

SUPREME COURT OF THE STATE OF MISSOURI

ALVIN BROOKS, et al.)
)
Plaintiffs/Respondents)
)
v.) **No. SC85674**
)
STATE OF MISSOURI, a state)
government, et al.)
)
Defendants/Appellants)

and

BULL'S EYE, LLC, GERI STEPHENS,
President of Bull's Eye, LLC, and Jim
Stephens, co-owner of Bull's Eye, LLC.

Intervenors/Appellants

**APPEAL FROM THE CIRCUIT COURT OF
THE CITY OF ST. LOUIS**

HON. STEVEN R. OHMER

**BRIEF OF APPELLANTS
BULL'S EYE, LLC**

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STATEMENT OF JURISDICTION

This action involves the question of whether Article I, Section 23 of the Missouri Constitution permits the Missouri Legislature to legislate on the issue of carrying concealed weapons. On September 11, 2003, the legislature enacted House Bills 349, 120, 136 and 368 by legislative override of a gubernatorial veto. The legislation repealed §571.030, RSMo, and enacted three new sections in lieu thereof, §§50.535, 571.030, and 571.094. Collectively, these sections authorize the carrying of concealed weapons upon the satisfaction of certain pre-requisites described therein.

On November 7, 2003, the Trial Court issued a permanent injunction, enjoining the enforcement of these laws and declaring them unconstitutional on the grounds that they violated Article I, Section 23. Because review of this action requires an interpretation of constitutional law, exclusive appellate jurisdiction rests in this Court. MO. CONST. Art. V, §3.

STATEMENT OF FACTS

In 1874, the Missouri Legislature enacted its first concealed carry legislation, which created limited restrictions on the right of Missouri citizens to carry concealed weapons. 1874 Mo. Laws at 43. In 1875, the Missouri Constitution was ratified, enacting a “right to bear arms” provision:

That the right of every citizen to keep and bear arms in defense of his home, person and property, or when lawfully summoned in aid of the civil power, shall not be questioned; but nothing herein contained is intended to justify the practice of wearing concealed weapons.

Mo.Const., Art.II, Sec. 17 (1875).

In 1879, the Legislature extended the 1874 restriction on carrying concealed weapons, prohibiting the practice in general. RSMo § 1274 (1879). However, the Legislature recognized the need for some citizens to retain the right to concealed carry, and thereby enacted a statute allowing certain people under particular circumstances to do so. RSMo § 1275 (1879).

In 1945, the Missouri Constitution was revised and amended. The right to bear arms provision was moved from Article II, Section 17 to Article I, Section 23, with the following modification: “but nothing herein contained is intended to justify the practice of wearing concealed weapons” was changed to “but this shall not justify the wearing of concealed weapons.” Mo. Const., Art. I, Sec. 23 (1945).

The 1879 concealed carry statutes was modified multiple times prior to 1978 when its ultimate successor, RSMo § 571.035 was converted from 562.070. Under these statutes, the Missouri Legislature extended the right to carry concealed weapons to state,

county, and municipal law enforcement officers, to state judges, to any corporate security advisor, to any person upon his business premises, and to any person traveling in a continuous journey peaceably through the state. Mo. Ann. Stat. § 571.030 (2003). In 1993, the Legislature expanded § 571.030 and extended the right to carry concealed weapons to the federal judiciary and to federal probation officers. Id. In 1997, the Legislature extended the right to any state probation or parole officer. Id.

On September 11, 2003, the Missouri legislature overrode a gubernatorial veto of House Bills 349, 120, 136 and 368. These bills repealed RSMo §571.030 and enacted §§50.535, 571.030, and 571.094. (A 33).¹ Collectively, these sections extend the right to carry concealed weapons beyond the previously enumerated groups to citizens as a whole, upon the satisfaction of certain pre-requisites described therein. (A 33 – A 53).

The new concealed carry law was to take effect on October 11, 2003. On October 9, 2003, respondents filed an Amended Petition against the State of Missouri, Attorney General Jeremiah W. (Jay) Nixon, and James Murphy, Sheriff of the City of St. Louis, seeking an injunction to prevent the enforcement of this law. (LF 41-57). Respondents are a caucus of opponents to the new concealed carry law. Id. They argued that the law violated Article I, Section 23 of the Missouri Constitution. Id. Respondents offered four (4) other grounds for the injunction: (1) violation of the Hancock Amendment - Article X, Section 21 of the Missouri Constitution; (2) violation of Article I, Section 1 of the Missouri Constitution; (3) violation of Article 3, Section 1 of the Missouri Constitution;

and (4) vagueness rendering the law void. Id. The Court considered these additional four grounds meritless. (LF 101, LF 379 – 382).

