IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
28th JUDICIAL DISTRICT, GIBSON COUNTY

STEPHEN L. HUGHES, DUNCAN O'MARA, ELAINE KEHEL, GUN OWNERS OF AMERICA, INC., and GUN OWNERS FOUNDATION, Plaintiffs, v. **BILL LEE, in his official capacity as the Governor for the State of Tennessee, *et al.*** Defendants.	**No: 24475**

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

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I. Introduction.

Tennessee law makes it a criminal offense for any individual to possess or carry, "with the intent to go armed," a firearm in "or on the grounds of any public park, playground, civic center or other building facility, area or property owned, used or operated by any municipal, county or state government, or instrumentality thereof, for recreational purposes." Tenn. Code Ann. § 39-17-1311(a) ("Parks Statute"). A person who possesses or carries a weapon in the places covered by the statute is at risk for being stopped, detained, questioned, charged, arrested and/or otherwise criminally prosecuted by the State of Tennessee under the Parks Statute. Under Tennessee's statutory scheme, such an individual bears the burden of proving, potentially at trial to a jury in a criminal prosecution, that their conduct (if it does) falls within one of the narrow affirmative defenses. This statutory scheme plainly infringes the general right to public carry guaranteed by Article I, Section 26 of the Tennessee Constitution.

In *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), the U.S. Supreme Court recognized that the Second and Fourteenth Amendments together guarantee individuals not only the right to "keep" firearms in their homes, but also the right to "bear arms" in public, meaning the ability of "ordinary, law-abiding citizens" to carry constitutionally protected arms "for self-defense outside the home," free from infringement by either federal or state governments. *Id.* at 9, 10. The Court described this right to public carry as a "general right" circumscribed only by historical tradition. *Id.* at 31.

The *Bruen* Court further held that, "when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation's

historical tradition of firearm regulation as of 1791. Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's 'unqualified command.'" *Id.* at 17.

The only appropriate inquiry, according to *Bruen*, is what the "public understanding of the right to keep and bear arms" was during the ratification of the Second Amendment in 1791, with prior and/or subsequent history serving a merely confirmatory role. *Bruen*, 597 U.S. at 38. This Court should apply this strictly textual and historical methodology when interpreting Tennessee's analogous constitutional provision, as Article I, Section 26 cannot be construed to provide lesser protections than the Second Amendment. *See McDonald v. City of Chicago*, 561 U.S. 742, 791 (2010). The courts of other states are in accord, having concluded that their state constitutional rights to keep and bear arms cannot sink beneath the federal 'floor' of protection established by the Second Amendment. *See Stickley v. City of Winchester*, 110 Va. Cir. 300, 317, 320 (Winchester Cir. Ct. 2022) ("[A] bare minimum or 'floor' is established as to the level of protection of civil liberties.... This Court must follow the approach, in *Bruen*, in determining whether the provisions ... violate Article I, Section 13, of the Constitution of Virginia."); *Arnold v. Brown*, No. 22CV41008, Preliminary Injunction, at *11 (Or. 24th Jud. Dist., Harney Cnty. Cir. Ct. Dec. 15, 2022) (Article I, Section 27 of "[t]he Oregon Constitution must be at least as protective as the Federal Constitution on any matter of a constitutional right."); *Accuracy Firearms, LLC v. Pritzker*, 2023 Ill. App. LEXIS 21, at *32–33 (5th Dist. Ct. App. Jan. 31, 2023) ("It is well established that while a state may impose a greater protection of rights under its state constitution, it cannot reduce protection of individual rights below the minimum required under the federal Constitution. ... To conclude otherwise would provide a lesser right of protection under article I, section 22 ... than that proclaimed by the second amendment to the United States Constitution.").

Under *Bruen*'s standard, there is no historical national tradition of banning firearms in any of the categories of places enumerated in Tennessee Code Annotated § 39-17-1311(a) – certainly not during the Founding era, or even Reconstruction. Such locations are nothing like the types of "sensitive places" the Supreme Court has hinted at (but not conclusively determined) in its cases, but rather represent entirely ordinary locations that members of the general public use for a variety of purposes. *See District of Columbia v. Heller*, 554 U.S. 570, 626 (2008); *Bruen*, 597 U.S. at 30–31. Moreover, because parks and the other locations enumerated in the statute add up to a significant portion of Tennessee's total geographical area, they violate *Bruen*'s express warning not to turn large areas into sensitive places simply because people tend to gather there. *Bruen*, 597 U.S. at 31. Accordingly, this Court should grant Plaintiffs' Motion for Summary Judgment and declare this atextual and ahistorical statutory scheme unconstitutional under Article I, Section 26 of the Tennessee Constitution.

II. Statement of Facts and Procedural History.

This case presents a pure question of law regarding the constitutionality of Tennessee's Parks Statute under Article I, Section 26 of the Tennessee Constitution. Accordingly, Plaintiffs reiterate their prior briefing on standing in Section III, *infra*, to highlight the facts salient to this Court's resolution of the instant Motion. For a succinct summary of the statutory scheme and Plaintiffs' resulting harms, Plaintiffs incorporate by reference this Court's factual summary in its Memorandum Opinion and Order, August 30, 2023 at pp. 2–3.

Relevant to the instant Motion, Plaintiffs previously moved for a preliminary injunction on February 26, 2023. On March 5, 2024, this Court denied Plaintiffs' motion, holding that the recently enacted "Three-Judge Panel Statute," Tenn. Code Ann. § 20-18-101, did not alter the general rule that a "chancery court … has no power to enjoin the enforcement of criminal statutes."

Order Denying Motion for Preliminary Injunction, March 5, 2024 at p. 3. However, this Court held that it is "still able to 'hear[] and determine[]' Plaintiffs' case despite our inability to issue a preliminary injunction because we are able to enter a final ruling on their claim for declaratory relief." *Id.* at 6. Plaintiffs therefore file the instant Motion seeking declaratory relief only.

