

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Reverend Tim Christopher, Sarah Cade
Hauptman, and the Minnesota Gun Owners
Caucus,

Plaintiffs,

vs.

Ramsey County, Bob Fletcher, in his official
capacity as Ramsey County Sherriff, and the
State Agricultural Society,

Defendants.

Court File No.: 62-CV-21-4223

Case Type: Other Civil

ORDER DENYING PLAINTIFFS' MOTIONS FOR TEMPORARY INJUNCTION

This matter came on for a hearing on August 19, 2021, before the Honorable Laura E. Nelson, on Plaintiffs' motion for a temporary injunction. Scott Flaherty, Esq. appeared on behalf of the Plaintiffs. Leah Janus, Esq. appeared on behalf of the Defendant State Agricultural Society. Tracy Van Steenburgh, Esq. appeared on behalf of Defendants Ramsey County and the Ramsey County Sherriff. Based upon the files, records, and proceedings herein, and the arguments of counsel, **IT IS HEREBY ORDERED:**

1. Plaintiffs' motion for temporary injunction is **DENIED**.
2. The attached Memorandum shall be incorporated into this Order.

IT IS SO ORDERED.

BY THE COURT:

Dated: August 25, 2021

LAURA E. NELSON
JUDGE OF DISTRICT COURT

MEMORANDUM

Procedural Background

Reverend Tim Christopher, Sarah Cade Hauptman, and the Minnesota Gun Owners Caucus (hereinafter “MGOOC”) (collectively, the “Plaintiffs”) are Minnesota citizens and an association of citizen gun owners. Both Reverend Christopher and Ms. Hauptman have a permit to carry a pistol pursuant to Minn. Stat. § 624.714. Reverend Christopher and Ms. Hauptman attend the Minnesota State Fair regularly and intend to attend the 2021 State Fair. Plaintiffs filed this action against Defendants Ramsey County, Bob Fletcher, in his official capacity as Ramsey County Sherriff, (collectively “Ramsey County”) and the State Agricultural Society (hereinafter “Society”) (collectively “Defendants”) seeking declaratory relief under Minn. Stat. ch. 555, and specifically injunctive relief under Minn. Stat. § 555.08 allowing them to carry pistols at the State Fair.¹ Plaintiffs filed a motion for a temporary injunction, which Defendants oppose.

Factual Background

With few exceptions, the Minnesota State Fair has been held every year since 1855, running for 12 consecutive days and ending on Labor Day. The dates for the 2021 fair are August 26 through September 6. The State Fair is hosted by the Society, which was founded in 1854. The Society is organized as a public corporation, with delegates representing all 87 county fairs in Minnesota and 43 regional and statewide agricultural and education groups. Annually, the delegates elect a 10-member board of managers to set policy and provide oversight for the State Fair. The Society is charged with the management and control of the Minnesota State Fairgrounds (hereinafter “Fairgrounds”) including presentation of events such as the annual State Fair. The Society does not receive any financial contributions from any governmental agency.

¹ Plaintiffs also allege a claim for declaratory relief under the Minnesota Government Data Practices Act (hereinafter, “MGDPA”). However, in Plaintiff’s briefing they ask that the Society be found in compliance with the MGDPA and that the Court infer that the State Agricultural Society has not enacted a bylaw, ordinance, or other rule prohibiting firearms. (Pl.’s Mem. of Law in Supp. of Temporary Inj. n.4.)

Under Minn. Stat. § 37.14, the Society is vested with the rights and responsibilities of custody, management, and control of the Fairgrounds. The Society has the specific power to “license and regulate . . . privileges on the fairgrounds[.]” Minn. Stat. § 37.17, subd. 1. The Society is further empowered by Minn. Stat. § 37.16 to “make all bylaws, ordinances, and rules consistent with law which it considers necessary or proper . . . for the protection, health, safety, and comfort of the public on the Fairgrounds.” “The bylaws, ordinances, and rules are effective when filed with the secretary of the society. The violation of a bylaw, rule, or ordinance of the society is a misdemeanor.” *Id.* To this end, the Society is empowered by statute to appoint its own peace officers or “contract with the state, any county, or any municipality for police service and protection on the Fairgrounds.” Minn. Stat. § 37.20. For the 2021 State Fair, the Society has contracted with the Ramsey County Sheriff’s Office (also known as “RCSO”) to provide law enforcement services pursuant to a Joint Powers Agreement. Under the Joint Powers Agreement:

The Agricultural Society shall be responsible for security screening at entrance points at the Fairgrounds, including bag checks and the use of magnetometers. The County, through the RCSO, will not be responsible for security screening, bag or container checks, or other components of admittance to the Fairgrounds. The County, through the RCSO, will not be responsible for security, security screening, or ingress or egress to the State Fair parking lots.

