

SUPREME COURT OF MARYLAND

Fooks v. State of Maryland

Fooks v. State, No. 24, September Term, 2022 (Md. Aug. 15, 2023) · No. No. 24, September Term, 2022 ·
Decided August 15, 2023

SUMMARY

The Supreme Court of Maryland granted the State’s unopposed motion to stay Robert L. Fooks’s case pending the United States Supreme Court’s decision in United States v. Rahimi. Judge Gould dissented, concluding that Rahimi involved a materially different federal statute and that the Maryland court should decide the fully briefed case without waiting.

CASE DETAILS

COURT	Supreme Court of Maryland
WRITING FOR THE COURT	Matthew J. Fader, C.J.; Watts, J.; Hotten, J.; Booth, J.; Biran, J.; Gould, J.; Eaves, J.
JURISDICTION	Maryland
DECIDED	August 15, 2023
DOCKET	No. 24, September Term, 2022
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Maryland stayed the case, on the State's unopposed motion, pending the United States Supreme Court's decision in United States v. Rahimi.
PRECEDENTIAL VALUE	Published order; the underlying merits remain unresolved in the provided document.
PARTIES	Robert L. Fooks v. State of Maryland

TOPICS

- second amendment
- appellate procedure
- constitutional law
- federalism
- appellate jurisdiction

PRACTICE AREAS

- constitutional law
- criminal procedure
- appellate procedure
- firearms law

QUESTIONS PRESENTED

1. Whether the case should be stayed pending the United States Supreme Court's disposition of *United States v. Rahimi*.
2. What schedule should govern the case after the United States Supreme Court finally disposes of *Rahimi*.

HOLDINGS

1. The Supreme Court of Maryland granted the State's unopposed motion to stay the case pending a decision by the United States Supreme Court in *United States v. Rahimi*.
2. Upon the United States Supreme Court's final disposition of *Rahimi*, the parties must promptly notify the Clerk and propose a schedule for supplemental briefing.

KEY QUOTATIONS

“ORDERED that, pending a decision by the United States Supreme Court in United States v. Rahimi, Docket No. 22-915, October Term, 2023, this case is stayed.” (Order)

“Upon a final disposition by the United States Supreme Court in Rahimi, the parties shall promptly notify the Clerk and propose a schedule for supplemental briefing.” (Order)

FACTUAL BACKGROUND

The case concerns constitutional challenges involving firearm restrictions, including the scope of the Second Amendment as applied to Maryland law. The Supreme Court of Maryland had granted review, the case was fully briefed and argued, and the court was awaiting decision when the State sought a stay based on the anticipated relevance of the United States Supreme Court's decision in *Rahimi*.

PROCEDURAL HISTORY

The case arose from the Circuit Court for Wicomico County under Case No. C-22-CR-21-000030 and was argued before the Supreme Court of Maryland on March 2, 2023. Before the court issued a merits decision, the State moved to stay the case pending the United States Supreme Court's disposition of *Rahimi*. The Supreme Court granted the motion and directed the parties to notify the Clerk and propose a supplemental-briefing schedule after *Rahimi* was finally decided.

DISPOSITION

other

CASES CITED

- *United States v. Rahimi*, No. 22-915, 2023 WL 4278450 (U.S. Jun. 30, 2023)
- *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111 (2022)
- *Koenig v. State*, 368 Md. 150, 151 (2002) (Bell, C.J., dissenting)

OPINION

PER CURIAM.

Circuit Court for Wicomico County Case No. C-22-CR-21-000030 Argued: March 2, 2023 IN THE SUPREME COURT OF MARYLAND* No. 24 September Term, 2022

ROBERT L. FOOKS v. STATE OF MARYLAND

Fader, C.J., Watts, Hotten, Booth, Biran, Gould, Eaves, JJ.

Per Curiam Order Gould, J., dissents.

Pursuant to the Maryland Uniform Electronic Legal Materials Filed: August 15, 2023 Act (§§ 10-1601 et seq. of the State Government Article) this document is authentic.

2023-08-15 09:46-04:00 Gregory Hilton, Clerk *During the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals to the Supreme Court of Maryland.

