IN THE SUPREME COURT OF GEORGIA

GEORGIACARRY.ORG, INC.,et.al., Appellants,	)	
v.	)	Case No. S15A1632
TOM CALDWELL, *et.al.*,	)	
Appellees	)	

Brief of Appellants

Appellants GeorgiaCarry.Org, Inc. and Dan Haithcock state the following as their opening Brief.

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Part One – Statement of Facts and Proceedings Below

A – Introduction

Appellant GeorgiaCarry.Org, Inc. ("GCO") is a non-profit corporation organized under the laws of the State of Georgia.[1] R1, p. 7. GCO's mission is to foster the rights of its members to keep and bear arms. *Id.* Appellant Dan Haithcock ("Haithcock") is a member of GCO. *Id.* On an unspecified date in 2014, Haithcock purchased tickets for his family and him to attend the Wings Over North Georgia airshow ("WONG"). R2, p.13.[2] Haithcock possesses a valid Georgia weapons carry license ("GWL") issued to him by the judge of the Probate Court of Fulton County. *Id.* Haithcock generally carries a weapon with him wherever it is legal to do so. *Id.*, p. 14. He would carry a weapon with him at the WONG if he were not in fear of arrest and prosecution for doing so. *Id.* Haithcock is a licensed pilot and has attended airshows previously. *Id.* GCO has other

[1] This case comes to the Court from the trial court's *sua sponte* motion to dismiss. An appellate court reviewing a trial court's order to dismiss views all of the plaintiff's well-pleaded material allegations as true, and views all denials by the defendant as false. *Barrett v. National Union Fire Insurance Company*, 304 Ga.App. 314, 315 (2010). Moreover, the operative complaint in this case was verified, so it provides an independent source for facts.

[2] Volume 2 of the Record as compiled by the clerk of the trial court is a transcript of a hearing on the Motion for Interlocutory Injunction.

members with GWLs that desired to attend the WONG and carry handguns with them. R1, p. 8.

The WONG is held at the Richard Russell Airport, located in and owned by Floyd County. R2, p. 20. The 2014 WONG was held on October 18-19, 2014. *Id.*, p. 23. On September 11, 2014, Haithcock saw on the Floyd County Sheriff's Office Facebook page that the Sheriff's Office was handling WONG security and that weapons would be banned. *Id.*, p. 10. Haithcock posted a message on the Facebook page, asking by what authority they were banned. *Id.* On September 16, 2014, Appellee Tom Caldwell ("Caldwell"), the Chief Deputy of the Floyd County Sheriff's Office, responded on the Facebook page. R1, p. 8. Caldwell stated that the airshow was not banning weapons, that he (Caldwell) was responsible for security at the WONG, and that weapons were banned pursuant to state law. *Id.* Caldwell further stated that unspecified "federal guidelines from the FAA and TSA" applied, and further stated that a Floyd County ordinance prohibits weapons at "public gatherings." *Id.*

On September 17, 2014, Haithcock replied on the Facebook page that O.C.G.A. 16-11-173 preempts local regulation of firearms, and pressed Caldwell to identify by what authority Caldwell was banning firearms at WONG. *Id.*, p. 9.

Caldwell responded that 16-11-173 does not apply to individual carrying of firearms and that if Haithcock did not understand the law, it was a waste of time for Caldwell to explain it to him. *Id.* Caldwell further stated, in all uppercase letters, that the county ordinance would be enforced at the WONG. *Id.* The County Ordinance (Floyd County Ordinances, Article 1, Section 2-3-3(h)) provides that "No persons … shall carry … weapons on the airport property…." *Id.*; R2, Exhibit P-2. Haithcock and other GCO members were in fear of arrest and prosecution for carrying weapons at the WONG. R1, p. 9.

B – Proceedings Below

GCO and Haithcock commenced this action on September 23, 2014. *Id.*, p. 7. In their Verified Complaint, they sought a declaration that the County Ordinance is preempted by O.C.G.A. § 16-11-173 and is void and unenforceable. *Id.*, p. 10. They further sought a declaration that no other provision of law prohibits a GWL holder from carrying a firearm at the WONG. *Id.* They further sought preliminary and permanent injunctive relief, and damages in the amount of $100. *Id.*

Contemporaneously with filing their Verified Complaint, GCO and Haithcock filed a motion for an interlocutory injunction and a brief in support. R1,

pp. 12-16. On September 25, 2014, the trial court issued a Rule *Nisi* on the Motion for October 8, 2014. R1, p. 17. On October 8, 2014, Appellees Caldwell and Floyd County filed a verified Answer and a Response to the Motion. R1, pp. 27-62. The same day, the trial court held a hearing on the Motion. R2, generally. At the conclusion of the hearing, the trial court orally denied the Motion. R2, pp. 60-67. On October 10, 2014, the trial court entered a written order denying the Motion. R1, pp. 73-81. On April 13, 2015, the trial court *sua sponte* issued an order dismissing the case as moot, based on the earlier denial of the Motion and the fact that the 2014 WONG had occurred. R1, p. 87.