Joint Powers Agreement at III.3.

It is undisputed that the Society has publicly announced that they ban guns from the State Fair since at least 2003,² at which time the Society began posting prominent signs announcing the ban at the State Fair entrances. Further, the Society has posted the prohibition on the State Fair website since at least 2016. In addition, since at least 2016, the State Fair has conducted bag checks at entrance points and posted “Prohibited Items Notices” at its entrances, advising visitors that “[w]eapons of any kind (including objects that appear to be weapons)” are “not permitted on the State Fairgrounds during the State Fair.” The record shows that the Society and the MGOC had

² There does seem to be a dispute about the enforceability of the rules banning firearms before August 17, 2021.

direct communication about the ban since December 7, 2015, in which State Fair staff stated that “[i]t is the policy of the Fair, acting through its Board of Directors and management and pursuant to its authority under state law, to prohibit individuals from carrying firearms on the fairgrounds.” In August 2017, the MGOC tweeted a link to a webpage concerning guns and the Minnesota State Fair which stated that “[f]or many years, the Minnesota State Fair has held firmly to a policy prohibiting firearms at the State Fairgrounds during the Minnesota State Fair” and that the prohibition on firearms applied to permitholders. As of January 2020, MGOC was aware that the State Fair intended to enforce its prohibition on firearms by using metal detectors, evidenced through posting, “The State Fair is putting up metal detectors” to its Twitter followers.

On August 17, 2021, in response to Plaintiffs claims that the Society’s rule banning weapons wasn’t a “real” rule and wasn’t enforceable because it was not promulgated pursuant to Minn. Stat. § 37.16, the Society enacted Rule 1.24, which states:

- (a) The Society’s dangerous weapons policy covers all weapons including but not limited to firearms, air-propelled guns, and explosive devices.
- (b) The Society shall implement a system of screening (including metal detectors) at the fairground gates, by which persons who wish to be admitted to the fairgrounds shall be notified of the Society’s dangerous weapons policy and be screened for dangerous weapons.
- (c) Persons in possession of dangerous weapons will be denied admission to the fairgrounds and their admission tickets will be refunded. Persons may not possess dangerous weapons within the gates of the fairgrounds.
- (d) The Society, through management, may issue written exceptions to this policy for law enforcement and security personnel, and to persons needing to use dangerous weapons in the safe conduct of State Fair business, exhibitions, or shows.

The parties disagree about the significance of Rule 1.24, but agree that it does not resolve the issues in this dispute.

Analysis

The purpose of a temporary injunction is to maintain the status quo of the parties' relationship until the case can be decided on its merits. *Pickerign v. Pasco Mktg., Inc.*, 228 N.W.2d 562, 564 (Minn. 1975). A temporary injunction is an extraordinary equitable remedy. *Haley v. Forcelle*, 669

N.W.2d 48, 55 (Minn. Ct. App. 2003). It “is the strong arm of equity” and should only be granted with “great caution and deliberation on the part of the court.” *Gen. Minn. Utilities Co. v. Carlton Cty. Co-op. Power Ass'n*, 22 N.W.2d 673, 679 (Minn. 1946). Injunctive relief may be awarded “only in clear cases, reasonably free from doubt.” *AMF Pinspotters, Inc. v. Harkins Bowling, Inc.*, 110 N.W.2d 348, 351 (Minn. 1961). The burden of proof is on the movants to establish the material allegations that entitle them to relief. *Id.* When faced with a motion for injunctive relief, the court considers the five factors enumerated in *Dahlberg Bros. v. Ford Motor Co.*, 137 N.W.2d 314, 321-22 (Minn. 1965). The *Dahlberg* factors include: 1) the nature of the relationship between the parties before the dispute giving rise to the request for relief; 2) the harm to be suffered by the moving party if the injunction is denied as compared to that inflicted on the non-moving party if the injunction is granted; 3) Plaintiffs' likelihood of success on the merits; 4) the public interest; and 5) the administrative burden in enforcing an injunction. *Id.* The court may issue a temporary restraining order if no adequate remedy at law exists and denial of the injunction will result in irreparable injury. *Cherne Indus., Inc. v. Grounds & Assoc, Inc.*, 278 N.W.2d 81, 92 (Minn. 1979). The threatened injury must be “real, substantial, and irreparable.” *Ind. School Dist. No. 35, Marshall County v. Engelstad*, 144 N.W.2d 245, 248 (Minn. 1966).

The district court may grant temporary injunctive relief if affidavits, deposition testimony, or oral testimony demonstrate sufficient grounds. Minn. R. Civ. P. 65.02(b). In requesting temporary injunctive relief, the movant must show that a party will suffer irreparable injury before a trial on the merits can be held, and that the relief sought will be ineffectual or impossible to grant unless the status quo is maintained. *Unlimited Horizon Mktg., Inc. v. Precision Hub, Inc.*, 533 N.W.2d 63, 66 (Minn. Ct. App. 1995). As discussed above, upon a showing of these threshold requirements, Minnesota courts consider the five *Dahlberg* factors to determine whether to grant temporary injunctive relief.

1. The Nature of the Relationship.

The first *Dahlberg* factor is the nature of the relationship between the parties before the dispute giving rise to the request for relief. In considering the relationship between the parties, courts generally emphasize preserving the status quo pending a full trial on the merits. *See State ex rel. Neighbors Organized in Support of Env't v. Doty*, 396 N.W.2d 55, 59 (Minn. Ct. App. 1986). In this case, the status quo is a prohibition on weapons at the State Fair. The Society has posted signs banning weapons since at least 2003 and has conducted bag searches since at least 2016. The MGOC has known and has publicly acknowledged that the prohibition extended to permit holders since at least 2017. The individual Plaintiffs, who are long-term fair attendees, have chosen in past years to ignore the ban and carry firearms at the State Fair.³ The difference this year is not in the rule, but rather the increased likelihood that violating it will be detected due to the addition of metal detectors.⁴ This factor favors denying the injunction.

2. Balancing Movant's and Non-movant's Harms.

In applying the second *Dahlberg* factor, courts must balance the harm that the non-moving party would suffer if injunctive relief were to be granted against the harm that the moving party would suffer if injunctive relief were to be denied. *Cramond v. AFL-CIO*, 126 N.W.2d 252, 256 (Minn. 1964). A temporary injunction will be issued if the denial of injunctive relief would lead to certain and irreparable injury to the moving party, and the grant of relief would lead only to inconsiderable injury to the opposing party. *Town of Burnsville v. City of Bloomington*, 117 N.W.2d 746,

³ Although it is not in the record, Plaintiffs' counsel disclosed in oral argument that the Plaintiffs have routinely carried their firearms at the state fair in past years despite the ban.

⁴ On August 17, 2021, the Society enacted Rule 1.24, which formally bans weapons at the State Fair. At oral argument, the Society argued that the newly enacted rule was not a substantive change to the rules, but simply a response to Plaintiffs' argument that their existing ban was not formally enacted. Plaintiffs argue that it is a significant departure from the status quo, and it supports their argument that this factor favors an injunction. The full impact of the Rule 1.24 is one of the areas where the record is not fully developed at this stage of the litigation.

750 (Minn. 1962). A party seeking injunctive relief must show irreparable harm, but the party opposing the motion need only show substantial harm to bar injunctive relief. *Yager v. Thompson*, 352 N.W.2d 71, 75 (Minn. Ct. App.1984). The party seeking the injunction must also show “that [their] legal remedy is not adequate.” *Cherne Indus., Inc. v. Grounds & Assocs., Inc.*, 278 N.W.2d 81, 92 (Minn. 1979).

The Plaintiffs argue that, although they have not brought a constitutional claim, Plaintiffs will be harmed through citizens being “estopped from practicing their constitutional and Minnesotan statutory right to bear arms,” which is a non-economic, rights-based harm that cannot be remedied by money damages. (Pl.’s Mem. of Law in Supp. of Temporary Inj. 8.) They cite *Pavek v. Simon*, for the proposition that “the denial of a constitutional right is a cognizable injury and an irreparable harm.” 467 F. Supp. 3d 718, 754 (D. Minn. 2020).

The Plaintiffs further argue that there is no harm to the Defendants as the state “cannot suffer harm from an injunction that merely ends an unlawful practice or reads a statute as required to avoid constitutional concerns.” *Id.* at 762. The Defendants, by contrast, argue that the Society will suffer significant harm if the injunction is issued. Specifically, they point to resultant economic harms such as lost ticket sales, lower attendance, associated lost profits from attendance, as well as the costs associated with performers pulling out in light of the injunction. The Society supports their claims through citizens’ public comments on their social media accounts expressing concern about guns at the State Fair. It is not clear that the Society’s rules are an unlawful practice, which Plaintiffs’ argument presupposes, as such the Court is reticent to simply dismiss their claimed harms.

The Defendants further argue that the Plaintiffs’ delay in seeking this preliminary injunction undercuts their claim of harm and is an independent reason to deny the injunction. (Def. State Agricultural Society’s Mem. in Opp. To Pl.’s Mot. for Temporary Inj. 25 citing *Oakland Trib., Inc. v. Chronicle Pub. Co.*, 762 F.2d 1374, 1377 (9th Cir. 1985) (“Plaintiff’s long delay before seeking a

preliminary injunction implies a lack of urgency and irreparable harm.”); *Novus Franchising, Inc. v. Dawson*, 725 F.3d 885, 894 (8th Cir. 2013) (“[D]elay alone may justify the denial of a preliminary injunction when the delay is inexplicable in light of a plaintiff’s knowledge of the conduct of the defendant.”); *Nichols v. Brown*, No. CV 11-09916 SJO SS, 2013 WL 3368922, at *1 (C.D. Cal. July 3, 2013) (denying a preliminary injunction under the Second Amendment related to carrying firearms at the beach due to lack of irreparable harm). Plaintiffs do not dispute that there have been signs banning guns at the State Fair since 2003 or that MGOC has had direct communication with the Society about the gun ban and shared publicly in 2017 that the State Fair’s rules included permit holders, however, they argue the Joint Powers Agreement created the urgent need for an injunction. Plaintiffs specifically emphasize the addition of metal detectors at State Fair entrances and the role of the RSCO. The Plaintiffs’ argument is not supported by the record. The Society announced the addition of metal detectors in January of 2020, and the Joint Powers Agreement explicitly states that the RSCO is not responsible for security screening, bag or container checks, or other components of admittance to the Fairgrounds. *See* Joint Powers Agreement at III.3.

Both parties have articulated harms. The Court finds, however, that the Plaintiffs have long been aware of the Society’s position on guns at the State Fair and that their extensive delay undercuts their claim of irreparable harm. This factor slightly favors denying the injunction.

3. Plaintiffs’ Likelihood of Success on the Merits.

The third, and most important, of the *Dahlberg* factors is the Plaintiffs’ likelihood of success on the merits. *Minneapolis Federation of Teachers, Local 59 v. Minneapolis Pub. Schs.*, 512 N.W.2d 107, 110 (Minn. Ct. App. 1994). As a threshold issue, Plaintiffs have brought this action as a declaratory judgment action seeking a declaration that Minnesotans who hold a valid state-law permit to carry a pistol may not be excluded or ejected from the Minnesota State Fair. The Plaintiffs claim that the Society’s ban on weapons violate Minn. Stat. § 471.633 and Minn. Stat. § 624.714. Defendants