On October 10, 2003, Bulls Eye, LLC, and its owners, Jim and Geri Stephens, (collectively “Bulls Eye Appellants”) filed a Motion to Intervene, claiming an independent and unprotected interest in the litigation. (LF 78 – 81). Through the testimony of Geri Stephens, the intervenors demonstrated a business expectancy stemming from the new law and the potential for a significant loss of income should respondents' prayer be granted. (T 108 - 112). The Trial Court granted the intervention. (LF 98 – 100). That issue is not on appeal.

On October 10, 2003, the Court found a probability of success on the merits in regard to respondents' challenge to the constitutionality of the new law, based upon the alleged conflict with Article I, Section 23. (LF 101). The Court rejected respondents' other four arguments. (LF 101). The Court issued a preliminary injunction pending trial on the merits and ordered respondents to post a Two Hundred Fifty Thousand Dollar (\$250,000.00) secured bond. Id.

On October 23, 2003, the National Rifle Association was granted Amicus Curiae status and trial was held on respondents' request that the injunction be made permanent. (LF 377). Respondents argued that Article I, Section 23 contains a prohibition on concealed carry legislation. (LF 382). Defendants argued that the final clause of Section 23 merely clarifies the scope of constitutional protection. Id. Testimony was also

¹ Citations to the Appendix are indicated by the letter “A” followed by page numbers. References to the Legal File use the indicator “LF,” while references to the Transcript use

solicited from representatives of the Sheriffs departments of Jackson County, Greene County, Camden County, and Cape Girardeau County. (LF 377). This testimony did not bear on the issue of Article I, Section 23. That testimony is irrelevant to this appeal.

On November 7, 2003, the Trial Court issued its Judgment and Order, making permanent the injunction enjoining enforcement of the new law. (LF 376 – 397). The Court held that the new law violated Article I, Section 23 of the Missouri Constitution, but found no merit to respondents' other points. (LF 379 – 382, LF 395). This appeal follows, pursuant to Notices of Appeal filed separately by Appellant State and Appellant Bulls Eye, LLC on November 7, 2003. (LF 398 - 424; A 23).

“T.”

POINTS RELIED ON

THE TRIAL COURT ERRED IN RULING THE CONCEALED CARRY LAW UNCONSTITUTIONAL BECAUSE THE PLAIN LANGUAGE OF THE CONSTITUTION CONTAINS NO PROHIBITION ON CONCEALED CARRY LEGISLATION AND A PLAIN MEANING INTERPRETATION IS REQUIRED IN THAT THE LANGUAGE IS NOT VAGUE.....10

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ARGUMENT

Introduction

The Trial Court order rests on one determination and presents one question on appeal: Does Article I, Section 23 of the Missouri Constitution prohibit concealed carry? Absent a constitutional prohibition, the Missouri Legislature acted within the scope of its plenary power when it enacted RSMO §§ 50.353, 571.030 and 571.024.

The Trial Court recognized the extreme deference owed to validly enacted legislation. (L 408). The Trial Court further recognized the extremely heavy burden of proof respondents must meet when challenging the constitutionality of legislation. (L 409). The Trial Court failed, however, to hold respondents to that heavy burden, and erred in holding the foregoing statutes unconstitutional.

The plain language of Article I, Section 23 controls. The Trial Court erred in moving beyond a plain meaning analysis. The Trial Court conducted an overbroad analysis, citing historical precedent, and other state constitutions. That approach, though improper, should have resulted in the same conclusion reached under a plain meaning analysis. All arguments are herein addressed in keeping with the Trial Court's example. But in truth, this Court need look no further than the Constitution itself.

Standard Of Review

Constitutional interpretation is an issue of law that the Supreme Court reviews *de novo*. Farmer v. Kinder, 89 S.W.3d 447, 449 (Mo banc 2002).