GCO and Haithcock filed a Notice of Appeal on May 11, 2015, so this appeal is timely. R1, p. 1.

C – Preservation of Issues on Appeal

GCO and Haithcock preserved their interlocutory injunctive issues by filing a motion for such injunction, having a hearing, and receiving an explicit order denying it. They raised their other issues by raising them in their complaint and having the trial court dismiss all remaining issues, which explicitly included declaratory relief on the County Ordinance. The final order from which GCO and Haithcock appeal was entered on April 13, 2015. They filed a notice of appeal on

May 11, 2015. R1, p. 1. This appeal is therefore timely pursuant to O.C.G.A. § 5-6-38(a).

Part Two – Enumerations of Error

A. ***The trial court erred by* sua sponte *dismissing the remaining issues in the case as moot, when such issues were not dependent on the timing of the 2014 WONG and even if they were, because they are capable of repetition yet evading review.***

B. ***The trial court erred by denying the Motion for an Interlocutory Injunction, because Georgia Law clearly preempts local regulation of firearms, both by government entities and by private interests that lease government property.***

Statement on Jurisdiction

This Court, rather than the Court of Appeals, has jurisdiction of this appeal. Pursuant to Art. 6, § 6, ¶ 3 (subp. 2) of the Georgia Constitution, this Court has appellate jurisdiction over "All cases involving equity." In this case, GCO and Haithcock sought and were denied both interlocutory and permanent injunctive relief.

Part Three – Argument and Citations of Authority

Standard of Review

The appellate court reviews questions of law *de novo. Luangkhot v. State*, 292 Ga. 423 (2013). An appellate court reviews dismissals of complaints *de novo.*

Barrett, 304 Ga.App. at 315. The grant or denial of an injunction is reviewed for manifest abuse of discretion. *Hampton Island Founders v. Liberty Capital,* 283 Ga. 289, 292 (2008).

Summary of Argument

GCO and Haithcock raised several issues in the Verified Complaint, including damages. Regardless of the outcome of any other issues, damages is a retrospective remedy and cannot be rendered moot by the happening of a subsequent event. It was therefore error for the trial court to dismiss that claim. The claims for prospective relief are capable of repetition, yet evading review, and therefore are not moot, either. The trial court incorrectly applied statutes regarding carrying firearms, and, finally, the trial court abused its discretion in denying the motion for an interlocutory injunction.

1.A.. – The Issue of Damages Is Not Moot

Regardless of the outcome of the rest of the issues on appeal (discussed in later Sections of this Brief), one thing that is a certainty is that the question of damages is not and cannot be mooted by the passage of time beyond the date of the 2014 WONG. GCO and Haithcock specifically pleaded damages in their Verified Complaint. R1, p. 10, ¶ 36. They also clearly complained of a violation of

O.C.G.A. § 16-11-173, the state statute that preempts local regulation of carrying firearms. That code section contains a private right of action and ***minimum*** statutory damages of $100. O.C.G.A. § 16-11-173(g).

Nevertheless, the trial court dismissed this case on the grounds of mootness. Even if the claims for ***prospective*** relief are moot, a dubious proposition that will be discussed below, claims for ***retrospective*** relief, such as damages, do not become moot. If GCO and Haithcock were entitled to damages on the day they filed their Verified Complaint, the coming and going of the 2014 WONG cannot have changed that. The trial court aborted the case before GCO and Haithcock had the opportunity to present the merits of their damages claim. The only issue addressed to the trial court was the claim for interlocutory injunctive relief. No defendant filed a motion to dismiss, let alone a motion for summary judgment.[3]

Caldwell, the Chief Deputy of the Sheriff cited the County Ordinance and repeatedly told Haithcock that he, Caldwell, would enforce the County Ordinance against Haithcock. The County Ordinance purports to prohibit carrying weapons

[3] During the hearing on the Motion for Interlocutory Injunction, the Defendants did make an oral motion to dismiss based on defective service, but the trial court denied that motion and a written motion was never filed.

on the airport property. Thus, Haithcock was directly threatened with arrest and prosecution if he carried a weapon on county airport property in violation of the County Ordinance.