III. Plaintiffs Have Standing.

To show standing,[1] an individual plaintiff must suffer a concrete and particularized invasion of a legally protected interest that is either actual or imminent. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). This injury must be fairly traceable to the challenged action of the defendant and likely to be redressed by a favorable decision. *Id.* at 560–61. For pre-enforcement challenges, "[a] party facing prospective injury has standing to sue where the threatened injury is real, immediate, and direct." *Davis v. FEC*, 554 U.S. 724, 734 (2008). "[A]n actual arrest, prosecution, or other enforcement action is not a prerequisite to challenging the law." *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014). Due to the clear constitutional violations at issue here, Plaintiffs easily satisfy these requirements.

A plaintiff satisfies the injury-in-fact requirement where he alleges "an intention to engage in a course of conduct arguably affected with a constitutional interest, but proscribed by a statute, and there exists a credible threat of prosecution thereunder." *Babbitt v. United Farm Workers Nat'l Union*, 442 U.S. 289, 298 (1979); *see also Johnson v. Turner*, 125 F.3d 324, 338 (6th Cir. 1997). Tennessee case law mirrors the federal standard relative to standing. Three elements are necessary to establish constitutional standing:

> 1) a distinct and palpable injury; that is, an injury that is not conjectural, hypothetical, or predicated upon an interest that a litigant shares in common with the general public; 2) a causal connection between the alleged injury and the

[1] Plaintiffs submit a statement of material undisputed facts to address the issue of standing. The issue of whether the statute(s) are unconstitutional is a question of law.

> challenged conduct; and 3) the injury must be capable of being redressed by a favorable decision of the court.

Fisher v. Hargett, 604 S.W.3d 381, 396 (Tenn. 2020).

In pre-enforcement challenges to the constitutionality of a statute a plaintiff may satisfy the injury element by (1) alleging "an intention to engage in a course of conduct arguably affected with a constitutional interest but proscribed by [the] statute" and (2) showing the existence of "a credible threat of prosecution thereunder." *Babbitt*, 442 U.S. at 298. Furthermore, the Sixth Circuit has considered the following factors to determine whether a "credible threat of prosecution" exists:

> (1) "a history of past enforcement against the plaintiffs or others"; (2) "enforcement warning letters sent to the plaintiffs regarding their specific conduct"; (3) "an attribute of the challenged statute that makes enforcement easier or more likely, such as a provision allowing any member of the public to initiate an enforcement action"; and (4) the "defendant's refusal to disavow enforcement of the challenged statute against a particular plaintiff."

Online Merchants Guild v. Cameron, 995 F.3d 540, 550 (6th Cir. 2021) (quoting *McKay v. Federspiel*, 823 F.3d 862, 869 (6th Cir. 2016)); *Tennesseans for Sensible Election L. v. Slatery*, 2021 WL 4621249, at *3 (Tenn. Ct. App. Oct. 7, 2021).

A. Plaintiffs Have Announced an Intent to Engage in Conduct Protected by the State Constitution, but Which Would Be in Violation of Tennessee's Parks Statute.

As set forth in his Affidavit, Plaintiff Stephen Hughes has a Tennessee enhanced handgun permit. Hughes Affidavit ¶ 4. He has carried his handgun in the past and intends to carry a firearm when he visits local, state and/or federal parks, greenways, and/or other recreational areas not only in this judicial district but also statewide. *Id.* ¶ 6. He desires the capacity to carry long arms in some areas that are covered by the Parks Statute, such as areas that may be inhabited by wild predators. *Id.* ¶¶ 6, 12. He is concerned that doing so has and would put him at risk for a stop

and/or detention by a law enforcement officer in any of those locations, to the extent someone complains that he is armed or he is observed by law enforcement in such a location while armed. *Id.* ¶ 8. He understands that the Parks Statute prohibits not just handguns but any firearms, as interpreted by the State Attorney General to cover his conduct and based on a public record of prosecutions under this statute in Tennessee. *Id.* ¶¶ 7, 11; *see, e.g.*, *State v. Ewerling*, 2005 WL 850843, at *4 (Tenn. Crim. App. Apr. 13, 2005); *see also* Atty General Opinion 18-04; Tennessee Pattern Jury Instruction Criminal T.P.I.—Crim. 36.04 "Possessing or carrying weapons on public parks, civic centers, recreational buildings and grounds." Although he has a Tennessee enhanced handgun permit, he nevertheless runs the risk of stop, arrest, and prosecution, and would have the burden of possessing that permit, proving its validity, and proving that he possessed a handgun meeting Tennessee's definition thereof in order to defeat a criminal charge under the Parks Statute. Hughes Affidavit ¶¶ 9–10; *see, e.g.*, Tenn. Code Ann. § 39-17-1311(b)(1)(H or I). Indeed, the possession of a valid enhanced handgun permit would not shield him from being stopped or detained by law enforcement seeking to investigate whether he had violated the Parks Statute. Further, the enhanced handgun permit would not operate as an affirmative defense or exception to the possession of a rifle, a shotgun, a weapon classified as a "firearm," and/or a handgun with a barrel over 12 inches in length.[2] Atty General Op. 18-04.

As set forth in his Affidavit, Plaintiff Duncan O'Mara has a Tennessee enhanced handgun permit. O'Mara Affidavit ¶ 4. He has carried his handgun in the past and intends to carry a firearm

[2] A firearm that would be in the mind of most people and defined under federal law as a "handgun" is not a "handgun" under Tennessee law if the barrel is 12 inches long or longer. Tenn. Code Ann. § 39-11-106(a)(19) ("'Handgun' means any firearm with a barrel length of less than twelve inches (12″) that is designed, made or adapted to be fired with one (1) hand."). Such items under Tennessee law are only a "firearm" because they do not meet the definitions of a rifle, shotgun, or handgun. Tenn. Code Ann. § 39-11-106(a).

