

SUPREME COURT OF PENNSYLVANIA

Civil Rights Defense Firm, P.C., Firearms Policy Coalition, Inc., Prince Law Offices, P.C., Trop Gun Shop Ltd., and Roger Mullins v. Governor Tom Wolf

Civil Rights Defense Firm, P.C. v. Governor Tom Wolf, No. 63 MM 2020 (Pa. Mar. 19 2020) · No. No. 63 MM 2020 · Decided March 22, 2020

SUMMARY

Justice Wecht issued a concurring and dissenting statement concerning an emergency application challenging Pennsylvania Governor Tom Wolf's COVID-19 business-closure order. He agreed that the challenge based on attorneys' inability to practice had been mooted by subsequent clarification, but concluded that the order's failure to accommodate licensed firearm dealers effectively prohibited firearm transfers and burdened rights protected by the Second Amendment and the Pennsylvania Constitution. Justices Donohue and Dougherty joined the statement.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Wecht; Justice Donohue; Justice Dougherty
JURISDICTION	Pennsylvania
DECIDED	March 22, 2020
DOCKET	No. 63 MM 2020
DISPOSITION	other
PROCEDURAL POSTURE	Petitioners sought emergency relief challenging the Governor's March 19, 2020 order closing businesses that were not deemed life-sustaining during the COVID-19 pandemic.
PRECEDENTIAL VALUE	Nonbinding separate statement
PARTIES	Civil Rights Defense Firm, P.C., Firearms Policy Coalition, Inc., Prince Law Offices, P.C., Trop Gun Shop Ltd., Roger Mullins v. Governor Tom Wolf

TOPICS

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QUESTIONS PRESENTED

1. Whether the challenge based on attorneys' inability to practice law was moot after the Governor issued a subsequent clarification.
2. Whether the Governor's closure order, as applied to licensed firearm dealers, effectively prohibited retail firearm transfers in a manner that substantially burdened rights protected by the Second Amendment and Article I, Section 21 of the Pennsylvania Constitution.

KEY QUOTATIONS

"Quite simply, if firearm dealers are not able to conduct any business in-person at their licensed premises, then no transfers of firearms can be completed." (2)

"This amounts to an absolute and indefinite prohibition upon the acquisition of firearms by the citizens of this Commonwealth—a result in clear tension with the Second Amendment to the United States Constitution and Article I, Section 21 of the Pennsylvania Constitution." (2)

"Such an accommodation may be effectuated while preserving sensible restrictions designed to slow the spread of COVID-19, but nonetheless provide a legal avenue for the purchase and sale of firearms, thus avoiding an impermissible intrusion upon a fundamental constitutional right." (3)

FACTUAL BACKGROUND

The Governor's March 19, 2020 COVID-19 closure order made no express allowance for continued physical operations by licensed firearm dealers. Federal and Pennsylvania law generally require in-person procedures and completion of firearm transfers at the dealer's licensed premises, including a Pennsylvania background check for retail firearm sales. Justice Wecht reasoned that closing those premises therefore prevented all retail firearm transfers and indefinitely barred citizens from acquiring firearms.

PROCEDURAL HISTORY

The Supreme Court of Pennsylvania considered an application for emergency relief. Justice Wecht agreed with the Court's disposition insofar as the challenge based on attorneys' inability to practice law had been mooted by subsequent clarification, but separately concurred and dissented concerning the effect of the closure order on firearm sales.

DISPOSITION

other

CASES CITED

- District of Columbia v. Heller, 554 U.S. 570 (2008)

- McDonald v. City of Chicago, 561 U.S. 742 (2010)
- Bateman v. Perdue, 881 F. Supp. 2d 709 (E.D.N.C. 2012)

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