



Written by [Bob Adelman](#) on May 1, 2023

## Trump-nominated Judge Upholds Second Amendment in Illinois

Stephen P. McGlynn was nominated to serve as a district judge in Illinois by then-President Donald Trump in December 2019. The Republican-controlled Senate confirmed him, and he assumed office in September 2020.

McGlynn and his promise to uphold and defend the Constitution of the United States were needed to keep angry Illinois legislators and the state's anti-gun governor from trampling on the Second Amendment. On Friday, McGlynn issued a [preliminary injunction](#) against the state's enforcement of its ill-named "Protect Illinois Communities Act" (PICA) that would have banned nearly 200 semi-automatic weapons (including the increasingly popular AR-15 semi-automatic rifle).



Olga Mendenhall/iStock/Getty Images Plus

He relied heavily upon the Supreme Court's momentous rulings in *Bruen* (*New York State Rifle & Pistol Association, Inc. v. Bruen*) and *Heller* (*District of Columbia v. Heller*). Those rulings made his job easy and defeated attempts by the state of Illinois to justify its intended infringement.

Wrote McGlynn:

PICA seems to be written in spite of the clear directives in *Bruen* and *Heller*, not in conformity with them.

Whether well-intentioned, brilliant, or arrogant, no state may enact a law that denies its citizens rights that the Constitution guarantees them.

Even legislation that may enjoy the support of a majority of its citizens must fail if it violates the constitutional rights of fellow citizens.

It was clear that the law was passed in a fit of pique — *National Review* said Illinois' national assembly and governor "acted gleefully in defiance" of the Supreme Court's ruling in *Bruen* — and it was immediately challenged in court.

Friday's ruling followed similar injunctions issued by other Illinois courts, one by Macon County Judge Rodney Forbes and another by the 5th Circuit Court of Appeals. Thanks to these rulings — and more to the point, thanks to the Founders, who knew from history that politicians would always seek to break their restraints — law-abiding gun owners in Illinois, especially those possessing the 190 "outlawed" firearms, can breathe easier. At least for the time being.

Less than two weeks after the *Bruen* decision, a mentally ill shooter murdered seven people in Highland



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Park during an Independence Day parade. But, as McGlynn noted, this was no excuse to infringe on peoples' rights:

As Americans, we have every reason to celebrate our rights and freedoms, especially on Independence Day.

Can the senseless crimes of a relative few be so despicable [as] to justify the infringement of the constitutional rights of law-abiding individuals in hopes that such crimes will then abate or, at least, not be as horrific?

More specifically, can PICA be harmonized with the Second Amendment of the United States Constitution and with *Bruen*? That is the issue before this Court.

The simple answer at this stage in the proceedings is "likely no." The Supreme Court in *Bruen* and *Heller* held that citizens have a constitutional right to own and possess firearms and may use them for self-defense.

The lawyers for the state who were defending the infringement had an impossible task: to show that somehow there was proof of earlier infringements enacted at the time the Second Amendment was added to the Constitution. As the high court noted in *Bruen*:

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."

After hearing pleas from those lawyers that the intended infringement could pass *Bruen* muster, McGlynn called their arguments "unpersuasive," noting in addition that "there is no evidence as to how PICA will actually help Illinois Communities."

He took the occasion to impugn the motives of the legislators and the governor in passing the obviously unconstitutional measure:

While PICA was purportedly enacted in response to the Highland Park shooting, it does not appear that the legislature considered an individual's right under the Second Amendment nor Supreme Court precedent.

Moreover, PICA did not just regulate the rights of the people to defend themselves; it restricted that right, and in some cases, completely obliterated that right by criminalizing the purchase and the sale of more than 190 "arms."

Furthermore, on January 1, 2024, the right to mere possession of these items [would] be further limited and restricted.

The Trump-appointment judge concluded:



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Plaintiffs have satisfied their burden for a preliminary injunction. They have shown irreparable harm with no adequate remedy at law, a reasonable likelihood of success on the merits, that the public interest is in favor of the relief, and the balance of harm weighs in their favor.

Therefore, the Plaintiffs' motions for preliminary injunction are GRANTED.

Without Trump and without the "separation of powers" doctrine installed through the foresight of our country's Founders, Illinois citizens would be disarmed and unable to defend themselves — against criminals or politicians.



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