when he visits local, state and/or federal parks, greenways, and/or other recreational areas not only in this judicial district but also statewide. *Id.* ¶ 6. He desires the capacity to carry long arms in some areas that are covered by the Parks Statute, such as areas that may be inhabited by wild predators. *Id.* ¶¶ 6, 12. He is concerned that doing so has and would put him at risk for a stop and/or detention by a law enforcement officer in any of those locations, to the extent someone complains that he is armed or he is observed by law enforcement in such a location while armed. *Id.* ¶ 8. He understands that the Parks Statute prohibits not just handguns but any firearms, as interpreted by the State Attorney General to cover his conduct and based on a public record of prosecutions under this statute in Tennessee. *Id.* ¶¶ 7, 11; *see, e.g.*, *State v. Ewerling*, 2005 WL 850843, at *4 (Tenn. Crim. App. Apr. 13, 2005); *see also* Atty General Opinion 18-04; Tennessee Pattern Jury Instruction Criminal T.P.I.—Crim. 36.04 "Possessing or carrying weapons on public parks, civic centers, recreational buildings and grounds." Although he has a Tennessee enhanced handgun permit, he nevertheless runs the risk of stop, arrest, and prosecution, and would have the burden of possessing that permit, proving its validity, and proving that he possessed a handgun meeting Tennessee's definition thereof in order to defeat a criminal charge under the Parks Statute. O'Mara Affidavit ¶¶ 9–10; *see, e.g.*, Tenn. Code Ann. § 39-17-1311(b)(1)(H or I). Indeed, the possession of a valid enhanced handgun permit would not shield him from being stopped or detained by law enforcement seeking to investigate whether he had violated the Parks Statute. Further, the enhanced handgun permit would not operate as an affirmative defense or exception to the possession of a rifle, a shotgun, a weapon classified as a "firearm," and/or a handgun with a barrel over 12 inches in length.

As set forth in her Affidavit, Plaintiff Elaine Kehel does not have any Tennessee handgun permit but instead relies on Tenn. Code Ann. § 39-17-1307(g) to carry a handgun without a permit.

Kehel Affidavit ¶ 4. She desires to carry a firearm when she visits local, state and/or federal parks, greenways, and/or other recreational areas not only in this judicial district but also statewide. *Id.* ¶ 6. She is concerned that doing so would put her at risk for a stop and/or detention by a law enforcement officer in any of those locations, to the extent someone complains that she is armed, or she is observed by law enforcement in such a location while armed. *Id.* ¶ 8. Because she lacks a handgun permit, she understands that the Parks Statute prohibits her from carrying any firearm as interpreted by the State Attorney General and based on a public record of prosecutions under this statute in Tennessee. *Id.* ¶¶ 7, 9–11. She would have the burden of proving some category of exigency or justification for possessing a firearm in an area prohibited by the Parks Statute in order to defeat a criminal charge thereunder. The Parks Statute and Tennessee law do not contain any general provision that would allow her to possess or carry a firearm in an area prohibited by the Parks Statute for personal protection or self-defense purposes.

Each of the individual Plaintiffs has established their respective standing by declaring their intentions in affidavits that were filed with the Complaint. *See Slatery*, 2021 WL 4621249, at *3; *see also* Tenn. Code Ann. § 1-3-121 ("Notwithstanding any law to the contrary, a cause of action shall exist under this chapter for any affected person who seeks declaratory or injunctive relief in any action brought regarding the legality or constitutionality of a governmental action. A cause of action shall not exist under this chapter to seek damages.").

Gun Owners of America, Inc. and Gun Owners Foundation, as member-based organizations, have standing to represent the interests of their members who are residents of Tennessee and/or who may be residents of other states but who desire to be able to carry a firearm for personal protection or self-defense in places prohibited by the Tennessee Parks Statute. Organizations have standing to represent the interests of their members:

> In *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–561, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992), we held that, to satisfy Article III's standing requirements, a plaintiff must show (1) it has suffered an "injury in fact" that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and 3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. An association has standing to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization's purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit. *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333, 343, 97 S.Ct. 2434, 53 L.Ed.2d 383 (1977).

Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc., 528 U.S. 167, 180–81 (2000). Tennessee law recognizes representational standing. *Citizens for Collierville, Inc. v. Town of Collierville*, 977 S.W.2d 321, 323 (Tenn. Ct. App. 1998), *perm. app. denied* (Tenn. June 30, 1980) (citing *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333 (1977)).

Each of the considerations for organizational standing are addressed by Gun Owners of America, Inc., and Gun Owners Foundation in the declaration of Erich Pratt. *See* Pratt Declaration ¶¶ 15–22. Further, GOA and GOF have been found in other matters to have organizational standing to represent the interests of their members, particularly when the litigation involved challenges to applicable law or, as in this instance, the question of whether a law is unconstitutional. *See, e.g.*, *Texas v. BATFE*, 700 F. Supp. 3d 556, 566–67 (S.D. Tex. 2023).

B. Tennessee Has a History of Enforcing the Parks Statute.

Tennessee has a history of enforcing the Parks Statute. *See, e.g.*, *Ewerling*, 2005 WL 850843, at *4. Tennessee also has a specific pattern jury instruction, for use by trial judges, on how to instruct a jury when a violation of the Parks Statute is charged. *See* Tennessee Pattern Jury Instruction Criminal T.P.I.—Crim. 36.04, "Possessing or carrying weapons on public parks, civic centers, recreational buildings and grounds." In addition, the Tennessee Attorney General has issued several opinions concerning that office's interpretation and the application of the Parks

Statute. Tennessee Attorney General Opinions 18-04; 15-63; 09-169; 09-160; 09-158; 08-26; 96-80.

Notably, in *Embody v. Ward*, 695 F.3d 577 (6th Cir. 2012), the Sixth Circuit had before it a federal civil rights case that arose out of a state official's "felony takedown" of a handgun permit holder in a public park in Davidson County, Tennessee. While the court resolved the federal civil rights violation in favor of the officers despite a "failed investigatory stop," for purposes of this action, it is notable that the Sixth Circuit found nothing wrong with the officer's attempt to enforce Tennessee's Parks Statute. The appellate court described the events as follows:

> Embody's appearance at the park prompted two encounters with park rangers. In the first, Ranger Joshua Walsh approached Embody, asked for his permit and questioned him about the gun. Embody produced a valid permit, but Walsh could not tell whether the firearm qualified as a legal one under state law. "Technically it's a handgun," he told Embody, "but I don't know why you need it out here," and "I'm pretty sure an AK-47 is not a handgun." R.22–3 at 3. Uncertain how to proceed, Walsh allowed Embody to continue through the park—for the time being.
>
> Walsh phoned a supervisor, Ranger Steve Ward, for further direction. Ward in turn called Chief Ranger Shane Petty, who did not believe the AK-47 was a handgun given the description of it. Petty and Ward determined that Ward should undertake a "felony take down" of Embody, disarm him and check the weapon. *Id.* at 9. They called the Metropolitan Nashville Police Department for assistance.
>
> Ward found Embody in a parking lot and ordered him to the ground at gun point. Without arresting Embody, Ward removed the gun, patted him for other weapons and detained him. When the Nashville police officers arrived, Ward explained his concern that Embody's weapon was illegal, and the officers conducted a weapons check to determine the gun's status. Meanwhile, Embody requested the presence of a police supervisor, even after the Nashville officers advised him it would delay his release. Once the officers confirmed that the firearm fit the definition of a handgun under state law, Ward returned the gun to Embody and released him. The incident lasted about two-and-a-half hours.

Id. at 580.

Thus, Tennessee has a clear history of enforcing Tenn. Code Ann. § 39-17-1311 – even when the conduct of the individual is in full compliance with the affirmative defense provisions of

the statute. Individuals who carry in places prohibited by Tennessee's Parks Statute are constantly at risk that an officer will conduct an investigatory stop, detain them, question them, perform a "felony takedown," and engage in other activities on the theory that it is a crime in Tennessee to possess a firearm in a public park, a greenway, or any other place prohibited by Tenn. Code Ann. § 39-17-1311(a).

C. Tennessee's Attorney General Has Had the Opportunity to Disclaim the Parks Statute as Violative of the State Constitution, but Has Done Otherwise.

As early as 1996, some state legislators were concerned that Tennessee's "gun-free zone" statutes, including but not limited to Tenn. Code Ann. § 39-17-1311, violated Tennessee's Constitution. In 1996, State Representative Ben West Jr. asked the Attorney General to advise whether Tenn. Code Ann. § 39-17-1311, and other statutes that created gun-free zones, violated the state's constitution. In Opinion 96-80, the Attorney General concluded that Tenn. Code Ann. § 39-17-1311, as well as the other statutes that created criminal sanctions for statutory gun-free zones, did not violate the Tennessee Constitution. In part, the Attorney General stated in that opinion:[3]

> 1. Tenn. Code Ann. § 39-17-1307(a)(1) states that "a person commits an offense who carries with the intent to go armed a firearm," a certain kind of knife or a club. This statute does not prohibit owning or carrying a firearm. It prohibits the carrying of a firearm with the intent to go armed. Thus, the carrying of a firearm is prohibited only when it is carried in a manner so as to be "readily accessible and available for use in the carrying out of purposes either offensive or defensive." *Kendall v. State*, 118 Tenn. 156, 101 S.W. 189 (1906). This statute does not, in the opinion of this Office, infringe upon the citizen's "right to keep and bear arms for their common defense."

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[3] Opinion 96-80 was issued prior to the Supreme Court's landmark decisions in *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. City of Chicago*, 561 U.S. 742 (2010). Opinion 96-80 does not address whether the regulatory clause in Article I, Section 26 of the Tennessee Constitution retains any constitutional purpose subsequent to the *McDonald* holding, which imposed the provisions of the Second Amendment against the states pursuant to the incorporation doctrine of the Fourteenth Amendment.

The right established by Article I, Section 26 does not apply to every type of arm. *Andrew v. The State*, supra, and *Aymette v. The State*, supra, clearly establish that the right applies only to arms that "make up the usual arms of the citizen of the country, and the use of which will properly train and render him efficient in defense of his own liberties, as well as of the state." *Andrews v. The State*, 50 Tenn. at 179. Weapons not falling in this description do not receive the protection of Article I, Section 26 at all.

Wearing constitutionally protected weapons can still be regulated as long as it is done "with a view to prevent crime." Andrews indicates that such regulations must "bear some well defined relation to the prevention of crime...." *Id.*, at 181. This would include limiting the use of such arms to the ordinary mode and at the usual times and places. *Id.*, at 182. The right to keep and bear arms "is no more above regulation for the general good than any other right." *Id.*, at 185, quoting *Aymette v. The State*, 21 Tenn. at 159. Tenn. Code Ann. § 39-17-1307(a)(1) is within the powers of the state and bears a well defined relation to the prevention of crime by regulating the manner in which firearms may be carried. A firearm carried without the intent to go armed is less likely to be used in a crime.

* * *

3. Tenn. Code Ann. § 39-17-1311(a) makes it an offense to possess or carry a firearm, with the intent to go armed, with certain exceptions, in or on the grounds of any public park, playground, civic center or other building facility, area or property owned, used or operated by any municipal, county or state government, or instrumentality thereof, for recreational purposes. The analysis of this statute is the same as the analysis under question one. Only the possession or carrying with the intent to go armed in these designated places is prohibited. Furthermore, the statute merely regulates the carrying of these weapons in places of public assemblage. This is permitted by *Andrews v. The State*, supra. It is the opinion of this Office that this statute is a valid exercise of the state's regulatory authority under Article I, Section 26.

Tennessee Attorney General Opinion 96-80, at 2–3.[4]

[4] The reference to that portion of the Tennessee Constitution (1870) in Article 1, Section 26 which contains the "view to prevent crime" regulatory authorization, to the extent it portends to grant any authority to the Legislature to regulate firearms in conflicts with the Second Amendment's guarantee, was rendered a constitutional nullity by the United States Supreme Court in the *McDonald* decision in 2010.

Thus, absent some indication from the current Attorney General that his office no longer considers Tenn. Code Ann. § 39-17-1311 to be constitutional under the Tennessee Constitution, it should be reasonably anticipated that those in Tennessee who carry in the places enumerated in that statute are subject to a clear and present risk of stop, detention, and/or prosecution by the government.