O.C.G.A. § 16-11-173(b)(1)(B) provides, in pertinent part:

> [N]o county …, by ordinance or resolution, … shall regulate in any manner … [t]he possession, ownership, transport, [or] carrying … of firearms or other weapons….

The statute then creates a private right of action with remedies of damages as well as declaratory and injunctive relief:

> Any person aggrieved as a result of a violation of this Code section may bring an action against the person who caused such aggrievement. The aggrieved person shall be entitled to reasonable attorney's fees and expenses of litigation and may recover or obtain against the person who cause such damages any of the following:
>
> (1) ***Actual damage or $100.00, whichever is greater***;
> (2) Equitable relief, including but not limited to, an injunction or restitution of money or property; and
> (3) Any other relief which the court deems proper.

O.C.G.A. § 16-11-173(g) [Emphasis supplied].

The Court of Appeals has had multiple occasions to pass on the meaning of this Code section. Most on point for the present case is *GeorgiaCarry.Org, Inc. v. Coweta County,* 288 Ga.App. 748 (2007). In *Coweta County,* GCO sued the county over an ordinance banning firearms in county parks. The trial court granted

summary judgment to the county, and the Court of Appeals reversed. The Court said:

> [T]he plain language of the statute expressly precludes the county from regulating in any manner the carrying of firearms. Under these circumstances, the preemption is express and the trial court erred in concluding otherwise…. Both the statute and its caption expressly refer to the preemption of … county ordinances … pertaining to, inter alia, the carrying of firearms. It follows that the trial court erred in denying Appellants' motion for summary judgment and granting the motion filed by Coweta County.

288 Ga.App. at 749.

Floyd County promulgated and maintains an Ordinance that clearly violates § 16-11-173. Caldwell directly threatened enforcement of that Ordinance against Haithcock. At no point was that threat withdrawn. Haithcock has made out a well-pleaded claim for damages and it was error for the trial court to dismiss that claim on the merits without considering it.

1.B.. Prospective Relief Is Not Moot

Moreover, GCO's and Haithcock's claims for declaratory and injunctive relief against the County Ordinance are not moot. While it is true that the 2014 WONG has come and gone, the County Ordinance, and Caldwell's enforcement of it, apparently are here to stay. In the absence of the County's repeal of the ordinance, or at least a public pronouncement that the Ordinance no longer will be

enforced, there still is the issue of an illegal Ordinance for which prospective relief should be available. It was error for the trial court to foreclose all prospective relief.

The mootness of the claims pertaining to the WONG is subject to the "well established but narrow exception to mootness for disputes that are capable of repetition, yet evading review." *Owens v. Hill*, 295 Ga. 302, 205 (2014). The WONG is an annual event. Each year, GCO and Haithcock could wait for that year's WONG "rules" to be published, press the boundaries of those rules with the County, and then commence an action. Each year, the WONG would come and go before the case were finally adjudicated. And, each year, GCO and Haithcock would be denied a final ruling on this issue. For these reasons, the WONG-related claims are not moot.

1.C.. The Trial Court Incorrectly Relied on O.C.G.A. § 16-11-130.2

The WONG claims relate to the enforceability of the County Ordinance. R1, p. 10. The County and Caldwell (successfully) obfuscated the issue by turning it into one of airport security and O.C.G.A. § 16-11-130.2, which says:

> (a) No person shall enter the restricted access area of a ***commercial service airport***, in or beyond the airport security screening checkpoint, knowingly possessing or knowingly having under his or her control a ***weapon or long gun***. Such ***area shall not include an airport drive,***

general parking area, walkway, or shops and areas of the terminal that are outside the screening checkpoint and that are normally open to unscreened passengers or visitors to the airport. Any restricted access area shall be clearly indicated by prominent signs indicating that weapons are prohibited in such area.

(b) A person who is not a license holder and who violates this Code section shall be guilty of a misdemeanor. A license holder who violates this Code section shall be guilty of a misdemeanor; provided, however, that a license holder who is notified at the screening checkpoint for the restricted access area that he or she is in possession of a weapon or long gun and who immediately leaves the restricted access area following such notification and completion of federally required transportation security screening procedures shall not be guilty of violating this Code section.

(c) Any person who violates this Code section with the intent to commit a separate felony offense shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than $1,000.00 nor more than $15,000.00, imprisonment for not less than one nor more than ten years, or both.

