

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JULIO SUAREZ,</b>	:	<b>CIVIL ACTION NO. 1:21-CV-710</b>
<b>DANIEL R. BINDERUP,</b>	:	
<b>DANIEL F. MILLER,</b>	:	<b>(Judge Conner)</b>
<b>FIREARMS POLICY COALITION,</b>	:	
<b>INC., and SECOND AMENDMENT</b>	:	
<b>FOUNDATION,</b>	:	
	:	
<b>Plaintiffs</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>Col. CHRISTOPHER PARIS,</b>	:	
<b>Commissioner of the Pennsylvania</b>	:	
<b>State Police,</b>	:	
	:	
<b>Defendant</b>	:	

**ORDER**

AND NOW, this 16th day of September, 2024, upon consideration of the motion (Doc. 74) filed pursuant to Federal Rule of Civil Procedure 62 by defendant Christopher Paris in his capacity as Commissioner of the Pennsylvania State Police to stay pending appeal aspects of the relief we granted in our memorandum and order (Docs. 61, 62) of July 24, 2024, in which we, *inter alia*, held that Section 6106 of Pennsylvania’s Uniform Firearms Act, see 18 PA. CONS. STAT. § 6106, is facially unconstitutional to the extent it prohibits unlicensed carry of a firearm in a vehicle, (see Doc. 61 at 30-35), and further upon consideration of the briefs in support of and in opposition to Commissioner Paris’s motion (see Docs. 75, 77, 80), in which the Commissioner asserts (1) that he has a “reasonable possibility” of prevailing on appeal given the complex legal questions at issue and the rapid evolution of Second Amendment jurisprudence, (see Doc. 75 at 3-5 (quoting Arlington Indus., Inc.

v. Bridgeport Fittings, Inc., No. 3:01-CV-485, 2010 WL 817519, at \*6 (M.D. Pa. Mar. 9, 2010) (Conner, J.) (citing, *inter alia*, First Amendment Coalition v. Judicial Inquiry & Review Bd., 584 F. Supp. 635, 636-37 (E.D. Pa. 1984))))); (2) that “[a] halt on all enforcement” of the vehicle provision will “complicate, and potentially jeopardize, hundreds of prosecutions throughout the Commonwealth,” (see id. at 10 (citations omitted)), and exacerbate existing challenges associated with “criminals stealing firearms from vehicles and then using [them] to commit violent crimes,” (see id. at 11 (citation omitted)); and (3) that plaintiffs will not be injured by maintaining the status quo pending appeal, (see id. at 13-14 (citing Del. State Sportsmen’s Ass’n, Inc. v. Del. Dep’t of Safety & Homeland Sec., 108 F.4th 194, 204-05 (3d Cir. 2024) (“DSSA”))), and in which plaintiffs counter that (1) the Commissioner merely repeats unsuccessful arguments he already has made and thus “has not shown *any* likelihood of success on the merits,” (see Doc 77 at 6-9); (2) the “vague fears” about dangers to law enforcement, the number of prosecutions that may be jeopardized, and the potential rise in thefts of firearms from vehicles are not “actual or imminent irreparable injuries,” (see id. at 9-13); (3) staying the order would harm plaintiffs because they would be limited to carrying firearms only to locations to which they can walk, “subject to . . . *extremely* limited exceptions,” (see id. at 13-15 (emphasis in original)); and (4) the public interest is not served by continued enforcement of an unconstitutional law, (see id. at 15-16), and the court noting that, in weighing whether to grant a stay pending appeal, courts consider (1) whether the moving party has made a strong showing that they are likely to succeed on the merits; (2) whether the movant is likely to suffer irreparable harm absent a stay;

(3) whether a stay would substantially harm other parties interested in the litigation; and (4) whether a stay would serve the public interest, see In re Revel AC, Inc., 802 F.3d 558, 565 (3d Cir. 2015) (citing Republic of Phil. v. Westinghouse Elec. Corp., 949 F.2d 653, 658 (3d Cir. 1991)), the first two factors of which the United States Supreme Court has deemed “the most critical,” see Nken v. Holder, 556 U.S. 418, 434 (2009), and the court addressing the salient factors and finding: *first*, that the Commissioner has demonstrated “a reasonable chance, or probability, of winning” on appeal see In re Revel, 802 F.3d at 568-69 (quoting Singer Mgmt. Consultants, Inc. v. Milgram, 650 F.3d 223, 229 (3d Cir. 2011) (*en banc*)), which our court of appeals has clarified “need not be ‘more likely than not,’” see id. (quoting Singer, 650 F.3d at 229), because appellate jurists might view the historical evidence cited by the Commissioner and unearthed by this court as sufficient to satisfy the government’s evidentiary burden, especially in light of “lingering uncertainties” about the proper application of the Bruen standard, (see Doc. 61 at 24 n.17); *second*, that the risk of injury to state troopers in the Commissioner’s employ is likely to increase as more individuals are able to carry firearms in vehicles without having to undergo a background check, which is not a prerequisite to openly carrying a firearm under Pennsylvania law, see Pennsylvania v. Mimms, 434 U.S. 106, 110 (1977) (recognizing the “inordinate risk confronting an officer as he approaches a person in an automobile”); *third*, that a stay is unlikely to “substantially harm” the plaintiffs and others in their circumstances, who are still permitted to possess firearm in their homes and places of business and to openly carry without a license in public for purposes of self-defense; and *fourth*, that a stay would serve the

“‘public interest in prompt execution’ of the laws,” see DSSA, 108 F.4th at 205-06 (quoting Nken, 556 U.S. at 436), and the court concluding that each of the foregoing factors supports maintaining the status quo while the constitutionality of Section 6106 is resolved definitively on appeal, it is hereby ORDERED that:

1. Commissioner Paris’s motion (Doc. 74) for a stay pending appeal is GRANTED.
2. Paragraph 3 of the court’s order (Doc. 62) of July 24, 2024, is STAYED to the extent it enjoins Commissioner Paris from enforcing the vehicle provisions of Pennsylvania’s Uniform Firearms Act, 18 PA. CONS. STAT. § 6106.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner  
United States District Judge  
Middle District of Pennsylvania