D. Tennessee Code Annotated § 39-17-1307(a) Makes It a Crime to Carry Anywhere in the State, at Any Time, for Any Reason, and Therefore Violates the State Constitution.

Tennessee Code Annotated § 39-17-1307(a)(1) provides that "[a] person commits an offense who carries, with the intent to go armed, a firearm or a club." There are no geographic limits on this provision. Thus, the statute independently makes it a crime for an individual to possess a firearm in places that are enumerated in the Parks Statute. Indeed, the Attorney General has opined, as noted above, that "[t]his statute ... prohibits the carrying of a firearm with the intent to go armed. Thus, the carrying of a firearm is prohibited only when it is carried in a manner so as to be "readily accessible and available for use in the carrying out of purposes either offensive or defensive."" Tennessee Attorney General Opinion 96-80, at 2. However, the conclusion expressed in Opinion 96-80 directly conflicts with the Second Amendment prohibition on governmental authority. In *Heller*, the Court found that to "bear arms" means to carry "in case of confrontation," that is, to be "armed and ready for offensive or defensive action in case of conflict with another person." *Heller,* 544 U.S. at 584, 592. The conduct proscribed by Tenn. Code Ann. § 39-17-1307(a)(1) — to carry in such a manner as to be ready for offensive or defensive purposes — is precisely the conduct protected by the natural meaning of the Second Amendment as it was understood in the Founding era. *See id.* at 584.

An examination of the remainder of Tenn. Code Ann. § 39-17-1307 as well as § 39-17-1308 indicates that there are no exceptions to that crime with respect to carrying "with intent to go armed" in places that are enumerated in the Parks Statute or in any other location within the state. Indeed, the statutory scheme makes clear that it is even a crime for an individual to carry a firearm "with the intent to go armed" in the individual's own residence, business, or on *their own property*, as carrying in those areas is subject to affirmative defenses under Tenn. Code Ann. § 39-17-1308(a)(3). The fact that the statutory scheme makes carrying in these places subject to statutory affirmative defenses places the individual at risk of being stopped, detained, questioned, charged, and/or indicted by law enforcement officials and/or other government officials.

IV. Argument.

Tennessee Rule of Civil Procedure 56.04 requires that summary judgment be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *See also Rye v. Women's Care Ctr. of Memphis*, 477 S.W.3d 235 (Tenn. 2015); *Tatham v. Bridgestone Americas Holding, Inc.*, 473 S.W.3d 734, 748 (Tenn. 2015). This standard applies to "all parties, no matter which party filed the motion for summary judgment." *TWB Architects, Inc. v. Braxton, LLC*, 578 S.W.3d 879, 888 (Tenn. 2019). "Whether or not the nonmoving party bears the burden of proof at trial on the challenged claim or defense- at the summary judgment stage, '[t]he nonmoving party must demonstrate the existence of specific facts in the record which could lead a rational trier of fact to find in favor of the nonmoving party.'" *Id.* at 889 (quoting *Women's Care Ctr. of Memphis*, 477 S.W.3d 235, 265 (Tenn. 2015). "[Q]uestions of law ... are especially well-suited for resolution by summary judgment." *Bourland v. Heaton*, 393 S.W.3d 671, 674 (Tenn. Ct. App. 2012).

A. Plaintiffs Are Entitled to Judgment as a Matter of Law.

i. The issue is a legal question on which there is a substantial amount of recent Supreme Court authority that clearly negates Tennessee's statutory scheme.

The issue in this action is the scope of the right protected by the Tennessee Constitution, which must be interpreted in light of the Second and Fourteenth Amendments. More specifically, the issue is whether a state statute that makes it a crime for an individual to possess "with the intent to go armed" a firearm or other "arms" in a public park, greenway, campground, public recreational area, civic center, or any other area within the scope of Tenn. Code Ann. § 39-17-1311(a) violates Article I, Section 26 of the Tennessee Constitution. Similarly, to the extent that Tenn. Code Ann. § 39-17-1307(a)(1) independently makes it a crime to carry in public, it violates Article I, Section 26 as well. Since it would be unreasonable to interpret the state constitution to protect lesser rights than the U.S. Constitution, Article I, Section 26 of the Tennessee Constitution must be interpreted in light of federal authorities elucidating the meaning of the Second Amendment.[5]

The Second Amendment to the United States Constitution provides: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." As the Supreme Court has now reiterated in *Bruen*, the Second and Fourteenth Amendments together guarantee individual Americans not only the right to "keep" firearms in their homes, but also the right to "bear arms," meaning "to carry a handgun for self-defense outside the home," free from infringement by either federal or state governments. *Bruen*, 597 U.S. at 10. In *Bruen*, the Supreme Court first "decline[d] to adopt th[e] two-part approach" previously used in the Sixth Circuit and other circuits, and reiterated that, "[i]n keeping with *Heller*, we hold that when the Second Amendment's plain text covers an individual's conduct, the

[5] *See supra* at p. 2 (collecting cases).

Constitution presumptively protects that conduct." *Id.* at 17. Second, the Supreme Court held that:

> To justify [a] regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command." [*Id.*]

Third, in reviewing the historical evidence, because "not all history is created equal," the *Bruen* Court limited the review of relevant history to a narrow time period, focusing on the period around the ratification of the Second Amendment, and *perhaps* the Fourteenth Amendment to the extent that "19th-century evidence" serves as "mere confirmation of what the Court thought had already been established." *Bruen*, 597 U.S. at 37; *see also id.* at 37, 36 (noting that "interest in mid- to late-19th-century commentary [i]s secondary" and "postratification adoption or acceptance of laws that are *inconsistent* with the original meaning of the constitutional text obviously cannot overcome or alter that text"); *id.* at 37 ("And we have generally assumed that the scope of the protection applicable to the Federal Government and States is pegged to the public understanding of the right when the Bill of Rights was adopted in 1791."); *id.* at 70 (discussing the lack of relevant historical prohibitions on concealed carry in public).