(d) ***Any ordinance, resolution, regulation, or policy of any county, municipality, or other political subdivision of this state which is in conflict with this Code section shall be null, void, and of no force and effect, and this Code section shall preempt any such ordinance, resolution, regulation, or policy***.

[Emphasis supplied].

The references to § 16-11-130.2 are a red herring, as that Code section has no meaningful application to this case. One only need explore the emphasized terms of art to see why. First, the code section only applies to "commercial service

airports." It is true that "commercial service airport" is not defined in the O.C.G.A. One must consider, however, that airports are regulated by the federal government, and that the General Assembly could be expected to use the airport definitions coined by the feds. In particular, Congress has created definitions for several levels of airport operations, one of which is a commercial service airport:

> "[C]ommercial service airport" means a public airport in a State that the Secretary determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

47 U.S.C. § 47102(7). The Floyd County Airport Manager testified that the Airport has no scheduled passenger aircraft service and the TSA operates no security checkpoints. R2, p. 27. The Airport is therefore not a "commercial service airport."

Even if it were, however, § 16-11-130.2 only applies to "weapons and long guns," which are more terms of art. Under O.C.G.A. § 16-11-125.1(5), a "weapon" is a "knife or handgun." Under O.C.G.A. § 16-11-125.1(2), a knife is a cutting instrument that, *inter alia,* has a blade greater than five inches long. What are commonly referred to as "pocket knives" are therefore not "knives" under the statute. Under O.C.G.A. § 16-11-125.1(1), a "handgun" is a firearm with a barrel

that does not exceed 12 inches in length and that does not fire ammunition of .46 cm or less in diameter. Thus, long-barreled hand-held firearms and hand-held firearms that fire small calibers (e.g., the .17 HMR ammunition) are not "handguns" under the statute. Finally, under O.C.G.A. 16-11-125.1(4), "long guns" are firearms made to be fired from the shoulder, that have barrels of at least 18 inches in length, that are at least 26 inches in length overall, and but that do not fire ammunition of .46 cm or less in diameter. Thus, short-barreled rifles[4] and rifles firing small caliber ammunition (e.g., .17 HMR) are not "long guns" for the purposes of the statute.

Summarizing the prior paragraph, O.C.G.A. § 16-11-130.2 only applies to ***some*** firearms (with an exception for long barreled hand-held guns, short-barreled rifles, and certain small caliber firearms) and some knives. But the Airport

[4] The use of the term "short-barreled rifle" in this Brief is referring specifically to rifles with barrels shorter than 18 inches as specified by O.C.G.A. § 16-11-125.1(4). This is not to be confused with the federal definition of short-barreled rifles, which fall under the purview of the National Firearms Act and which require federal registration and a $200 excise tax for private ownership. Such devices generally have barrels shorter than 16 inches, not 18 inches. Thus, rifles with barrels between 16 and 18 inches in length are not "short-barreled" for purposes of the NFA, but are "short-barreled" for the purposes of O.C.G.A. § 16-11-125.1(4).

manager testified that the prohibition at the WONG would apply to "any type of firearm." R2, p. 24.

Finally, though not a term of art, O.C.G.A. § 16-11-130.2 by its own terms does not apply to areas "that are normally open to unscreened passengers or visitors to the airport." The Airport Manager testified that the Airport has no security screening. R2, p. 27. He further testified that there are no state or federal restrictions on carrying guns at the Airport. R2, p. 26. The only restriction he could name on carrying guns at the Airport is the County Ordinance. *Id.* He acknowledged that general aviation pilots can come and go through the airport terminal, onto the airfield, and onto airplanes with firearms. *Id.* There are, therefore, no parts of the Airport that are not "normally open to unscreened passengers or visitors." The County's suggestion to the contrary is a fallacy.

The trial court suggested during the hearing for interlocutory injunction that there was no indication in O.C.G.A. § 16-11-130.2 that the General Assembly intended for "airport security screening checkpoint" to refer to federal security screening, as GCO and Haithcock suggested. R2, p. 48. It is apparent, though, that the trial court became confused over the provisions of O.C.G.A. § 16-11-130.2 and § 16-11-173, which perhaps was the County's intention. O.C.G.A. § 16-11-

130.2(b) explicitly refers to "federally required transportation security screening procedures."

1.D. The Trial Court Incorrectly Considered Private Lessees of Public Property

The trial court was somewhat focused on whether a lessee of public property, such as the WONG organizer, has the power to ban weapons from the property. As discussed below, that power has been removed by the legislature, but in any event, it is irrelevant to this case. Floyd County and Caldwell did not introduce any evidence that the WONG organizer is banning weapons. GCO and Haithcock introduced comments on the Sheriff's Office Facebook page, posted by Caldwell, saying that the WONG organizer was not banning weapons. R1, p. 8, ¶ 19; R2, Exh. P-1. Moreover, Caldwell said he was responsible for WONG security. *Id.* Such security was provided by the County at County expense. R2, pp. 25, 27-28.

Even if the WONG organizer was the one banning the weapons, it lacked the power to do so. Under the language of O.C.G.A. § 16-11-127(c), the general rule is that "A license holder [i.e., person with a GWL] … shall be authorized to carry a weapon … in every location in this state not listed in [list of exceptions that are not

applicable]…." That Code section then states an exception that is largely the crux of this case:

> [P]rovided, however, that ***private*** property owners or persons in legal control of ***private*** property through a lease, rental agreement, licensing agreement, contract, or any other agreement to control access to such ***private*** property shall have the right to exclude or eject a person who is in possession of a weapon or long gun on their ***private*** property in accordance with paragraph (3) of subsection (b) of Code Section 16-7-21….

[Emphasis supplied]. The County insists that the WONG organizers are ***owners*** of the Airport while the WONG is taking place. For that proposition they cite *Waters v. DeKalb County*, 208 Ga. 741 (1952). That case, however, stands merely for the proposition that a lessee of property has standing to sue for damages to the leasehold interest.

The present case has nothing to do with damage to the WONG organizer's leasehold interest. The fact remains that the Airport is not ***private*** property. The Airport Manager testified that the Airport is owned by the County. R2, pp. 19-20. The WONG organizers, who are leasing the Airport from the County for the WONG, are not leasing ***private*** property. They are leasing ***public*** property.

Moreover, it is self-evident that a lessee of property cannot obtain from the lessor greater rights than the lessor has. In the present case, the lessor, the County,

is prohibited by state law (O.C.G.A. § 16-11-173) from regulating carrying firearms on its property. It would be a tremendous feat of legerdemain for the WONG organizers to create a right to do so out of thin air, when their landlord has no such right.

Finally, even if this Court makes the unlikely ruling that the WONG organizers are owners of ***private*** property when they lease the Floyd County Airport, their powers still are limited by O.C.G.A. § 16-11-127(c). The General Assembly could have said that ***private*** property owners can use the full powers of the trespass statute when it comes to firearms on their property, but it did not. The general rule under the statute is that a GWL holder is authorized to carry a weapon "in every location in this state." That authorization is modified by the ability of ***private*** property owners to make use of O.C.G.A. § 16-7-21(b)(3) only (i.e., not all of § 16-7-21(b)). O.C.G.A. § 16-7-21(b)(1) and (2) apply to ***entry*** onto land or premises of another. O.C.G.A. § 16-7-21(b)(3), the only provision of the trespass law that ***private*** property owners may make use of, pertains to ***remaining*** on the land or premises of another. Thus, even if the WONG organizers are the (temporary) ***private*** property owners of the Floyd County Airport, they only have the power to eject a GWL holder, on account of carrying a weapon or long gun

(but not pocket knives, long barreled hand held firearms, short barreled rifles, and small caliber firearms), who ***remains*** on the premises after being asked to leave.[5]

2. The Trial Court Erred in Denying the Motion for Interlocutory Injunction

In deciding whether to issue an interlocutory injunction, the trial court should consider whether (1) there is a substantial threat that the moving party will suffer irreparable injury if the injunction is not granted; (2) the threatened injury to the moving party outweighs the threatened harm that the injunction may do to the party being enjoined; (3) there is a substantial likelihood that the moving party will prevail on the merits of her claims at trial; and (4) granting the interlocutory injunction will not disserve the public interest. *SRB Investment Services, LLLP v. Branch Banking & Trust Company,* 289 Ga. 1, 5 (2011). A party seeking an interlocutory injunction need not prove all four of the foregoing factors. *Id.*, FN 7. The most important of the four factors is the first one – whether there is a substantial threat of irreparable injury if an interlocutory injunction is not entered. *Bishop v. Patton*, 288 Ga. 600, 604-605 (2011). The decision to grant or

[5] Ironically, the application of the statute as the County interprets it could force some GWL holders who otherwise might want to carry a typical handgun to carry a typical AR-15 rifle (with short barrel) instead.

deny an injunction will not be disturbed on appeal unless an error of law contributed to the decision or the trial court manifestly abused its discretion. *Id*. GCO and Haithcock will show that the factors weighed in their favor, the trial court committed errors of law, and the trial court abused its discretion.

