

SUPREME COURT

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Cases decided February 9, 2023.

Joseph Arnold, et al. v. Tina Kotek et al., (CC 22CV41008) (SC S069998)

On petition for a writ of mandamus filed January 13, 2023; considered and under advisement on January 31, 2023. The petition for a writ of mandamus is denied without prejudice. The motion for stay is dismissed as moot without prejudice. Opinion of the Court Per Curiam.

Today, the Oregon Supreme Court denied a petition for writ of mandamus filed by the state, which had asked the Court to vacate two preliminary orders entered in a pending trial court action challenging Ballot Measure 114 (2022), enacted by the voters at the November 2022 General Election.

Measure 114 made several statutory changes pertaining to firearms, including requiring a permit to purchase a firearm ("permit-to-purchase requirement"); requiring completion of a criminal background check before a firearm may be purchased, acquired, delivered, or transferred ("background-check requirement"); and imposing restrictions regarding "large-capacity" magazines ("large-capacity magazine restrictions"), generally defined as fixed or detachable ammunition feeding devices with a capacity of more than 10 rounds of ammunition. Shortly after the election, plaintiffs filed in the Harney County Circuit Court a declaratory judgment action against three state defendants ("the state"), asserting that Measure 114 was unconstitutional under Article I, section 27, of the Oregon Constitution. Plaintiffs also sought preliminary relief, which the trial court granted in two orders: (1) a temporary restraining order as to the permit-to-purchase and background-check requirements, restraining their enforcement until state notification that the permit-to-purchase requirement is ready to implement and further preliminary hearing; and (2) a preliminary injunction as to the large-capacity magazine restrictions, enjoining their enforcement until a full hearing is held on plaintiffs' complaint.

The state filed a petition in the Supreme Court, seeking a writ of mandamus directing the trial court to vacate those two temporary and preliminary orders.

In a unanimous, per curiam opinion, the Court denied the state's petition, but without prejudice as to any future petition for writ filed by any party. The Court explained that, at this juncture in the proceedings, and given its understanding that the trial court was proceeding as expeditiously as possible to resolve the issues, it declined at this time to exercise its discretion to grant the extraordinary remedy of mandamus. The Court recognized that the legal status of Measure 114 is of significant concern to many Oregonians and that the judicial branch's role is to resolve disputes such as challenges to laws enacted by the legislative branch, including the people exercising their initiative power. But, the Court continued, it had determined that "now [was] not an appropriate time to exercise [its] authority in mandamus in connection with the trial court's temporary and preliminary rulings." The Court's decision had no bearing on the parties' respective positions as to the underlying proceeding, including the merits of plaintiffs' complaint, and it did not bar any future challenge arising from the underlying action.

The Court relatedly dismissed as moot a motion to stay the trial court proceedings that the state had filed with its petition for mandamus relief.