Under the *Bruen* test, then, it does not matter whether a government restriction "minimally" or "severely" burdens (infringes) the Second Amendment. There are no relevant statistical studies to be consulted. There are no sociological arguments to be considered. The ubiquitous problems of crime or the density of population do not affect the equation. There is not even a permissible inquiry as to whether such a regulation might have a crime-prevention purpose.[6] The only

[6] *See* Tenn. Const. art. I, § 26. To the extent this section's 1870 amendment would allow firearm regulations that are not consistent with early American tradition and therefore the Second

appropriate inquiry, according to *Bruen*, is what the "public understanding of the right to keep and bear arms" was during the Founding era. *Id.* at 38. Indeed, *Heller*, *McDonald*, and *Bruen* all "expressly rejected the application of any judge-empowering interest-balancing inquiry that asks whether the statute burdens a protected interest in a way or to an extent that is out of proportion to the statute's salutary effects upon other important governmental interests." *Id.* at 22 (cleaned up). The Second Amendment's plain text protects the right of the people to bear arms in public without having to demonstrate *anything* to the government or obtain *anything* from the government. No other constitutional right works in a way that requires the government's permission or consent as a condition precedent to the individual's lawful exercise of the right. *See Watchtower Bible & Tract Soc'y of New York, Inc. v. Village of Stratton*, 536 U.S. 150 (2002).

ii. Tennessee Code Annotated § 39-17-1311(a) declares all places enumerated therein to be gun-free zones.

Tennessee's Parks Statute's laundry list of prohibited places sweeps up all manner of entirely ordinary locations in Tennessee which are clearly the kinds of places where an individual would have a need or desire to be able to provide for their own defense, including that substantial portion of East Tennessee that constitutes the Smoky Mountains. *See Bruen*, 597 U.S. at 33 ("Many Americans hazard greater danger outside the home than in it."). As the *Bruen* Court explained, a potential "sensitive place" under Second Amendment jurisprudence is not just any "place[] where people typically congregate and where law-enforcement and other public-safety professionals are presumptively available." *Id.* at 30–31. Rather, the Court explained, states have extremely narrow latitude to limit the places where firearms may be carried in public, mentioning – presumptively and in *dicta* – only a limited number of potential "sensitive places such as schools

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Amendment, the 1870 amendment would violate the Supremacy Clause, the Second Amendment, and the Fourteenth Amendment.

and government buildings." *Id.* at 30.[7] Although the Court acknowledged that other "*new* and analogous sensitive places" might exist by virtue of their being unimaginable at the Founding, it cautioned that such potential locations would be highly limited and certainly could not be defined so broadly as to "include all 'places where people typically congregate.'" *Id.* at 30–31.

Places like public parks are not within the scope of what *Bruen* or *Heller* discussed as a possible sensitive place. With respect to public parks and recreational areas, the government at most manages or operates the property or public accommodation on behalf of the public and *for the public's use*, with such a location designated for public use and widely available to all comers to use for any of a variety of lawful purposes. The government is not free to single out for discriminatory treatment a subclass of citizens attempting to use or frequent those venues, who merely happen to be exercising a constitutionally protected right while otherwise lawfully making use of the space. Indeed, *Bruen*'s focus on "sensitive places" involved "typically secured" locations "where a bad-intentioned armed person could disrupt key functions of democracy," or "where uniform lack of firearms is generally a condition of entry, and where government officials are present and vulnerable to attack." *Hardaway v. Nigrelli*, 639 F. Supp. 3d 422, 440 (W.D.N.Y. 2022). The locations at issue here bear none of these hallmarks. Indeed, the challenged statute sweeps up a whole host of entirely ordinary and nonsensitive locations where ordinary members of society are typically present for everyday activities.

But this Court need not indulge any request to probe the contours of the Supreme Court's yet-undefined "sensitive places" doctrine. Properly understood, the Supreme Court merely

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[7] *But see id.* at 61 (recounting that, in the 1860s, local authorities "warned" a teacher at a Freedmen's school "to go armed to school," supplying "'a revolver' for his protection," because of prior "attacks on the school"). Thus, it would appear that at least some of the "sensitive places" which the Court assumed would have historical traditions would reveal *contrary* traditions once tested.

identified limited categories of locations – none challenged here – which it *assumed* might have a sufficient historical tradition as to firearm restrictions, once tested. *See Heller*, 554 U.S. at 635 (noting "there will be time enough to expound upon the historical justifications for the exceptions we have mentioned if and when those exceptions come before us").

iii. Tennessee Code Annotated § 39-17-1307(a) declares all places in the state to be gun-free zones.

While Tennessee's Parks Statute enumerates a list of prohibited places, Tenn. Code Ann. § 39-17-1307(a)[8] declares the entire state to be a gun-free zone. This statute is indiscriminate and, because it covers all property whether public or private, it sweeps up all entirely ordinary locations in Tennessee which are the kinds of places where an individual would have a need or desire to be able to provide for their own defense. This runs afoul of *Bruen*'s admonition to New York not to turn the entire island of Manhattan into a sensitive place. *Bruen*, 597 U.S. at 31. Tennessee did worse by turning the entire state into a gun free zone.

iv. Under *Bruen*'s "historical tradition" standard of review, Tennessee cannot justify any of the challenged provisions – and it has not even attempted to do so.

Under *Heller* and *Bruen*, the standard for assessing Second Amendment challenges requires satisfaction of a minimal subject-matter qualifier – that a challenger's conduct falls under the Second Amendment's plain text. *Bruen*, 597 U.S. at 17. Plaintiffs clearly have made this showing. *See* First Am. Compl. ¶¶17–20. Under *Bruen*, the textual analysis involves an examination of whether 1) Plaintiffs are part of "the people" protected by the amendment (they

[8] The State of Tennessee has already entered into at least one post-*Bruen* settlement agreement in federal court, where the State conceded that Tenn. Code Ann. §§ 39-17-1307(a), 39-17-1351 and 39-17-1366, to the extent that those statutes independently prohibited individuals in the age range of 18-20 from carrying handguns under the state's "permitless carry" law or under the two handgun permit laws, violated the Second and Fourteenth Amendments and also constituted federal civil rights violations. *See, e.g.*, *Beeler v. Long*, No. 3:21-cv-00152-KAC-DCP (E.D. Tenn. Mar. 24, 2023), Docs. 50, 50-1, and Doc. 51 (E.D. Tenn. Mar. 27, 2023).

are),[9] 2) the weapons (handguns, rifles, and shotguns) in question are in fact "arms" protected by the amendment (they are),[10] and 3) the regulated conduct falls under the phrase "keep [or] bear" (it does). *See Bruen*, 597 U.S. at 31–33. Thus, as Plaintiffs have shown that the conduct regulated by the Tennessee Parks Statute, as well as Tennessee's statewide gun-free zone statute (Tenn. Code Ann. § 39-17-1307(a)), falls under Article I, Section 26's plain text, Tennessee must rebut the strong resulting presumption of Article I, Section 26 protection:

> [T]he government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command."

