

ENTRY ORDER

VERMONT SUPREME COURT
FILED IN CLERK'S OFFICE

SUPREME COURT DOCKET NO. 2019-266

MAR 29 2021

MARCH TERM, 2021

State of Vermont* v. Max Misch	}	APPEALED FROM:
	}	
	}	Superior Court, Bennington Unit
	}	Criminal Division
	}	
	}	DOCKET NO. 173-2-19 Bncr

In the above-entitled cause, the Clerk will enter:

In response to appellant's motion to reargue, the opinion is amended as detailed below. In all other respects, the motion is denied.

The opinion, issued on February 19, 2021 is amended as follows (new matter underlined; deleted matter struck through):

Paragraph 72, note 26, last sentence: We will not engage in fact finding as to the specifics of any given mass shooting; ~~the Legislature had clear evidence from~~ the available data supports a conclusion that large-capacity magazines are associated with many of the deadliest shootings in the United States.

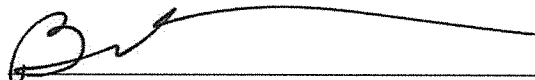
Paragraph 79: We do not recount the above evidence because this Court necessarily concurs with the ~~Legislature's~~ assessment that the limit on large-capacity magazines will in fact substantially reduce the risks and harms of mass shootings, or to signify that we credit the above accounts, studies, and arguments, and discount the thoughtful analyses and arguments of those opposed to the legislation. Rather, we recite the above to ~~explain our conclusion that the Legislature had ample information, facts, and data, either actually in hand or available in the public arena, to support its conclusion that~~ demonstrate that it is reasonable to conclude that the limit on large-capacity magazines will have an appreciable impact in reducing the injuries and fatalities in the event of mass-shooting events. In the face of this support and in the absence of a showing that § 4021 imposes a disproportionate burden on the Article 16 right, which we discuss next in Part B, the Legislature's policy determination that the LCM limit at issue is a reasonable regulation is within its constitutional authority, and we will not set it aside.

Paragraph 80, first sentences: When it enacted § 4021, the Legislature did not formally make any legislative findings, ~~and we cannot determine what facts and information in the record it found most persuasive.~~

Paragraph 81, note 28: Again, we use the term "evidence" here in its broadest sense to denote information, facts, and data actually presented to the Legislature or ~~available to it from~~ in the public sphere, as well as testimony (whether or not under oath) and statements to the

Legislature (or individual legislators or legislative committees), ~~all of which is available to us for consideration.~~ Our review is not limited to the data available at the time the statute was enacted.

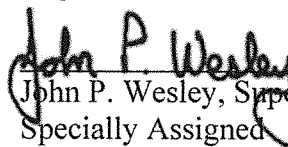
BY THE COURT:



Beth Robinson, Associate Justice



Karen R. Carroll, Associate Justice



John P. Wesley, Superior Judge (Ret.),
Specially Assigned



Dennis R. Pearson, Superior Judge (Ret.),
Specially Assigned