THE TRIAL COURT ERRED IN RULING THE CONCEALED CARRY LAW UNCONSTITUTIONAL BECAUSE THE PLAIN LANGUAGE OF THE CONSTITUTION CONTAINS NO PROHIBITION ON CONCEALED CARRY LEGISLATION AND A PLAIN MEANING INTERPRETATION IS REQUIRED IN THAT THE LANGUAGE IS NOT VAGUE.

When the constitutionality of legislation is challenged, the legislation is entitled to a strong presumption that it is constitutional. Missouri Libertarian Party v. Conger, 88 S.W.3d 446, 447 (Mo. banc 2002). One who attacks a statute claiming it violates the Constitution “bears an extremely heavy burden.” Linton v. Missouri Veterinary Medical Board, 988 S.W.2d 513, 515 (Mo. banc. 1999). “[T]o overcome this burden, the assailant must show that the legislation ‘clearly and undoubtedly contravenes the constitution.’” Etling v. Westport Heating & Cooling Sys., Inc., 92 S.W. 3d 771, 773 (Mo banc. 2003). A reviewing court is obligated to uphold legislative enactments unless the [lack of] constitutionality is clearly demonstrated. Penner v. King, 695 S.W. 2d 887, 889 (Mo. banc 1985).

If a statute is vague on its face, a reviewing court may use tools of construction to interpret the language of the statute. Lagares v. Camdenton R-III School Dist., 68 S.W.3d 518, 525 (Mo. banc. 2002). However, if a statute’s meaning is clear from its language, a reviewing court may not resort to *any* tools of construction. State ex rel. Heimberger v. Bd. Of Curators of University of Missouri, 188 S.W. 128, 130-131 (Mo. banc 1916) (emphasis added). Instead, the court must interpret the words as it finds them, in their plain and ordinary meaning. Lagares, 68 S.W.3d at 525.

In this case, the respondents failed to meet their heavy burden. Respondents failed to clearly prove that the statutory language contravenes the Constitution. Absent such proof, the statute is deemed constitutional.

Article I, Section 23 of the Missouri Constitution reads:

Section 23. That the right of every citizen to keep and bear arms in defense of his home, person and property, or when lawfully summoned in aid of the civil power, shall not be questioned; but this shall not justify the wearing of concealed weapons.

MO Const. Art. I § 23.

The Trial Court concluded, “The words of Article I, Section 23 of the Missouri Constitution are simply and easily read, but what do they mean? While the words are simple and clear, their meaning *in the context of the Constitution* is not definitive.” The Trial Court found the language simple and clear. If words are simple and clear, then their simple and clear meanings control. Their meaning “in the context of the Constitution” is irrelevant. Accordingly, the Trial Court erred by moving beyond a plain meaning analysis of the simple and clear language.

The pertinent part of Article I, Section 23 reads, “but *this* shall not *justify* the wearing of concealed weapons.” (emphasis added). The word “this” in the second phrase of Section 23 can only refer to “the right of every citizen to keep and bear arms in defense of his home, person and property.” Black’s Law Dictionary defines “justify” as “to provide a lawful or sufficient reason for one’s acts or omissions.” BLACK’S LAW DICTIONARY 870 (7th ed. 1999). “Justify” is again defined by Random House Webster’s Unabridged Dictionary as “to show a satisfactory reason or excuse for something done.”

RANDOM HOUSE WEBSTER'S UNABRIDGED DICTIONARY 1040 (2d ed. 1999). Applying these plain meaning definitions, this constitutional provision simply states "*the right of every citizen to keep and bear arms does not alone provide sufficient lawful reason for wearing a concealed weapon.*" The provision does not prohibit the creation of a lawful reason elsewhere.

Absence of justification does not generate a prohibition. Rather than prohibit the practice, the Constitution simply refused to endorse it. It did not, however, prohibit the Legislature from doing so. Nothing in Article I, Section 23 eviscerates the otherwise present right of the legislature to legislate on this issue. The right of the legislature to fill gaps within the Constitution need not be specifically mentioned. The Legislature's plenary power is assumed unless a clear limitation is given. Penner v. King, 695 S.W.2d 887, 889 (Mo banc 1997) (emphasis added). Certainly, the drafters of the 1879 Missouri Constitution knew how to expressly limit the Missouri legislature's power when necessary.

Many of the other provisions in the Bill of Rights contain limiting language. Article I, Section 13, for instance, states "That no ex post facto law...can be enacted." The framers could have written, "That no conceal carry law can be enacted." But they did not. Likewise, Article I, Section 8 states, "That no law shall be passed impairing the freedom of speech." These provisions prove the framers' ability to bar the Legislature from a legal arena. The language is simple and plain and requires no contextual analysis. The language of Article I, Section 23 is equally simple and plain and does not bar legislative action.

