Circuit Court for Baltimore City
Case No. 822356003

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 90

September Term, 2023

SARINA HARRISON

v.

STATE OF MARYLAND

Beachley,
Shaw,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Beachley, J.

Filed: July 15, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

In July 2022, appellant Sarina Harrison was charged in the Circuit Court for Baltimore City with transporting a handgun in a vehicle in violation of Section 4-203 of the Criminal Law Article. Ms. Harrison moved to dismiss, arguing that Maryland's law prohibiting the transport of handguns was unconstitutional under *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022). The court denied Ms. Harrison's motion and, after a bench trial, found Ms. Harrison guilty. Ms. Harrison poses the following question for our review:[1] Whether the Circuit Court violated [Ms. Harrison's] right to Due Process of Law by finding her conduct was not protected by the Second Amendment because she did not hold a valid permit to carry a handgun?

For the reasons discussed below, we affirm the circuit court's judgment.

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[1] Ms. Harrison asks an additional question:

> Whether Md. Code Ann. Crim Law § 4-203 improperly shifts the burden of persuasion to criminal defendants to demonstrate that the restrictions in the statute do not apply to their alleged conduct in violation of the Due Process Clauses of the United States Constitution and the Maryland Declaration of Rights?

We decline to address this constitutional question because it was not raised below. *See Hartman v. State*, 452 Md. 279, 300 (2017) ("[O]ur precedents recognize that constitutional issues raised for the first time on appeal, and not raised in the trial court, are not automatically entitled to consideration on the merits under Maryland Rule 8-131(a)."); *Balt. Tchrs. Union v. Bd. of Educ.*, 379 Md. 192, 205-06 (2004) ("It is particularly important not to address a constitutional issue not raised in the trial court in light of the principle that a court will not unnecessarily decide a constitutional question."). Moreover, we agree with the State that the status of Ms. Harrison's handgun permit "was never actually treated as an affirmative defense at her trial," and our resolution of this case does not require us to address Ms. Harrison's burden-shifting question.

FACTS AND PROCEEDINGS

On July 22, 2022, Baltimore City police officer Thomas Smith was on routine patrol when he observed a gray Lexus in the 2000 block of East Kennedy Street in Baltimore City. Officer Smith followed the vehicle after he observed it make a turn without utilizing its signal. After the vehicle attempted to evade Officer Smith by speeding through a residential area, he initiated a traffic stop. During the stop, Officer Smith detected the smell of marijuana, and instructed Ms. Harrison and the driver, Ronaldo Allen, to exit the vehicle to conduct a search.[2]

Ms. Harrison then informed Officer Smith that there was a handgun under the driver's seat and that she had a handgun carry permit. Officer Smith recovered a Glock pistol belonging to Ms. Harrison, but ultimately determined that Ms. Harrison's permit had expired.[3] Ms. Harrison was charged the next day with transporting a handgun in a vehicle in violation of Md. Code (2002, 2021 Repl. Vol., 2023 Supp.), § 4-203 of the Criminal Law Article ("CR").

Ms. Harrison filed a motion to dismiss based on the Supreme Court's issuance of *Bruen*. Because the *Bruen* Court "held that New York's 'may issue' handgun-permitting scheme violated the Second Amendment," Ms. Harrison asserted that Maryland's "may issue" regime was likewise unconstitutional because it similarly required "good and substantial reason" to obtain a concealed carry license. She therefore concluded that

[2] Ms. Harrison does not challenge the propriety of the initial stop.

[3] Harrison's handgun permit expired on January 31, 2022.

"[u]nder *Bruen*, such schemes are now unquestionably unconstitutional." Finally, Ms. Harrison contended that because the Second Amendment's plain text covered her conduct, the State had the burden to show that "the regulation is consistent with this Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 17.