argue—and Plaintiffs implicitly concede—that neither statute creates a private right of action. The Court agrees. Under Minnesota law, a statute does not provide the basis for “a civil cause of action unless the language of the statute is explicit or it can be determined by clear implication.” *Halva v. Minnesota State Colls. & Univs.*, 953 N.W.2d 496, 504 (Minn. 2021). To determine whether a statute implies a private cause of action, courts consider “(1) whether the [Plaintiffs] belong to a special class of persons for whose benefit the statute was enacted, (2) whether the Legislature indicated an intent to create or deny a private remedy, and (3) whether inferring a private remedy would be consistent with the underlying purpose of the legislation.” *All. for Metro. Stability v. Metro. Council*, 671 N.W.2d 905, 915 (Minn. Ct. App. 2003). Courts are “reluctant to recognize causes of action when the language of the statute does not expressly provide one.” *Halva*, 953 N.W.2d 496, 504 (internal quotations omitted).

Neither statute explicitly creates a private cause of action. There is not any indication of an implied right in either statute. The Plaintiffs do not belong to a special class of persons. There is no indication that the Legislature intended to create a private remedy. Minn. Stat. 471.633 speaks exclusively in terms of what local governmental agencies *may* or *may not* do. It makes no reference at all to any individual’s right to possess firearms. This demonstrates a lack of legislative intent to create a private cause of action under the statute. *See El Paso Nat. Gas Co. v. United States*, 750 F.3d 863, 871 (D.C. Cir. 2014) (finding no private right of action implied when statute creates obligations on behalf of an agency but has no focus on the connected rights of protected parties). Minn. Stat. § 624.714 directs how and when a permit to carry is issued, describes criminal penalties for carrying without a permit, and discusses various entities’ procedures for addressing firearms. It also explicitly provides for judicial review of the denial or revocation of a permit. Minn. Stat. § 624.714, subd. 12. Beyond the explicit directives of the statute, it is contained within the criminal code, a fact which weighs against finding a private right of action. The larger statutory framework, the explicit inclusion

of judicial review for denial and revocation of permits, along with the silence about a private cause of action in this context, demonstrate a lack of legislative intent to create one.

Without an underlying cause of action, the parties disagree as to whether declaratory relief is available. Under the Declaratory Judgments Act, courts have the “power to declare rights, status, and other legal relations whether or not further relief is or could be claimed.” Minn. Stat. § 555.01. The Declaratory Judgments Act is remedial and liberally construed. *Id.*; see Minn. Stat. § 555.12 (stating that the Act is to be liberally construed and administered). Plaintiffs, relying on *McCaughtry v. City of Red Wing*, argue that there is a justiciable controversy that can be addressed under the Declaratory Judgments Act. 808 N.W.2d 331, 336 (Minn. 2011).

In *McCaughtry*, the plaintiffs brought a declaratory judgment action asserting a facial challenge to the constitutionality of a rental property inspection ordinance. The plaintiffs were landlords and tenants who had properties which had been subject to repeated applications for administrative warrants after refusing to consent to inspections of their properties. They had successfully challenged three separate applications for administrative warrants while separately seeking declaratory judgment. The plaintiffs argued the warrant ordinance violated Article I Section 10 of the Minnesota Constitution. The district court dismissed the action, concluding that plaintiffs lacked standing to challenge the constitutionality of the ordinance because they “have not suffered an injury that is actual or imminent.” After the Court of Appeals affirmed, the Minnesota Supreme Court granted review, and found that a justiciable controversy exists if “the claim (1) involves definite and concrete assertions of right that emanate from a legal source, (2) involves a genuine conflict in tangible interests between parties with adverse interests, and (3) is capable of specific resolution by judgment rather than presenting hypothetical facts that would form an advisory opinion.” *Id.* at 336 (internal quotations omitted). The Court noted that a declaratory judgment action is proper to test the constitutionality of a municipal ordinance, provided that the plaintiff

could establish standing through a showing of “a direct and imminent injury which results from the alleged unconstitutional provision.” *Id.* Here, Plaintiffs are challenging a rule established by the Society based on two state statutes. Although they note the implications of an underlying constitutional right, they have not claimed that the rule is unconstitutional.

