

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:10-CV-00265-H

MICHAEL BATEMAN, VIRGIL GREEN, )  
FORREST MINGES, JR., GRNC/FFE, INC., )  
and SECOND AMENDMENT FOUNDATION, )  
INC., )  
)  
*Plaintiffs,* )  
)  
v. )  
)  
BEVERLY PERDUE, REUBEN F. YOUNG, )  
STOKES COUNTY, and CITY OF KING, )  
)  
*Defendants.* )

**MOTION FOR EXTENSION  
OF PAGE LIMITATION**

NOW COME Defendants Beverly Perdue and Reuben F. Young (collectively “the State Defendants”), through counsel and without opposition from Plaintiffs, and show unto the Court as follows:

1. Plaintiff filed this action challenging the constitutionality of portions of five statutes contained in the North Carolina General Statutes pertaining to the establishment of restrictions on the possession of firearms during declared states of emergency pursuant to the Second Amendment;
2. On August 13, 2010, the State Defendants filed a Motion to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure along with a supporting memorandum;
3. On September 24, 2010, Plaintiffs filed a memorandum in opposition to the State Defendants’ Motion to Dismiss (hereafter “Plaintiffs’ Response Brief”);
4. Among the issues addressed in Plaintiffs’ Response Brief are the following: (a) whether the standard set out in *United States v. Salerno*, 481 U.S. 739 (1987) is controlling as to facial challenges to state laws implicating fundamental constitutional rights; (b) whether the overbreadth

doctrine applies to claims brought under the Second Amendment; (c) whether Plaintiffs' Complaint asserts both an as-applied and a facial challenge to the North Carolina statutes at issue; (d) the extent to which the Second Amendment confers a right to possess a gun outside of one's home; (e) whether the Second Amendment encompasses a right to purchase weapons and ammunition; (f) whether the governmental right to restrict the carrying of weapons off of one's premises is lessened during a declared state of emergency; (g) whether a challenge to enabling legislation is ripe regardless of whether an ordinance has been enacted pursuant to those enabling statutes whose content is currently before the Court; and (h) whether the "capable of repetition yet evading review" response to a mootness defense also applies to a ripeness defense.

5. The issues raised in this action are of considerable importance to the State of North Carolina. In their reply brief, the State Defendants intend to focus solely on those issues which they believe to be most significant to the questions currently before the Court. Despite their best efforts, the undersigned counsel for the State Defendants has been unable to meaningfully address these issues within ten pages. These are complex issues that arise in the context of the United States Supreme Court's recent decision in *District of Columbia v. Heller* 128 S. Ct. 2783 (2008) and require constitutional interpretation of Second Amendment issues that were not directly addressed in *Heller*. The State Defendants respectfully submit that allowing them to submit a reply brief up to and including eighteen pages in length will assist the Court in its decisional process in analyzing the issues that are currently before it; and

6. Counsel for Plaintiffs have informed counsel for the State Defendants that they do not oppose this motion.

WHEREFORE, the State Defendants respectfully request that this Court allow them to file a reply brief in support of their Motion to Dismiss up to and including eighteen pages in length.

Respectfully submitted, this the 5th day of October, 2010.

ROY COOPER  
Attorney General

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day, October 5, 2010, I electronically filed the foregoing **MOTION FOR EXTENSION OF PAGE LIMITATION** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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