

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RHONDA EZELL, JOSEPH I. BROWN,
WILLIAM HESPEN, ACTION TARGET, INC.,
SECOND AMENDMENT FOUNDATION, INC.,
and ILLINOIS STATE RIFLE ASSOCIATION,

Plaintiffs,

v.

CITY OF CHICAGO,

Defendant.

Case No.: 10 CV 5135

PLAINTIFFS' MOTION FOR ENTRY OF JUDGMENT

NOW COME the Plaintiffs, Rhonda Ezell, Joseph I. Brown, William Hespern,
Action Target, Inc., Second Amendment Foundation, Inc., and Illinois State Rifle
Association, by and through undersigned counsel, and move this Honorable Court to
enter judgment in their favor, instanter in light of and pursuant to the Seventh
Circuit's mandate in this matter. In support thereof, Plaintiffs state as follows:

- 1. The Seventh Circuit's Opinion (Ezell II, 846 F.3d 888 (7th Cir. 2017))
was issued on January 18, 2017. The mandate issued on February 9, 2017. The
Seventh Circuit recently stated it could have issued a stay of its mandate, as it did
in Moore v. Madigan, 702 F.3d 933, 942 (7th Cir. 2012), but deliberately did not
because there was no reason to do so. In re Ezell, 2017 U.S.App. LEXIS 3959 at *1-

2. Further, the City did not request a stay of the Mandate from the Seventh Circuit in the intervening 21 days.¹

2. Since the Mandate has issued (Dkt. # 303, *see attached*), the Seventh Circuit has found no reason for a stay, and the City even agrees that judgment should enter (*See Dkt. #5 of 17-1443 at p.2* (“The City has never taken the position . . . that [the Seventh Circuit’s] mandate should be stayed, or that the district court should not promptly enter judgment consistent with that mandate”); *See also Dkt. #5 of 17-1443 at p.3* (“[T]he city concedes plaintiffs’ entitlement to entry of that judgment”)).

3. “The mandate rule requires a lower court to adhere to the commands of a higher court on remand.” *United States v. Pollard*, 56 F.3d 776, 777 (7th Cir. 1995). The Seventh Circuit noted that the “mandate is straightforward and requires the district court to enter a simple judgment enjoining the three invalid regulations.” *In re Ezell*, 2017 U.S. App. LEXIS 3959 at *3. In addition to the unchallenged relief previously granted as a judgment by this Court (striking down both (a.) restrictions on hours of operation (MCC § 4-151-090), and (b.) the requirement that owners of “applicants” for firing ranges to possess FOID cards (MCC § 4-151-040(d)) (Dkt. ## 280, 281), that is all Plaintiffs are seeking in this Motion.

¹ Plaintiffs also assert it was improper of the City to request a stay from the District Court after the Mandate issued, thus putting the District Court in the position of even having to consider the request. Plaintiffs’ Opposition to the City’s request for a stay is filed separately.

4. Therefore, pursuant to the Seventh Circuit's Mandate in this matter of February 9, 2017, Plaintiffs respectfully request the Court to enter judgment in their favor, *instanter*. See, e.g., *Kathrein v. City of Evanston*, 752 F.3d 680, 688 (7th Cir. 2014).

WHEREFORE, the Plaintiffs, Rhonda Ezell, Joseph I. Brown, William Hesper, Action Target, Inc., Second Amendment Foundation, Inc., and Illinois State Rifle Association, respectfully request this Honorable Court to enter judgment in their favor, *instanter*, pursuant to the Seventh Circuit's Mandate, as well as to grant them any and all further relief as this Court deems just and proper.

Dated: March 7, 2017

Respectfully submitted,

By: /s/David G. Sigale
David G. Sigale

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CERTIFICATE OF ATTORNEY AND NOTICE OF ELECTRONIC FILING

The undersigned certifies that:

1. On March 7, 2017, the foregoing document was electronically filed with the District Court Clerk *via* CM/ECF filing system;
2. Pursuant to F.R.Civ.P. 5, the undersigned certifies that, to his best information and belief, there are no non-CM/ECF participants in this matter.

/s/ David G. Sigale
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