

2020CV652J

JUDGE BONNIE CHESSHER OLIVE
APR 13, 2020 09:33 AM

IN THE SUPERIOR COURT OF HALL COUNTY
STATE OF GEORGIA

Charles Baker

Charles Baker, Clerk
Hall County, Georgia

ANNA CUMMINGS and)	
GEORGIACARRY.ORG, INC.,)	
Plaintiffs,)	
)	Civil Action No.
v.)	
)	
BRIAN KEMP, individually and in his)	
Official capacity as Governor)	
Of the State of Georgia and)	
PATTY LAINE, individually and in her)	
official capacity as judge of the)	
probate court of Hall County,)	
)	
Defendants.)	
)	

VERIFIED COMPLAINT

Plaintiff Anna Cummings brings this action in mandamus and for declaratory and injunctive relief under the Georgia Constitution and O.C.G.A. § 16-11-129. because she is prohibited by statute from carrying a weapon without a Georgia weapons carry license (“GWL”) and prohibited by custom, policy, or practice from applying for or obtaining a GWL.

FACTS

1. Plaintiff Anna Cummings (“Cummings”) is a natural person who resides in Hall County, Georgia.
2. Plaintiff GeorgiaCarry.Org, Inc. (“GCO”) is a non-profit corporation organized under the laws of the State of Georgia.
3. The mission of GCO is to foster the rights of its members to keep and bear arms.
4. Cummings is a member of GCO.
5. Defendant Brian Kemp (“Kemp”) is the Governor of the State of Georgia.

6. Kemp is the chief executive officer of the State of Georgia. Georgia Const. Art. 5, § 2, ¶ 1.
7. Kemp is the conservator of the peace throughout the state and is obligated to take care that the laws are faithfully executed. Georgia Const. Art. 5, § 2, ¶ 2.
8. Pursuant to guidance from the Supreme Court of Georgia in *Lathrop v. Deal*, Kemp is sued in his individual capacity for declaratory and injunctive relief.
9. Defendant Patty Laine (“Laine”) is the Judge of the Hall County Probate Court.
10. Defendant is responsible for the issuance of GWLs in Hall County, Georgia, pursuant to O.C.G.A § 16-11-129.
11. Pursuant to guidance from the Supreme Court of Georgia in *Lathrop v. Deal*, Laine is sued in her individual capacity for declaratory and injunctive relief.
12. Laine is sued in mandamus in her official capacity as Judge of the Probate Court of Hall County.
13. On March 14, 2020, Kemp declared a public health state of emergency in Georgia on account of a COVID-19 pandemic.
14. The same day, Chief Justice Harold Melton of the Supreme Court of Georgia (“Melton”) declared a state of judicial emergency for the State of Georgia.
15. Melton’s declaration directed the courts of Georgia to maintain essential functions during the emergency.
16. The probate judges of Georgia generally, and Laine in particular, have concluded that issuing GWLs is not an essential function.

17. Laine has posted on his web site, <https://www.hallcounty.org/484/Probate-Court>, that
GWLs may not be issued until after the emergency terminates.
18. During the emergency, Laine has refused to accept or process applications for GWLs.
19. O.C.G.A. § 16-11-126 makes it a misdemeanor to carry a weapon outside one's home,
automobile, or place of business without a GWL.
20. O.C.G.A. § 16-11-125.1 includes handguns in the definition of a weapon.
21. The Supreme Court of Georgia determined in *Nunn v. State* that any law that purports to
ban the open carry of firearms is unconstitutional and void.
22. The Supreme Court of Georgia determined in *Ferguson v. Perry* that the right to keep and
bear arms is a civil right.
23. O.C.G.A. § 16-11-129 directs the various probate judges to issue GWLs to eligible
applicants.
24. Cummings meets all the qualifications for a GWL and is entitled to one upon payment of
the applicable fee.
25. Cummings desires to exercise her right to keep and carry a handgun in case of
confrontation.
26. Cummings desires to comply with the law and obtain a GWL, but she is unable to do so
because Laine will not accept or process an application.
27. Cummings is in fear of arrest and prosecution if she carries a handgun outside her home,
motor vehicle, or place of business without a GWL.
28. GCO has other members that would like to obtain GWLs but are unable to do so because
Laine and other probate judges will not accept or process applications.

29. The State of Georgia routinely enforces O.C.G.A. § 16-11-126.

30. On March 19, 2020, GCO wrote Kemp a letter, asking him to use his emergency powers to suspend enforcement of O.C.G.A. § 16-11-126.

31. As of the filing of this Verified Complaint, Kemp has failed to do so.

Count 1 – Violations of Right to Keep and Bear Arms

32. Article I, Sec. I, Par. VIII of the Georgia Constitution guarantee a right to keep and bear arms.

33. By effectively preventing Cummings from carrying a handgun outside her home, motor vehicle, or place of business, either openly or concealed, Kemp and Laine are violating the Constitution of the State of Georgia.

Count 2 – Violation of O.C.G.A. § 16-11-129

34. By refusing to accept or process GWL applications, Laine is violating O.C.G.A. § 16-11-129.

Count 3 – Violation of Due Process

35. Art. 1, §1, ¶1 of the Georgia Constitution prohibits deprivation of life, liberty, or property without due process of law.

36. By requiring a GWL to carry a weapon and then refusing to accept or process applications for GWLs, Kemp and Laine are depriving Cummings of life, liberty, or property without due process under the Georgia Constitution.

