

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Minnesota Gun Owners Caucus,
Plaintiff,
v.
Tim Walz, Governor of Minnesota, in his
official capacity;
Keith Ellison, Attorney General of
Minnesota, in his official capacity;
Mary Moriarty, Hennepin County
Attorney,
in her official capacity;
Drew Evans, Superintendent of the
Minnesota Bureau of Criminal
Apprehension, in his official capacity,
Defendants.

Case Type: Civil Other/Misc.

The Honorable Leonardo Castro
Court File No. 62-CV-25-1083

**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANTS'
MOTION TO STAY THE ORDER
AND JUDGMENT PENDING
APPEAL**

The State Defendants concede that the binary trigger ban is unconstitutional. They even concede that, under existing Minnesota law, this Court was correct to strike it down. Nevertheless, Defendants seek this Court's approval to arrest and imprison Minnesotans pursuant to this concededly-invalid statute while they are asking the appellate courts to *change* the law to place its invalidity beyond judicial review.

The Court should not countenance this. None of the factors relevant to a stay pending appeal are satisfied here. *First*, Defendants' far-fetched legal theories on appeal are completely unsupported by Minnesota law. Indeed, their principal argument—that the

courts should never enforce the Single Subject Clause—is squarely and emphatically foreclosed by a long line of Minnesota Supreme Court decisions, including the Court’s most recent decision on the Single Subject Clause. *Second*, since the State concedes the binary trigger ban is not constitutionally valid, the public interest tells decisively against enforcing its pending appeal. *Third*, the balance of injuries from a stay weighs strongly in favor of MGOC, whose members should not have to face prosecution and imprisonment pursuant to a statute that the State concedes violates the Constitution and cannot be enforced under existing Minnesota law.

BACKGROUND

The binary trigger amendment, contained in Article 36, § 2 of the 2024 Omnibus Bill, which was codified as Minn. Stat. § 609.67, subd. 1(d)(3), went into effect on January 1, 2025. This Court entered judgment enjoining and prohibiting Defendants from enforcing the binary trigger amendment on August 18, 2025. (Docs. 62-64).

On September 15, 2025, State Defendants filed their notice of appeal (Docs. 66-67), their petition to the Supreme Court for accelerated review, and their motion to stay (Doc. 68).

LEGAL STANDARD

When assessing a motion to stay an order or judgment pending appeal under Minn. R. Civ. App. P. 108.02, subd. 1, “the trial court should [:] identify the relevant factors, weight each factor, and then balance them, applying the court’s sound discretion.” *Webster v. Hennepin Cty.*, 891 N.W.2d 290, 293 (Minn. 2017); *see also DRJ, Inc. v. City of St. Paul*, 741 N.W.2d 141, 144 (Minn. Ct. App. 2007) (“the trial court or governmental unit must

balance the appealing party's interest in preserving the status quo, so that effective relief will be available if the appeal succeeds, against the interests of the public or the prevailing party in enforcing the decision and ensuring that they remain 'secure in victory' while the appeal is pending.") (citation omitted).

"Among the factors that may be relevant are: whether the appeal raises substantial issues; injury to one or more parties absent a stay; and the public interest, which includes the effective administration of justice." *Webster*, 891 N.W.2d at 293. "Effective administration includes protecting appellate jurisdiction, avoiding multiple lawsuits, and preventing the defeat of 'the objects of the appeal or writ of error.'" *Id.* (quoting *State v. Northern Pacific Railway Co.*, 22 N.W.2d 569, 574-75 (Minn. 1946)).

"[A] trial court has broad discretion in deciding which of the various factors are relevant in each case, and ... need only analyze the relevant factors." *Id.* "[I]n the interest of completeness and to facilitate appellate review," the Minnesota Supreme Court has recommended, but not required, courts to conduct a "written analysis of each relevant factor." *Id.* at 293 n.2 (citing Minn. R. Civ. P. 52.01 and 65.04).

ARGUMENT

The State's position is extraordinary: although the State admits that the binary trigger ban is not constitutionally valid, the State asks that the Court allow it to enforce the ban anyway. The balance of relevant factors—public interest, balance of injuries, and substantial issues—does not support granting stay in this situation.

I. The State’s Long-Shot Appeal Seeks Only to Change Settled Minnesota Law.

The State seeks a stay to allow it enforce a statute that it concedes is unconstitutional. As the Court recalls, Defendants agreed in open court that the binary trigger ban “was a step too far” and is not “germane to” the 2024 Omnibus Bill’s subject. (Doc. 65 at 28 (Transcript to July 29, 2025 hearing).)

The State’s appeal is not an attempt to have this unconstitutional statute declared constitutional. To the contrary, the State is simply asking the appellate courts to give up on enforcing the relevant portion of Constitution. As this Court no doubt recalls, the State’s primary argument is that violations of the Constitution’s Single Subject Clause—like the one it admits occurred here—are “political questions” that the courts are powerless to do anything about.