Bruen, 597 U.S. at 17. Tennessee bears the burden of justifying the infringing statutes by "affirmatively prov[ing] that [the] firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms." *Id.* at 19. Tennessee cannot do this with respect to the Parks Statute, nor the broader statewide prohibition in Tenn. Code Ann. § 39-17-1307(a).

Bruen's analysis requires courts "to assess whether modern firearms regulations are consistent with" the Second Amendment's "text and historical understanding," *id.* at 26, meaning

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[9] The Court in *Bruen* explicitly found that ordinary, law-abiding persons such as Plaintiffs are clearly within the scope of the amendment's text. *See also Heller*, 554 U.S. at 581 ("We start therefore with a strong presumption that the Second Amendment right is exercised individually and belongs to all Americans.").

[10] "[T]he Second Amendment extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding." *Heller*, 554 U.S. at 582. Numerous courts and, most importantly, the Supreme Court, have acknowledged that handguns are not just presumptively protected "arms," but rather conclusively protected, because they are, *inter alia*, "typically possessed by law-abiding citizens for lawful purposes," "in common use," and constitute the "quintessential self-defense weapon[]." *Heller*, 554 U.S. at 625–27, 629; *McDonald*, 561 U.S. at 767; *Bruen*, 597 U.S. at 32.

that courts must examine the *original public understanding* of the right when it was adopted. *See id.* at 34 ("[W]hen it comes to interpreting the Constitution, not all history is created equal. 'Constitutional rights are enshrined with the scope they were understood to have *when the people adopted them.*'" (quoting *Heller*, 554 U.S. at 634–35)). Courts must consider whether the challenged regulation finds constitutional support from similar regulations from the Founding era, which evidences adoption-era acceptance of the regulation as not infringing on the pre-existing right to keep and bear arms. *See id.* at 26–31. In assessing the existence of historical analogues, if any, *Heller* and *McDonald* guide courts with "at least two metrics: how and why the regulations burden a law-abiding citizen's right to armed self-defense" – *i.e.*, the mechanisms and motivations of historical laws must align with the modern regulation being challenged. *Id.* at 29.

Suffice it to say, there are no Founding-era analogues in accord with Tennessee's Parks Statute. As of 1791, there simply was no national historical tradition that made it a crime for Americans, much less those living in what would soon become Tennessee, to be armed with handguns, rifles, and/or shotguns in the parks, forests, or even local recreational facilities. To the contrary, government generally *expected* (and at times *demanded*) Americans to be armed in these places for their own protection from man or beast. *See Antonyuk v. Hochul*, 639 F. Supp. 3d 232, 326 (N.D.N.Y. 2022) (finding no historical tradition of restricting arms in public parks). Indeed, a rapidly growing consensus among the federal courts to have heard challenges to park-related firearm prohibitions shows that the provisions challenged here are plainly unconstitutional. *See, e.g.*, *Koons v. Platkin*, 673 F. Supp. 3d 515, 642 (D.N.J. 2023) (enjoining state law banning firearms in public parks); *Springer v. Grisham*, 704 F. Supp. 3d 1206, 1221 (D.N.M. 2023) (enjoining Governor's order banning firearms in public parks); *Antonyuk v. Hochul*, 639 F. Supp.

3d 232, 349 (N.D.N.Y. 2022) (enjoining state law banning firearms in public parks);[11] *Wolford v. Lopez*, 686 F. Supp. 3d 1034, 1077 (D. Haw. 2023) (same); *May v. Bonta*, Nos. SACV 23-01696-CJC (ADSx), SACV 23-01798-CJC (ADSx), slip op. at 29 (C.D. Cal. Dec. 20, 2023) (same);[12] *May*, slip op. at 27 (same as to playgrounds).[13]

And even before *Bruen*, numerous courts had rejected attempts to characterize such locations as "sensitive places," even under government-friendly interest-balancing tests. *See, e.g.*, *Bridgeville Rifle & Pistol Club, Ltd. v. Small*, 176 A.3d 632, 658 (Del. 2017) (holding that state parks and state forests were not "sensitive places" and that a county's ban on firearms in such places was unconstitutional under Delaware's analogue to the Second Amendment); *People v. Chairez*, 104 N.E.3d 1158, 1176 (Ill. 2018) (holding that an Illinois statute that banned possession of firearms within 1,000 feet of a public park violated the Second Amendment and rejecting the argument that that area was a "sensitive place"); *Morris v. U.S. Army Corps of Eng'rs*, 60 F. Supp. 3d 1120, 1123–25 (D. Idaho 2014), *appeal dismissed*, No. 14-36049, 2017 WL 11676289 (9th Cir. Dec. 15, 2017) (rejecting the argument that the U.S. Army Corps of Engineers' outdoor recreation sites were "sensitive places"); *Solomon v. Cook Cnty. Bd. of Comm'rs*, 559 F. Supp. 3d 675, 690–96 (N.D. Ill. 2021) (finding that a forest preserve district was not a "sensitive place"); *DiGiacinto v. Rector & Visitors of George Mason Univ.*, 704 S.E.2d 365, 370 (Va. 2011) (contrasting "a public street or park" with "sensitive places").

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[11] *But see Antonyuk v. Chiumento*, 89 F.4th 271, 356 (2d Cir. 2023) (drawing a rural-urban distinction on appeal), *cert. granted, opinion vacated, remanded sub nom. Antonyuk v. James*, 144 S. Ct. 2709 (2024).