PRAYER FOR RELIEF

Plaintiff demands the following relief:

37. A writ of mandamus under O.C.G.A. § 16-11-129 ordering Laine in her official capacity to accept and process Cummings's application for a GWL and to issue Cummings a GWL within the time required by law.
38. A declaration against Laine in her individual capacity that she may not refuse to accept and process GWL applications as required by O.C.G.A. § 16-11-129.
39. Costs and attorney's fees against Laine in her official capacity pursuant to O.C.G.A. § 16-11-129(j).
40. A declaration against Kemp in his individual capacity that the enforcement of O.C.G.A. § 16-11-126 is unconstitutional as applied to him because it violates the right to keep and bear arms if it is not reasonably possible to obtain a GWL and because it violates the right to due process by requiring a GWL that is impossible to obtain.
41. An injunction against Kemp in his individual capacity, prohibiting enforcement of O.C.G.A. § 16-11-126 if it is not reasonably possible to obtain a GWL.
42. Any other relief the court deems proper.

/s/ John R. Monroe

John R. Monroe
John Monroe Law, P.C.
Attorney for Plaintiff
156 Robert Jones Road
Dawsonville, GA 30534
678-362-7650
jrm@johnmonroelaw.com
State Bar No. 516193

VERIFICATION

I verify under penalty of perjury that the facts alleged in the foregoing Complaint regarding me are true.

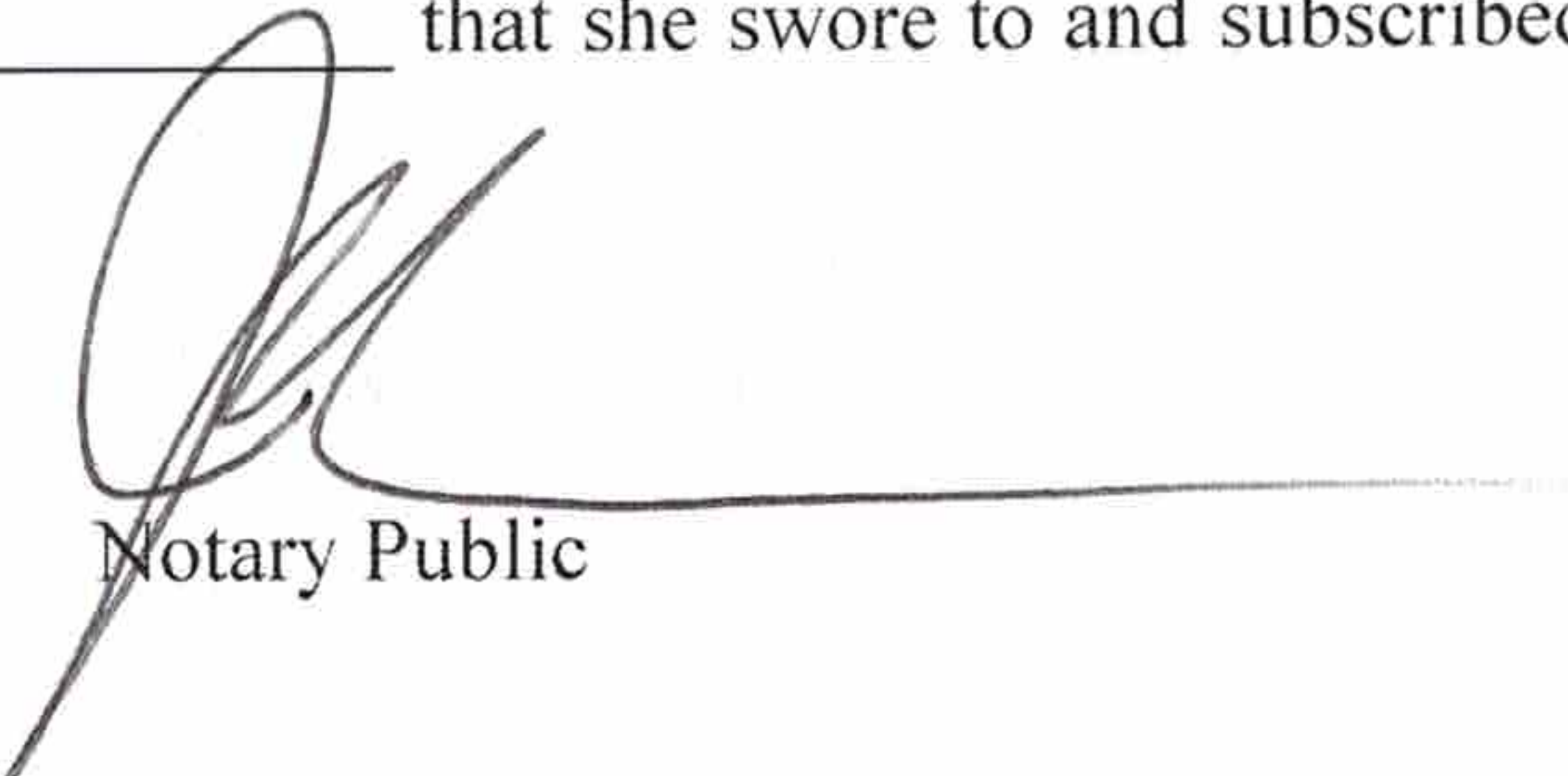
Electronically signed by:

Anna Kathryn Cummings

Anna Cummings

The above-named Anna Cummings acknowledged to me on the 10 day of April, 2020 in

HALL County, GA that she swore to and subscribed to this document.


Notary Public

My commission expires:



John R. Monroe
NOTARY PUBLIC
Lumpkin County, Georgia
My Commission Expires
March 21, 2023

I verify under penalty of perjury that the facts alleged in the foregoing Complaint regarding GCO are true.

Jerry Henry
Jerry Henry, Executive Director of GCO

The above-named Jerry Henry appeared before me on the 11 day of April, 2020 in Fulton County, Georgia and swore to and subscribed to this document.

Jinger Faye Partin
Notary Public

My commission expires:

