

No. 13-2661

**UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

MARY E. SHEPARD and the ILLINOIS STATE RIFLE ASSOCIATION,

Plaintiffs-Appellants,

v.

LISA M. MADIGAN, *et al.*,

Defendants-Appellees.

On Appeal from United States District Court
for the Southern District of Illinois
Civil Case No. 11-CV-405-WDS (Honorable William D. Stiehl)

PLAINTIFFS-APPELLANTS' MOTION TO TAKE JUDICIAL NOTICE

Pursuant to Federal Rule of Evidence 201, Plaintiffs-Appellants Mary E. Shepard and the Illinois State Rifle Association (“Plaintiffs”) move this Court to take judicial notice of information contained in a press release issued by the Illinois State Police (“ISP”) on September 24, 2013, entitled “Illinois State Police Prepare To Post Approved Curricula for Certified Firearms Training Instructors” [hereinafter “Press Release”]. The Press Release is attached as an exhibit to this motion and is available on the ISP’s website at

<http://www.isp.state.il.us/media/pressdetails.cfm?ID=759>. In support of their motion, Plaintiffs state as follows:

1. At issue in this appeal is whether enactment of the Firearm Concealed Carry Act (“FCCA”) on July 9, 2013 mooted Plaintiffs’ challenge to Illinois’s “flat ban on carrying ready-to-use guns outside the home.” *Moore v. Madigan*, 702 F.3d 933, 940 (7th Cir. 2012). The FCCA does not require the ISP to make applications for concealed carry licenses available until 180 days after the Act’s passage. 430 ILCS 66/10(d), 66/999. Thus, under the plain terms of the statute, and assuming that the ISP meets its deadline, the law-abiding citizens of Illinois may not even be able to apply for a concealed carry license until January 5, 2014.

2. At the time of the briefing of this appeal, the ISP had stated that concealed carry applications would be “available to the public *by* January 5, 2014,” Pls.’ Mot. for Inj. Pending Appeal 3 (emphasis added), implicitly leaving open the possibility that applications would be available before then. The ISP has now indicated that it is not planning to make applications available *until* its January 2014 deadline: “Applications for a Concealed Carry License,” the Press Release states, “will be available in early January, 2014.”

3. Under Federal Rule of Evidence 201, a court “must take judicial notice if a party requests it and the court is supplied with the necessary information.” FED. R. EVID. 201(c)(2). Judicial notice may be taken “at any stage

of the proceeding,” *id.* 201(d), “including on appeal.” *Denius v. Dunlap*, 330 F.3d 919, 926 (7th Cir. 2003).

4. Judicial notice is appropriate because the accuracy of the Press Release “cannot reasonably be questioned.” FED. R. EVID. 201(b)(2). The Press Release was issued by a government agency, the ISP, and it is posted on the agency’s website. *See, e.g., Denius*, 330 F.3d at 926 (holding that the district court abused its discretion by refusing to take judicial notice of information from a government agency’s website).

5. For the foregoing reasons, Plaintiffs respectfully request that this Court take judicial notice of the Press Release’s statement that “[a]pplications for a Concealed Carry License will be available in early January, 2014.”

Dated: September 25, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2013, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Charles J. Cooper
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