But as this Court has already noted, the Minnesota Supreme Court has stated in extraordinarily clear and consistent terms that it fully intends to enforce the Single Subject Clause. In the Supreme Court’s most recent Single Subject Clause decision, the Justices stated that “we remain firmly committed to our constitutional duty to” enforce the Clause. *Otto v. Wright Cty.*, 910 N.W.2d 446, 459 (Minn. 2018) (cleaned up). Indeed, the Court has “publicly warn[ed] the legislature that if it does hereafter enact legislation … which clearly violates Minn. Const. art. IV, § 17, we will not hesitate to strike it down regardless of the consequences.” *Assoc. Builders & Contractors v. Ventura*, 610 N.W.2d 293, 301-02 (Minn. 2000) (cleaned up). In doing so, the Court invoked a decades-long line of several precedents in which the Court and its members starkly warned the legislature that it will enforce the Single Subject Clause. *See generally id.* Moreover, the State has identified not

a single other American jurisdiction that applies the no-enforcement approach it is asking the appellate courts to adopt.

The State's secondary argument on appeal is that the Revisor of Statutes can foreclose Single Subject Clause lawsuits simply by publishing a new version of the Revised Statutes. As this Court has already noted, there is no hint of support for that rule in the 165-plus year history of Minnesota's Single Subject Clause, and it would have foreclosed many previous Single Subject challenges that the Supreme Court has addressed on the merits. In addition, the State's proposed 'codification rule' is extraordinarily bizarre and nonsensical. Why should the Revisor of Statutes have the power to convert a non-law into a law just by publishing it? The State has never offered any legal rationale for this—not in this Court, and not in its filings in the Supreme Court—and it is impossible to think of one that is even colorable.

In this context, the State's appellate arguments do not qualify as substantial issues of law for purposes of seeking a stay.

But even if those appellate arguments *were* 'substantial' in some sense, they still would not warrant a stay because the State's likelihood of prevailing on them is extraordinarily low. Regardless of whether an "appeal raises substantial issues," denying a stay is proper when the trial court "d[oes] not believe the case was a close case on the law." *Cooper v. USA Powerlifting*, Nos. A23-0373, A23-0621, 2023 Minn. App. LEXIS 192, at *3-4 (Ct. App. May 23, 2023); *Stern 1011 First St. S. v. Kenneth*, 2019 Minn. Dist. LEXIS 4805, *5 (Hennepin Cty. Dist. Ct. May 14, 2019) ("The likelihood of success on appeal is also a valid consideration" under *Webster*); *Greene v. Minn. Bureau of Mediation Servs.*,

2016 Minn. Dist. LEXIS 395, *7-11 (Ramsey Cty. Dist. Ct. Nov. 28, 2016) (similar). Here, as we have explained, the State’s appellate arguments are foreclosed by settled Minnesota law. The likelihood that the Supreme Court will abruptly reverse course on its repeated and emphatic warnings about the Single Subject Clause, and simply abandon enforcement of the Constitution in response to increasingly blatant violations by the legislature, is extraordinarily small. The same can be said of the likelihood that the Supreme Court will adopt a ‘codification rule’ that has no coherent legal rationale and that would raise disturbing questions about the Revisor of Statutes’ ability to convert unconstitutional enactments into binding laws.

II. The Public Interest Strongly Disfavors a Stay.

The State’s appeal has an extraordinary objective: the State is asking the courts to let it enforce a statute that the State concedes is invalid under the Constitution. As we have explained, the Supreme Court has already emphatically closed the door on that position, and it is extremely unlikely that the State will manage to persuade the Court to reverse course.

But as to the public interest, it does not even matter what odds the State has of persuading the appellate courts to let it enforce an invalid statute. The State’s concession that the binary trigger ban *is* invalid under the Constitution (Doc. 65 at 28) conclusively settles that a stay pending appeal would not be in the public interest. Neither the State nor the public has any legitimate interest in the enforcement of a law that everyone agrees violates the Constitution. *See, e.g., DSCC & DCCC v. Simon*, 2020 Minn. Dist. LEXIS 456, *19 (Ramsey Cty. Dist. Ct. Aug. 20, 2020) (“the people of Minnesota have no interest in enforcing voting laws which are unconstitutional”); *DSCC & DCCC v. Simon*, 2020

Minn. Dist. LEXIS 220, *65 (Ramsey Cty. Dist. Ct. July 28, 2020) (“the Secretary of State has no interest in enforcing unconstitutional laws”); *LaCroix v. Town of Fort Myers Beach, Florida*, 38 F.4th 941, 955 (11th Cir. 2022) (“neither the government nor the public has any legitimate interest in enforcing an unconstitutional ordinance”); *K.A. ex rel. Ayers v. Pocono Mountain Sch. Dist.*, 710 F.3d 99, 114 (3d Cir. 2013) (“[T]he enforcement of an unconstitutional law vindicates no public interest.”). So even if the State had some chance of persuading the appellate courts to stand aside and let it enforce an invalid statute, the public interest still weighs against it.

