part plaintiffs’ motion for preliminary injunction. *See Second Amendment Foundation v. ATF*, No. 3:21-CV-116-B (N.D. Tex. May 25, 2023) (Boyle, J.). In line with the Dallas Court’s decision, and because appellate review of the Rule is now expedited, this Court **FINDS** that the same relief ordered by the Fifth Circuit should be granted to Plaintiffs in the above-captioned case, consistent with its

subsequent clarification order.¹ Accordingly, the Court **GRANTS IN PART** the Motion and issues a preliminary injunction as to the Plaintiffs in this case only, pending resolution of the expedited appeal of *Mock*. The Court may order additional briefing at a later date in accordance with the Fifth Circuit's decision.

SO ORDERED.

May 31, 2023



MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE

¹ See *Mock v. Garland*, No. 23-10319 (5th Cir. May 26, 2023) (order granting opposed motion for clarification).