The name change took effect on December 14, 2022. * IN THE * ROBERT L. FOOKS SUPREME COURT * v. OF MARYLAND * STATE OF MARYLAND No. 24 * September Term, 2022 * ORDER Upon consideration of the State's unopposed motion to stay this case pending a decision by the United States Supreme Court in United States v. Rahimi, Docket No. 22-915, October Term, 2023, it is this 15th day of August 2023, by the Supreme Court of Maryland, a majority of the Court concurring, ORDERED that the motion is granted; and it is further ORDERED that, pending a decision by the United States Supreme Court in United States v. Rahimi, Docket No. 22-915, October Term, 2023, this case is stayed.

Upon a final disposition by the United States Supreme Court in Rahimi, the parties shall promptly notify the Clerk and propose a schedule for supplemental briefing. /s/ Matthew J. Fader Chief Justice Circuit Court for Wicomico County Case No. C-22-CR-21-000030 Argued: March 2, 2023 IN THE SUPREME COURT OF MARYLAND* No. 24 September Term, 2022 ROBERT L. FOOKS v. STATE OF MARYLAND Fader, C.J., Watts, Hotten, Booth, Biran, Gould, Eaves, JJ. Dissenting Opinion by Gould, J. Filed: August 15, 2023 *During the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals to the Supreme Court of Maryland.

The name change took effect on December 14, 2022. Respectfully, I dissent from the Court's Order staying this case pending the Supreme Court of the United States' disposition of United States v. Rahimi, No. 22-915, 2023 WL 4278450 (U.S. Jun. 30, 2023).

The State filed an Unopposed Motion to Stay this case pending the outcome of Rahimi, arguing that: [T]he U.S. Supreme Court undoubtedly will clarify the scope of the Second Amendment—particularly whether restrictions on the possession of firearms by non-felons are constitutional—and will offer further guidance on how to apply the new standard for assessing Second Amendment claims enunciated in New York State Rifle & Pistol Association, Inc. v. Bruen, 142 S. Ct.

2111 (2022). Furthermore, the U.S. Supreme Court likely will address some of same [sic] historical sources and arguments that the parties have discussed in Fooks. In sum, the U.S. Supreme Court's forthcoming decision in Rahimi will surely overlap with the issues and arguments currently before this Court in Fooks. Resp't's Unopp'd Mot. to Stay 2.

In my view, the State has not offered a sufficient reason to stay this case. First, the issue in Rahimi is fundamentally different than the one presented here. In Rahimi, the Supreme Court granted certiorari to decide the following question: "Whether 18 U.S.C. 922(g)(8), which prohibits the possession of firearms by persons subject to domestic- violence restraining orders, violates the Second Amendment on its face." There, the statute at issue is a federal statute; the statute at issue here is a Maryland statute.

That difference alone warrants a different constitutional analysis under the system of federalism established in the United States Constitution. Moreover, even if the Supreme Court's analysis in Rahimi could be helpful, so what? This Court grants certiorari when it is "desirable and in the public interest." Md. Code Ann. (1974, 2020 Repl. Vol.), Cts. & Jud.

Proc. § 12-203. We did so here. Our job, therefore, is to decide this case by applying the governing principles of law as they now exist. As Chief Judge Bell put it when dissenting from the dismissal of a writ of certiorari as improvidently granted: The Court of Appeals has a responsibility to decide any case properly presented that meets the threshold criteria: presenting issues that it is desirable and in the public interest to decide.

That responsibility, as to any issue, may be triggered by such considerations as novelty, complexity, conflicting precedents, impact or importance and the breadth or extent thereof and likelihood of recurrence. Koenig v. State, 368 Md. 150, 151 (2002) (Bell, C.J., dissenting).

The case has been fully briefed and argued, and is awaiting this Court's decision. There's no need or compelling reason to wait for the Supreme Court's decision in Rahimi. And in doing so, we are passing on the opportunity to weigh in on an issue of significant local and national importance, which is unfortunate, to say the least.

Accordingly, I respectfully dissent. 2