A. The Framers of Article I, Section 23 Relied on Plain Meaning to Clarify Constitutional Rights, Not to Ban Concealed Carry Legislation.

Article I, Section 23 was never intended to prohibit the Legislature from addressing concealed carry. The concealed carry provision in Article I, Section 23 was added in 1875 in response to a Kentucky case, Bliss v. Commonwealth, 1822 WL 1085 (Ky. 1822). See David B. Kopel, et al. *A Tale of Three Cities: The Right to Bear Arms in State Supreme Courts*, 68 Temp. L. Rev. 1177, 1205 (1995). Bliss arose out of the Kentucky Legislature's enactment of a law regulating the manner in which Kentucky citizens could carry concealed weapons. A Kentucky state court struck down this law because it believed the Kentucky constitution's statement "that the right of the citizens to bear arms in defence of themselves and the state, shall not be questioned," conferred an unfettered, constitutional right to carry weapons in any manner and at any time. Bliss, 1822 WL 1085, at 2.

In response, Missouri, like other states, acted to clarify that its own legislature was not stripped of the ability to limit the time, place, and manner of Missouri citizens' right to carry by virtue of its "right to bear arms" provision. See Kopel, *supra* at 1205. The clause "but this shall not justify the concealed carrying of weapons," clarified that the right to bear arms in defense of home, person and property did not confer an *uninfringeable* right to bear arms in any way, at any time, and in any place. Id. Rather than a prohibition, the language is more appropriately read as an invitation for legislative action.

The 1875 language was slightly modified in 1945, and the Trial Court correctly noted the change to be inconsequential. (LF 392-393). The modification from “but nothing herein contained is intended to justify the practice of wearing concealed weapons,” to “but this shall not justify the wearing of concealed weapons” simplified the clause but did not change the key word at issue, “justify.” If the drafters of these changes felt the language was vague, they could have easily used the word “forbid” or “prohibit” to ban any legislative action. They did not. The language remains, as created, a clarification of the preceding guarantee of citizens’ rights.

B. Missouri Courts Have Consistently Relied Upon a Plain Meaning Interpretation to Uphold the Legislature’s Power to Address Concealed Carry.

The Judiciary has continually regarded this constitutional language as an invitation rather than a prohibition. In State v. Wilforth, 74 Mo. 528 (Mo. 1881), decided under the precursor to Article I, Section 23, this Court held that a legislative ban on concealed carry was constitutional. The case suggests that the legislature acted within its discretion in addressing the issue through statute. There is no discussion that the constitutional provision required a ban on concealed carry--only that the clause granted the legislature authority to address the issue as it saw fit.

Further, State v. Shelby, 2 S.W. 468 (Mo. 1886) acknowledged legislative discretion in regulating not only concealed carry, but open carry in certain places and while intoxicated. This Court explicitly stated that it is within the legislature’s domain to make concealed carry an offense. The text of that decision reads:

The right of the legislature to prohibit the wearing of concealed weapons under state constitutions, in many respects like our own, is now generally conceded. Indeed, our constitution, in express terms, says that it is not intended thereby to justify the practice of wearing concealed weapons. The portions of the act which make it an offence for any one to carry concealed upon his person a dangerous or deadly weapon, is clearly within the legitimate domain of legislative power.

Id. at 469.

Note that the Court attributed the illegal status of the behavior to legislation, not the Constitution. The regulation in Shelby was restrictive of conceal carry rather than expansive, but the opinion demonstrates the essential issue: the legislature has the authority to regulate concealed carry.

In State v. White, 253 S.W. 724 (Mo. 1923), the defendant was prosecuted according to RSMo § 564.610, the precursor to 571.030, for exhibiting a dangerous and deadly weapon. Defendant challenged the constitutionality of this statute, claiming it was an unconstitutional infringement on his right to bear arms. The Court once again recognized the legislature's discretion in this arena:

The evident purpose of Section 17, Art. 2, is to render the citizen secure in his home, his person, and his property. Its purpose is to deny to the Legislature the power to take away the right of the citizen to resist aggression, force, and wrong at the hands of another. By no possible construction can that section of the Constitution be held to guarantee to the citizen the right to keep and bear arms for the purpose of his own aggression, wrong, or assault upon the person or property of another. The right of the citizen to keep and bear arms for his own protection or in aid of the civil power, when thereto legally summoned, is the only right guaranteed to the citizen. The moment a citizen ceases to act in protection of his home, his person, or his property, unless acting in aid of the civil power, he steps out from under the protection of the Constitution, *and his right to bear arms may be taken away or limited by reasonable restrictions.* The reasoning of the cases sustaining *statutes prohibiting the carrying of concealed weapons* is applicable here also.