At the motions hearing in the circuit court, Ms. Harrison reiterated the arguments made in her written motion based on her interpretation of *Bruen*. She pointed out that the *Bruen* Court established a two-prong test for evaluating challenges to laws under the Second Amendment. *Id.* First, courts examine if the "Second Amendment's plain text covers an individual's conduct." *Id.* If so, the "Constitution presumptively protects that conduct[,]" and the burden shifts to the government to "demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Id.*

Before the motions court, Ms. Harrison asserted that Maryland's handgun permitting scheme was facially invalid.[4] Ms. Harrison argued that she satisfied the first prong of *Bruen* because she is a "law-abiding citizen" whose right to carry a firearm is restricted by the statute. Ms. Harrison then concluded that because she had satisfied *Bruen*'s first prong, it was the "State's burden to now establish that there is a historical national precedent of like regulation as it relates to handguns."

[4] In her written motion to dismiss and during argument on the motion, brief mention was made that the statute was invalid "as applied to her." Ms. Harrison provided no explanation for this claim and did not identify any specific provision of the statute that was unconstitutionally applied to her. Nor do we discern any "as applied" challenge in her appellate briefs. Given that Ms. Harrison was able to previously satisfy the requirements for a handgun carry permit and made no effort to renew it before or after it expired, we doubt that she could prevail on an as-applied challenge, even if it were preserved.

The State, in response, argued that a successful facial challenge required a demonstration that "there is no set of circumstances under which the statute would be constitutional." The State then cited our Court's decision in *Fooks v. State*, 255 Md. App. 75 (2022), *aff'd* __ Md. __, No. 24, Sept. Term 2022 (filed June 6, 2025), decided shortly after *Bruen*, which upheld aspects of Maryland's firearm regulations. As to the second prong, the State noted that there is a "long history dating back to Blackstone and 19th century cases on regulations on who may be allowed to carry weapons."

In denying Ms. Harrison's motion to dismiss, the circuit court found that Ms. Harrison had not established that her conduct was covered by the Second Amendment. Specifically, the court determined that she had not met *Bruen*'s first prong:

> This Court is satisfied without question that the statute in question in this case is not one that is facially invalid. It is not one that is violative of anyone's Second Amendment rights. The states have the right, authority, in fact, duty to make sure that people who have guns, that there's some type of regulation. Certainly, it's in flux now as to what that means, but again, this particular statute at issue, this Court is not satisfied that the Defendant has shown that it is facially inadequate.

Because Ms. Harrison "failed to prove even the first prong of the requirement[,]" the court did not undertake any analysis of *Bruen*'s second prong involving the history of firearm regulation.

After a bench trial, the court found Ms. Harrison guilty of illegally transporting a handgun in a vehicle. Ms. Harrison was given a two-year suspended sentence with two years' supervised probation. She then noted this timely appeal.

We heard argument on this case on February 1, 2024. On February 28, 2024, we issued a stay pending the United States Supreme Court's decision in *United States v. Rahimi*, 602 U.S. 680 (2024). In an Order entered July 16, 2024, we recognized the Maryland Supreme Court had also issued a stay in *Fooks v. State*, pending a decision in *Rahimi* and that, after the United States Supreme Court's issuance of an opinion in *Rahimi* on June 21, 2024, the Maryland Supreme Court ordered supplemental briefing in *Fooks*. Accordingly, in our July 16, 2024 Order, we stayed this case pending a decision by our Supreme Court in *Fooks*. The Maryland Supreme Court issued its opinion in *Fooks* on June 6, 2025.

STANDARD OF REVIEW

"[T]he standard of review of the grant or denial of a motion to dismiss is whether the trial court was legally correct." *State v. Fabien*, 259 Md. App. 1, 12-13 (2023) (alteration in original) (quoting *Lipp v. State*, 246 Md. App. 105, 110 (2020)). Therefore, we review the denial of a motion to dismiss *de novo*. *Id.* at 13 (citing *Myers v. State*, 248 Md. App. 422, 431 (2020)).