Further, the public interest in the effective administration of justice counsels denying the stay pending appeal. The only apparent function of a stay would be to allow the State to launch however many prosecutions it wishes against Minnesotans, including against MGOC’s members, under the binary trigger ban. In light of this Court’s ruling, it is certain that every single one of those defendants would raise a Single Subject Clause defense. That would force every one of MGOC’s prosecuted members to re-litigate the issue that this Court already decided in their favor, and the courts to re-decide the issue—and if the Supreme Court ultimately upholds this Court’s ruling, as is extremely likely, all those proceedings will have been a complete waste of time and effort. The public interest thus supports denying the motion to avoid the multiplicity of these lawsuits and claims.

III. The Balance of Harms Strongly Favors Denial.

Finally, the balance of harms tips overwhelmingly against a stay.

To repeat, the only function of the stay would be to allow the State to arrest and prosecute Minnesotans, including MGOC’s members—subjecting them to “imprisonment

for not more than 20 years or ... a fine of not more than \$35,000, or both," Minn. Stat. § 609.67, subd. 2—for violating a requirement that the State admits was not constitutionally enacted, and for conduct that has never before been illegal in Minnesota. Indeed, the State is seeking to imprison people pursuant to a statute that the State admits ***should be enjoined*** under existing Minnesota law. Even if the State had a cogent argument that locking up binary-trigger owners was an important part of the response to "an epidemic of gun violence," (Defs.' Br. at 5), this would not be an acceptable way to do it. If the State believes that certain conduct is dangerous or undesirable, then it should validly change the law to prohibit that conduct *before* prosecuting and imprisoning people for it—not after, as the State proposes here.

But in fact, the State does *not* have any cogent argument that the binary trigger ban has been treated as any sort of significant public-safety tool. The State points to *not a single arrest or prosecution* under the binary trigger ban from the time it took effect on January 1, 2025, until this Court's injunction against its enforcement in August. (Defs.' Br. at 5, n.4) (Defendants "are unaware of any binary trigger prosecution statewide since the ban went into effect"). Nor does the State identify any prosecution or category of prosecutions under the binary trigger ban that it would like to bring or that it thinks would be important to bring.

In other words, the harms factor requires balancing the liberty, reputation, and fortunes of law-abiding Minnesotans, on the one side, against wholly unsubstantiated speculation, on the other. The balance tips strongly in favor of the former.

At the barest minimum, basic fairness requires that any stay the Court might order should not take effect until at least 30 days after the Court enters the order. That would allow citizens to dispose of any binary triggers they may possess before the risk of prosecution arises once again. A 30-day period is highly appropriate, as it is comparable to the amount of time that elapsed between this Court's injunction against enforcement and the State's motion for a stay of that order.

*

To sum up: possessing a binary trigger has been legal for all of Minnesota's history. All parties agree that no valid statute has ever prohibited it, and that no valid statute prohibits it today. All parties even agree that this Court's injunction against the binary trigger ban is proper under existing Minnesota legal principles. Despite that, the State is asking the appellate courts to *change* Minnesota law to require the courts to overlook the unconstitutionality of the statute, thus allowing the State to imprison people who possess binary triggers despite the lack of a valid statutory prohibition. In this motion, the State is even asking this Court to let it bring such prosecutions during the pendency of that appeal.

If that kind of stay could ever be appropriate, it would be only upon the most compelling showings of both likelihood of success on appeal and public necessity. Here, the State has utterly failed to show either: its far-fetched appellate arguments are highly likely to fail, and the evidence of any public-safety need for the ban is almost completely nil. A stay is highly inappropriate.

CONCLUSION

The motion should be denied.

Dated: October 9, 2025

Respectfully submitted,

UPPER MIDWEST LAW CENTER

/s/ Nicholas J. Nelson

Douglas P. Seaton (#127759)
Nicholas J. Nelson (#391984)
Austin M. Lysy (#505052)
12600 Whitewater Drive, Suite 140
Minnetonka, MN 55343
(612) 428-7000
Nicholas.Nelson@umlc.org

Attorneys for Plaintiff

ACKNOWLEDGMENT

The undersigned acknowledges that sanctions may be imposed pursuant to Minn.

Stat. § 549.211.

Dated: October 9, 2025

/s/ Nicholas J. Nelson

Nicholas J. Nelson (#391984)