Id. at 727. (emphasis added).

This language cannot be read to support the Trial Court's position that there is a constitutional ban on concealed carry. If that were the case, this Court's discussion in White would have been unnecessary; a simple statement that concealed carry is unconstitutional would have sufficed.

In addition, two things are made clear by this language in White. First, the statement "and his right to bear arms may be taken away or limited by reasonable restrictions" recognizes the right of the legislature to regulate this area of law. Second, the words "the reasoning of the cases sustaining statutes prohibiting the carry of concealed weapons" recognizes that the prohibition on concealed carry stems from statutes, rather than from the Constitution. The Court in fact stated, "Section 17, art. 2, of the Constitution authorizes the Legislature to prohibit the wearing of concealed weapons." Id. at 726. (emphasis added).

This reading of the language as a deferral to the legislature has been recognized as recently as 1994. The Eastern District Court of Appeals stated in City of Cape Girardeau v. Joyce, that every Constitution adopted by the citizens of the State of Missouri since its inception in 1820 has contained language virtually identical to that of Article I, Section 23. City of Cape Girardeau v. Joyce, 884 S.W.2d 33, 34 (Mo. App. 1994). The court acknowledged that such constitutional provisions have never been held to deprive the General Assembly of authority to enact laws regulating the time, place and manner of bearing firearms. Id. This Court similarly stated that, "the constitution, in declaring that

every citizen has the right to bear arms in defense of himself and the state, has neither expressly or by implication denied to the legislature the right to enact laws in regard to the manner in which arms shall be borne.” State v. Wilforth, 74 Mo. 528 (1881) citing State v. Reid, 1 Ala. 612. Nothing in the Missouri Constitution limits the power of the legislature to enact laws pertaining to the time, place and manner of carrying weapons. Joyce, 884 S.W.2d at 35. Plain meaning dictates this acknowledgment of the legislature’s plenary power.

This line of precedent confirms the legitimacy of the Legislature’s past actions in this arena. Without restriction from Article I, Section 23, the legislature has repeatedly recognized that certain people are justified in carrying concealed weapons. Since 1978, RSMo § 571.030 has reflected the right to carry concealed weapons granted to the following people:

- (1) State, county, and municipal law enforcement officers (or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer);
- (2) wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
- (3) members of the armed forces or national guard while performing their official duty;
- (4) state and federal judges;
- (5) any person whose bona fide duty is to execute process, civil or criminal;
- (6) any federal probation officer;
- (7) any state probation or parole officer;
- (8) any corporate security advisor;
- (9) a person in his dwelling unit;
- (10) a person upon business premises over which the actor has possession, authority or control; and
- (11) a person who is traveling in a continuous journey peaceably through the state.

This statute recognizes instances where the legislature has deemed that personal protection issues justify carrying a concealed weapon. For instance, state and federal judges, listed in group (4), have no need to carry a concealed weapon for the sake of

aiding in law enforcement. The legislature has simply determined that they are justified in carrying concealed weapons due to the nature of their jobs and responsibilities. The same is true for persons in groups (5) through (8). Similarly, persons within their dwellings, or protecting their business premises are justified, according to the legislature, in carrying concealed weapons, as are ordinary citizens traveling on a continuous journey through the state. None of these persons are mentioned in Article I, Section 23. Article I, Section 23 cannot simultaneously mandate a complete ban on concealed carry and allow the legislature to create the right to concealed carry in these few designated groups. Either the legislature has the right to regulate concealed carry, or it does not.

More appropriately, this latest concealed carry legislation should be viewed as authorizing a twelfth group, general citizens, to carry concealed weapons after satisfying certain conditions. The legislature has simply determined that persons undergoing the requisite training, and fulfilling the requirements of the application process, should share the status already granted to persons in § 571.030.