DISCUSSION

Ms. Harrison argues that the circuit court "violated [her] right to due process of law by finding that her conduct was not protected by the Second Amendment because she did not hold a valid permit to carry a handgun." Citing *Bruen*, she claims that because the plain text of the Second Amendment covers her right to carry and transport a handgun, the State had the burden to justify its regulation by demonstrating that it is "consistent with the

Nation's historical tradition of firearm regulation." Ms. Harrison posits that the circuit court erred in concluding that her conduct did not fall within the Second Amendment's protections.

The State counters that the circuit court properly denied Ms. Harrison's motion to dismiss. In the State's view, the *Bruen* Court "endorsed the constitutionality of handgun permitting" so long as permitting schemes are predicated on "'objective criteria'" that do not require a demonstration of a "special need[.]" Because Maryland aligned its handgun permitting regime with *Bruen* through our Court's decision in *Matter of Rounds*, 255 Md. App. 205 (2022), and because Ms. Harrison failed to follow an objective requirement—the renewal of her permit—the State contends that the court correctly rejected her constitutional challenge.

***Bruen*: The New Standard for Second Amendment Interpretation**

The Second Amendment of the United States Constitution provides, in relevant part, that the "right of the people to keep and bear Arms, shall not be infringed." U.S. CONST. amend. II. In *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. City of Chicago*, 561 U.S. 742 (2010), the Supreme Court held that the "Second and Fourteenth Amendments protect an individual right to keep and bear arms for self-defense." *Bruen*, 597 U.S. at 17. From 2010 through 2022, this right was generally thought to be limited to "self-defense *in the home*." *Id.* at 18 (quoting *Gould v. Morgan*, 907 F.3d 659, 671 (1st Cir. 2018)). In 2022, however, the Supreme Court expanded the right and held that the

"Second Amendment's plain text thus presumptively guarantees . . . a right to 'bear' arms *in public* for self-defense." *Id.* at 33 (emphasis added).

"[L]ike most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose." *Id.* at 81 (Kavanaugh, J., concurring) (quoting *Heller*, 554 U.S. at 626). To delineate the limits of State regulation, the *Bruen* Court established a two-prong test. *Id.* at 24. Pursuant to *Bruen*'s analytical framework, courts first ask if the "Second Amendment's plain text covers an individual's conduct[.]" *Id.* If so, the "government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation."[5] *Id.* In *Bruen*, the Supreme Court evaluated the constitutionality of New York's requirement that applicants demonstrate "proper cause" in order to acquire a handgun carry permit. *Id.* at 15-16. New York courts defined "proper cause" as a "special need for self-protection distinguishable from that of the general community." *Id.* at 12 (quoting *In re Klenosky*, 428 N.Y.S.2d 256 (N.Y. App. Div. 1980)). Applying the first prong of its new constitutional test, the Court

[5] The Supreme Court further explained in *Rahimi* that the "appropriate analysis [of *Bruen*'s second prong] involves considering whether the challenged regulation is consistent with the principles that underpin our regulatory tradition." 602 U.S. at 692 (citing *Bruen*, 597 U.S. at 26-31). To meet its burden, the government need not identify a "dead ringer" or "historical twin." *Id.* (quoting *Bruen*, 597 U.S. at 30). Instead, even though a "challenged regulation [may] not precisely match its historical precursors, 'it still may be analogous enough to pass constitutional muster.'" *Id.* (quoting *Bruen*, 597 U.S. at 30).

held that the petitioners' "proposed course of conduct—carrying handguns publicly for self-defense"—is conduct covered by the Second Amendment. *Id.* at 32. The Court then moved to the second prong, and after extensive historical analysis, found that there was no "such historical tradition limiting public carry only to those law-abiding citizens who demonstrate a special need for self-defense." *Id.* at 38. The Court concluded that "New York's proper-cause requirement violates the Fourteenth Amendment[6] in that it prevents law-abiding citizens with ordinary self-defense needs from exercising their right to keep and bear arms." *Id.* at 71.