Defendants argue that the Plaintiffs need to present a substantive cause of action to seek declaratory relief. They rely on *Weavenwood, Inc. v. S & P Home Investment, LLC*, 821 N.W.2d 576 (Minn. 2012). *Weavenwood* examines the requirements for seeking declaratory relief in the context of determining the appropriate statute of limitations. The *Weavenwood* Court noted that “the applicable substantive law and the basic character of the lawsuit do not change simply because a complainant requests declaratory relief. To the contrary, a complaint requesting declaratory relief must present a substantive cause of action that would be cognizable in a nondeclaratory suit.” *Id.* (citations and quotations omitted); *see also Zweber v. Credit River Twp.*, 882 N.W.2d 605, 617–18 (Minn. 2016) (dissent) (discussing that a declaratory judgment action is inappropriate where there is no substantive cause of action and no statutory substantive law providing for review); *Jama v. Mayo Clinic, et. al*, No. A16-1445, 2017 WL 1842840, at *4 (Minn. Ct. App. May 8, 2017) (“Declaratory relief and injunctive relief are remedies, not causes of action, so they may not be granted unless the plaintiff prevails on a cause of action.”); *Ryan v. Hennepin Cty.*, 29 N.W.2d 385, 387 (Minn. 1947) (“Injunctive relief is a remedy and not, in itself, a cause of action, and a cause of action must exist before injunctive relief may be granted.”).

The Court finds that *Weavenwood* is controlling in this instance. During oral argument, Plaintiff contended that they could have framed the dispute differently, and thus asserted a substantive claim. However, Plaintiffs have not done so. Having found for the Defendants on this threshold issue, the Court does not reach the secondary arguments related to the relative merits of the claim. As such,

standing on the current record, Plaintiff is unlikely to succeed on the merits of the underlying litigation. Therefore, this factor weighs heavily against issuing the injunction.

4. Granting of the Injunction must be Within the Public Interest.

The fourth *Dahlberg* factor is public interest. Plaintiffs argue that public interest favors granting the injunction. Specifically, they argue that this dispute implicates their right to bear arms under the Second Amendment. Plaintiffs cite to *Pavek v. Simon* for the proposition that “[w]hen challenging government action that affects the exercise of constitutional rights, it is always in the public interest to protect constitutional rights. 467 F. Supp. 3d 718, 762 (D. Minn. 2020). The Defendants, by contrast, argue that the public interest in ensuring safety at the State Fair weighs in favor of denying the motion. The Defendants point to dense crowds, the consumption of alcohol, the possibility of long guns, and the presence of children as some of the safety concerns with allowing guns at State Fair.

The right to bear arms is not without limits and is subject to reasonable time, place, and manner restrictions. *See Dist. of Columbia v. Heller*, 554 U.S. 570, 626 (2008) (stating that the Second Amendment does not cast doubt on longstanding prohibitions forbidding the carry of firearms in sensitive places). Courts have repeatedly recognized a compelling government interest in public safety, and specifically in protecting the general public from gun violence. *See e.g. State v. Hatch*, No. A20-0176, --- N.W.2d ----, 2021 WL 3378865, at *2 (Minn. Aug. 4, 2021) (upholding the constitutionality of Minnesota’s gun permit statute); *State v. Paige*, 256 N.W.2d 298, 303 (Minn. 1977) (explaining that the purpose of the permit-to-carry statute is to prevent the possession of firearms in places where they are most likely to cause harm in the wrong hands).

The issues presented in this request for injunction implicate public policy considerations on both sides. As such, the Court finds this factor not to favor either granting or denying the injunction.

5. Administrative Burden of Enforcing the Proposed Injunction.

The fifth *Dahlberg* factor is the administrative burden on the courts of supervising and enforcing a temporary injunction. Plaintiffs argue there is little to no associated administrative burden because the Sherriff is an officer of the court and can be trusted to ensure compliance with any injunction. Defendants disagree. They argue there would necessarily be court oversight and possibly further litigation as the Defendants rework their security plans and rules to comply with any injunction. The Court has no doubt in the Defendants' ability to comply with any injunction that is issued. There may be further litigation around what security plans and rules the Defendants would enact in response but attempting to determine any associated burden would be purely speculative at this point. This factor is neutral and does not favor either granting or denying the injunction.

Conclusion

Based on the foregoing, Plaintiffs' motion for a temporary injunction is **DENIED**.

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