Statutes like § 571.030 are not new to Missouri law, its indirect precursor having been enacted in 1874. That law did not ban concealed carry as a whole but only in specified places. 1874 Mo. Laws Sec. at 43. The statute was amended in 1875 and again in 1877, but it was not until 1879 that a general ban on concealed carry was placed in the statutes. RSMo § 1274 (1879). At that point, RSMo § 1275 was created, exempting people who were moving, traveling, carrying in response to physical threat, or possessing a “good” reason to otherwise carry, from the general prohibition. That statute was likewise amended multiple times with all exemptions eventually enacted as RSMo. §

571.030. These exemptions have been adjudicated over the years and have never been held unconstitutional. See State v. Livesay, 1888 WL 1727 (Mo. App. 1888); State v. Dees, 109 S.W. 800 (Mo.App. 1908); State v. Hovis, 116 S.W. 6 (Mo.App. 1909); State v. White, 253 S.W. 724 (Mo. 1923); City of Cape Girardeau v. Joyce, 884 S.W.2d 33 (Mo.App. 1994).

The Trial Court failed to address how RSMo § 571.030 and its predecessors could exist in the face of a constitutional ban on concealed carry. The Court recognized that concealed weapons had been the subject of legislation, but stated only that, “these laws do not conclusively answer the question before this Court.” (LF 391-392). But these laws do answer the question because they prove that no legislative prohibition exists. The very existence of these statutes defies the Trial Court’s conclusion.

C. Other States Have Applied a Plain Meaning Analysis in Similar Situations and Allowed Legislative Regulation of Concealed Carry.

Other states have applied a plain meaning interpretation to constitutional provisions similar to Missouri’s and subsequently allowed concealed carry legislation. The constitutions of Montana and Colorado in particular contain “right to bear arms” provisions nearly identical to Missouri’s. Colorado’s provision was actually taken directly from Missouri’s 1875 Constitution. *See* David B. Kopel, et al. *A Tale of Three Cities: The Right to Bear Arms in State Supreme Courts*, 68 Temp. L. Rev. 1177, 1205 (1995). Although the laws of these states are not binding on this Court, their respective legal positions are instructive.

Colorado’s provision reads as follows:

Section 13. Right to bear arms: The right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question, but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.

Colo. Const. Art II, § 13.

Montana's right to bear arms section reads as follows:

The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

Mont. Const. Art II, § 12

Interpreting no restraint from these provisions, the Colorado and Montana legislatures have enacted concealed carry legislation. (A 54 – A 60). The Trial Court below cited four pages of constitutions, but failed to acknowledge these states' plain meaning analyses. (LF 386-389).

The Trial Court referenced multiple constitutions and acknowledged that limiting language on concealed carry was added to many in response to Bliss v. Kentucky. (LF 393 – 394). However, the referenced state constitutions do not give their respective legislatures the affirmative right to *permit* concealed carry. Nevertheless, without that affirmative grant, many of the states, notably Colorado and Montana, have since allowed concealed carry legislation.

This legislative activity in Colorado and Montana acknowledges that a plain meaning interpretation does not limit the otherwise inherent power of the legislature. Rather, the phrases simply clarify that the right to carry concealed weapons is not

automatically created by a “right to bear arms” provision. The drafters invited the legislature to create specific regulations governing concealed carry. The Trial Court should not be allowed to frustrate that intent.

CONCLUSION

The legislation at issue does not contravene the plain meaning of Article I, Section 23 of the Missouri Constitution. That document does not forbid legislative action on the issue of concealed carry. This Court is therefore bound to defer to the legislature regarding the legislative enactment. The Trial Court's injunction should be dissolved and the judgment of that Court reversed, so that RSMo §§50.535, 571.030, and 571.094 may be enforced.

ORAL ARGUMENT REQUESTED.

Rule 84.06(b) Certification

Counsel hereby certifies that this Brief, submitted on behalf of Appellants Bulls Eye, LLC, Geri Stephens and Jim Stephens, intervenors below, complies with Rule 84.06(b). The word count is 5,323.

Certification of Virus-Free Disk

The enclosed disk, provided to the Court pursuant to Rule 84.06(g), has been scanned and is virus-free.

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By: _____

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Certificate of Service

The undersigned certifies that a copy of the foregoing was sent by United States mail, postage pre-paid, this ____ day of _____, 2003, to the following counsel of record:

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