In its evaluation of New York's permitting regime, the Court made a distinction between what it labeled as "may issue" jurisdictions and "shall issue" jurisdictions. The Court identified New York, Washington D.C., and five other states—including Maryland—as "may issue" jurisdictions. *Id.* at 13-14. Laws in these jurisdictions require state officials to engage in the "appraisal of facts, the exercise of judgment, and the formation of an opinion" as part of the permitting process. *Id.* at 38 n.9 (quoting *Cantwell v. Connecticut*, 310 U.S. 296, 305 (1940)). The Court expressed disapproval with "may issue" permitting regimes because applicants could meet objective criteria but nonetheless be denied carry permits because state officials, in their discretion, could determine that applicants had not demonstrated a "special need for self-defense." *Id.* at 11, 14.

[6] The protections of the Second Amendment apply to the States via the Fourteenth Amendment. *McDonald*, 561 U.S. at 791 (2010).

The Court contrasted "may issue" regimes with "43 . . . 'shall issue' jurisdictions, where authorities must issue concealed-carry licenses whenever applicants satisfy certain threshold requirements, without granting licensing officials discretion to deny licenses based on a perceived lack of need or suitability." *Id.* at 13. In a footnote, the Court distinguished "shall issue" regimes and suggested that they may withstand constitutional scrutiny:

> [N]othing in our analysis should be interpreted to suggest the unconstitutionality of the 43 States' "shall issue" licensing regimes, under which "a general desire for self-defense is sufficient to obtain a [permit]." Because these licensing regimes do not require applicants to show an atypical need for armed self-defense, they do not necessarily prevent "law-abiding, responsible citizens" from exercising their Second Amendment right to public carry. Rather, it appears that these shall-issue regimes, which often require applicants to undergo a background check or pass a firearms safety course, are designed to ensure only that those bearing arms in the jurisdiction are, in fact, "law-abiding, responsible citizens." And they likewise appear to contain only "narrow, objective, and definite standards" guiding licensing officials, rather than requiring the "appraisal of facts, the exercise of judgment, and the formation of an opinion"—features that typify proper-cause standards like New York's.

Id. at 38 n. 9 (second alteration in original) (citations omitted).

Maryland's Response to *Bruen*

In *Matter of Rounds*, 255 Md. App. 205 (2022), this Court considered the constitutionality of Maryland's handgun permitting statute in light of *Bruen*. As we noted in *Rounds*, CR § 4-203 "prohibits wearing, carrying or transporting a handgun, subject to a limited number of exceptions. One such exception is for individuals who apply and receive a permit to carry a handgun." *Rounds*, 255 Md. App. at 209 (citations omitted). In order to qualify for a handgun carry permit that provides a defense to a CR § 4-203

violation, applicants must meet certain criteria prescribed by Md. Code (2003, 2022 Repl. Vol.), § 5-306 of the Public Safety Article ("PS"). At the time Rounds was denied a renewal of his handgun carry permit, PS § 5-306(a) provided:

> (a) Subject to subsection (c) of this section, the Secretary shall issue a permit within a reasonable time to a person who the Secretary finds:
> (1) is an adult;
> (2)(i) has not been convicted of a felony or of a misdemeanor for which a sentence of imprisonment for more than 1 year has been imposed; or
> (ii) if convicted of a crime described in item (i) of this item, has been pardoned or has been granted relief under 18 U.S.C. § 925(c);
> (3) has not been convicted of a crime involving the possession, use, or distribution of a controlled dangerous substance;
> (4) is not presently an alcoholic, addict, or habitual user of a controlled dangerous substance unless the habitual user of the controlled dangerous substance is under legitimate medical direction;
> (5) except as provided in subsection (b) of this section, has successfully completed prior to application and each renewal, a firearms training course approved by the Secretary that includes: [specific requirements of firearms training course omitted];
> (6) based on an investigation:
> (i) has not exhibited a propensity for violence or instability that may reasonably render the person's possession of a handgun a danger to the person or to another; and
> (ii) *has good and substantial reason* to wear, carry, or transport a handgun, such as a finding that the permit is necessary as a reasonable precaution against apprehended danger.