All four factors weigh in GCO's and Haith favor. First, Haithcock testified that he had purchased tickets for the WONG for his family and him, that he intended to go, that he has a GWL, and that he generally carries a firearm wherever it is legal to do so. R2, p. 13. He would carry a firearm at the WONG if it were not for his fear of arrest and prosecution. R2, p. 14. GCO also showed that it had other members with GWLs that would attend WONG and that desired to carry their firearms there were it not for fear of arrest and prosecution. R1, p. 8, ¶ 13; R1, p. 9, ¶ 24. Caldwell publicly stated that the County Ordinance prohibits carrying firearms at the airport, that he personally was responsible for security at the airport during the WONG, and that he would be enforcing (using all capital letters to emphasize his statement) the Ordinance. In other words, he threatened anyone carrying a firearm at the airport with arrest and prosecution.

It should be self-evident that an arrest and prosecution involves a significant restraint of liberty: the arrest itself, a search of one's person, being handcuffed and

transported to jail, some period of incarceration, posting a bond (with bond conditions that further restrain liberty – in the case of a "firearms violation," likely the requirement not to possess firearms), then having to attend multiple court sessions in the future. These direct restraints of liberty generally are accompanied by additional intangible adverse consequences, such as public embarrassment; trouble at work because of lost time while in jail or going to court; financial problems from bond expenses, legal expenses, and lost wages; and family strife. All the foregoing and more could result from Caldwell's enforcement of the County Ordinance that is unquestionably illegal. In effect, then, Caldwell bullied Haithcock and others into refraining from exercising a right that they clearly were entitled to exercise. The irreparable nature of such harm is obvious.

The second factor is weather the threatened injury to the moving party outweighs the threatened harm that the injunction may do to the party being enjoined. In the present case, there really is no harm to Caldwell and the County if they are enjoined. If it can be said in any way that either is "harmed," the harm already has accrued by virtue of the passage of O.C.G.A. § 16-11-173. A injunction requiring them to refrain from illegal behavior cannot be said to "harm" them in any legal sense.

The third factor is whether there is a substantial likelihood that the moving party will prevail on the merits at trial. Again, this factor weighs in GCO's and Haithcock's favor. They already have shown that the County Ordinance is utterly illegal, preempted by O.C.G.A. § 16-11-173. Caldwell and Floyd County made no attempt at the hearing to defend the Ordinance they strenuously said on their Facebook page that they would be enforcing. This is not surprising given the indefensible nature of the Ordinance. GCO and Haithcock are highly likely to prevail on the merits.

The final factor is whether granting an injunction will disserve the public interest. This factor probably weighs most heavily in GCO's and Haithcock's favor. The public interest in having the public policy implemented cannot be understated. The public policy of this State, as expressed by the duly-elected General Assembly, and as announced by the Court of Appeals, is to preempt all local regulation of carrying firearms. Caldwell and the County have disregarded this policy, frustrating the public interest, by implementing and enforcing an Ordinance that nevertheless regulates carrying firearms. The public interest is disserved by ***not*** granting an injunction.

It already was shown above that the trial court committed errors of law that

contributed to the denial of the injunction. The trial court wrongly concluded that O.C.G.A. § 16-11-130.2 prohibits a person from carrying a firearm at the Floyd County Airport. The trial court also wrongly concluded that O.C.G.A. § 16-11-127(c) permits private lessees of public property to ban firearms from their property.

CONCLUSION

GCO and Haithcock raised several issues in the Verified Complaint, including damages. Regardless of the outcome of any other issues, damages is a retrospective remedy and cannot be rendered moot by the happening of a subsequent event. It was therefore error for the trial court to dismiss that claim. The claims for prospective relief are capable of repetition, yet evading review, and therefore are not moot, either. The trial court incorrectly applied statutes regarding carrying firearms, and, finally, the trial court abused its discretion in denying the motion for an interlocutory injunction. This Court should reverse the dismissal of the complaint and denial of the interlocutory injunction, with instructions to issue such injunction upon a showing that GCO and Haithcock have affirmative plans to attend the 2015 WONG.

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CERTIFICATE OF SERVICE

I certify that on August 4, 2015, I served a copy of the foregoing via U.S. Mail upon:

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