[12] http://tinyurl.com/yd48fwdd.

[13] *But see Wolford v. Lopez*, 2024 U.S. App. LEXIS 22698 (9th Cir. Sept. 6, 2024) (reversing the grant of injunctions by the district courts in *Wolford* in *May*, but by erroneously elevating 1868 as a temporal focal point the same way the Second Circuit in *Antonyuk* had prior to being GVRed).

Even worse, there are no Founding-era analogues to Tennessee's creation of a statewide gun-free zone under Tenn. Code Ann. § 39-17-1307(a). *See Bruen*, 597 U.S. at 31 ("Respondents' argument would … eviscerate the general right to publicly carry arms for self-defense....").

Thus far, Defendants have not even attempted to bear their historical burden. *See* Plaintiffs' Reply to State Defendants' Response in Opposition to Plaintiffs' Motion for Preliminary Injunction at 2 (Dec. 11, 2023), ("At no point has any Defendant addressed a) whether the challenged statutes infringe a constitutionally protected right or b) whether such infringement existed as part of the "Nation's historical tradition" as of 1791, as required by the United States Supreme Court...."). Should Defendants attempt to justify the challenged provisions now, few – if any – historical sources will come to their aid.

v. Rather than evincing a tradition of disarmament in public gathering places or recreational areas, the historical tradition is one of widespread public carry.

Contrary to the version of history that Defendants must present (but so far have not presented) in order to save the challenged provisions, the historical record is replete with examples of a tradition of *widespread, unimpeded firearm possession* in all manner of public spaces, parks and "civic centers" included. Indeed, the Founders carried practically everywhere – especially in (i) public squares, commons, and greens, (ii) public assemblies, and (iii) during travel throughout public places – and they certainly never countenanced treatment of the general right to public carry as an "affirmative defense."

For example, Boston Common is reportedly the nation's first "public park," having been established in 1634.[14] More than a century later, nearby Faneuil Hall served as a "site of meetings, protests, and debate" during the Revolutionary War,[15] hosting a "volunteer militia company" with

[14] https://www.boston.gov/parks/boston-common.
[15] https://www.nps.gov/bost/learn/historyculture/fh.htm.

the mission to "prepare its members to serve as officers in the enrolled militia companies," which included meetings there (including maintaining an "armory") and later "at a tavern in town and drill[s] on the [Boston] Common."[16] This single historical record evidences a rich history of private persons openly possessing arms both in public parks and at gatherings of individuals to engage in protest and assembly. Similarly demonstrating an enduring historical tradition:

> It is a most strange historical coincidence that on April 19, 1689, the Concord militia was assembled on the Village Green and started from there for Boston to overthrow Governor Andros; that on April 19, 1775, at the very same hour, the militia was again assembled on the Concord Green to begin the fight of the Revolutionary war; that on April 19, 1812, the militia was again called out to participate in the second war with Great Britain; that on April 19, 1848, the soldiers met on the Concord Green to take up arms to fight in the Mexican war; that on April 19, 1861, the Concord Green was the place of assembly and the starting point of the brave boys to fight in the Civil War; and that on April 19, 1898, resolutions were passed by the Concord Militia to respond to the call for troops for the Spanish war.[17]

Indeed, such broad acceptance of armed public assembly dated back to colonial Massachusetts, which *required* "all such persons … come to the publike assemblyes with their muskets...." 1 Records of the Governor and Company of the Massachusetts Bay in New England, 1628–1641, 190 (Nathaniel B. Shurtleff ed., 1853).[18] And contemporaneously to the 1773 Boston Tea Party, armed colonists descended on Boston and "bought up" all the "pistols in town," thereafter meeting "to the number of five or six thousand … in the Old South Meeting house...." W. Sargent, Letters of John Andrews, Esq., of Boston, 1772-1776, Massachusetts Historical Society, at 12.[19] The following year, when General Gage attempted to stop a public assembly protesting the Crown, "there was upwards of three thousand men assembled there … being

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[16] Leonid Kondratiuk, A Guide to the Ancient and Honorable Artillery Company of Massachusetts 2, 9, https://tinyurl.com/3r55t7m5.
[17] Frederic S. Dennis, The Norfolk Village Green 9 (1917), https://bit.ly/3HITCcK.
[18] https://bit.ly/3XzOIEg.
[19] https://www.loc.gov/item/03005680/.

sufficiently provided for such a purpose; as indeed they are all through the country – every male above the age of 16 possessing a firelock with double the quantity of powder and hall enjoin'd by law." *Id.* at 34.

Finally, recognizing the dangers inherent to traveling, colonial Virginia and Massachusetts *required* that travelers arm themselves in public. *See* William Waller Henning, 1 The Statutes at Large, Virginia 1619, 127 (1823);[20] 1 Records of the Governor and Company of the Massachusetts Bay in New England, 1628–1641, 85 (Nathaniel B. Shurtleff ed., 1853).[21] Virginia also *mandated* those working outside to keep arms within ready access for self-defense. Henning, *supra*, at 198.[22] This tradition of armed travel continued through the Revolutionary period. *See* Sargent, *supra*, at 6 ("April 11, 1776 ... Benjamin Hitchborn ... sat near the chimney ... preparing for use a pair of pistols – without which, in those days, one ventured to travel.").

There is simply no historical tradition of banning firearms in parks. Rather, the Founders ubiquitously carried arms in such places. Indeed, had the colonists left their muskets at home when they mustered on the Lexington Common (also known as the Lexington Battle Green) in April of 1775, we might still be British subjects today.

V. Conclusion.

For the foregoing reasons, this Court should grant Plaintiffs' Motion for Summary Judgment and declare the challenged statutes violative of Article I, Section 26 of the Tennessee Constitution.

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[20] https://bit.ly/3J92ZmP.
[21] https://bit.ly/3WyeoQr.
[22] https://bit.ly/3kCAvI8.

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I hereby certify that a copy of the foregoing was served by mail to the Office of the Attorney General and chambers copies to the Panel on October 3, 2024:

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