(Emphasis added). Once acquired, a handgun carry permit "expires on the last day of the holder's birth month following 2 years after the date the permit is issued[,]" and must be renewed thereafter. PS § 5-309(a).

As noted in *Bruen*, Maryland was, like New York, labeled a "may issue" permitting state. *Bruen*, 597 U.S. at 15. In Maryland, before July 2022, applicants needed to demonstrate a "good and substantial reason" in order to receive a handgun carry permit.

PS § 5-306(a)(6)(ii) (2022). Maryland courts interpreted this standard to require the applicant to provide evidence of "actual threats or assaults." *Rounds*, 255 Md. App. at 211 (citing *Scherr v. Handgun Permit Rev. Bd.*, 163 Md. App. 417, 436-37 (2005)). When Mr. Rounds attempted to renew his valid handgun carry permit, his renewal application was denied because he "failed to provide documented evidence" to the Maryland State Police of an "objective threat to his safety." *Rounds*, 255 Md. App. at 206.

Applying *Bruen*, this Court held that "publicly carrying a handgun for personal protection" was conduct covered by the Second Amendment. *Id.* at 212 (citing *Bruen*, 597 U.S. at 24, 32). We then acknowledged the "similarities between [the good and substantial reason] requirement and New York's now stricken proper cause requirement," and held that the "'good and substantial reason' requirement of [PS] § 5-306(a)(6)(ii) is unconstitutional." *Id.* at 212.[7] Because Mr. Rounds was only denied a permit for failing to meet this standard, our Court ordered the Maryland State Police to issue "his permit as requested." *Id.* at 213. *Rounds* therefore aligned PS § 5-306(a) with *Bruen*.

Ms. Harrison's Case

Ms. Harrison makes two principal arguments on appeal. First, she claims that the circuit court misapplied *Bruen*'s first prong when it determined that her conduct was not

[7] We note that several weeks prior to the issuance of our opinion in *Rounds*, Governor Hogan ordered the Maryland State Police to suspend application of the "good and substantial reason" provision of PS § 5-306(a). In addition, the General Assembly amended PS § 5-306 during the 2023 session to remove the "good and substantial reason" requirement. 2023 Md. Laws Ch. 651, https://mgaleg.maryland.gov/2023RS/Chapters_noln/CH_651_hb0824e.pdf.

presumptively covered by the Second Amendment. Second, although she professes that her appeal "is not so much about whether the gun permit requirement in Maryland violates the Second Amendment," she disputes the State's assertion that *Bruen* endorsed "the overall constitutionality of gun permit requirements."

As to Ms. Harrison's first argument, we shall assume *arguendo* that she met the first prong articulated in *Bruen*. As explained above, once a petitioner demonstrates coverage under *Bruen*'s first prong, the burden would normally shift to the government to "justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 24. Under the second prong, "the appropriate analysis involves considering whether the challenged regulation is consistent with the principles that underpin our regulatory tradition." *Rahimi*, 602 U.S. at, 692 (citing *Bruen*, 597 U.S. at 26-31). In other words, "[t]he law must comport with the principles underlying the Second Amendment, but it need not be a 'dead ringer' or a 'historical twin.'" *Id.* (quoting *Bruen*, 597 U.S. at 30).

Having accepted for purposes of argument that Ms. Harrison satisfied *Bruen*'s first prong, we turn to her argument that *Bruen* "did not expressly endorse the constitutionality of gun permit requirements." Significantly, Ms. Harrison does not challenge the constitutionality of any specific provision of PS § 5-306(a). We therefore interpret her argument as a challenge to the constitutionality of the handgun permitting regime as a whole. As such, her argument constitutes a facial challenge to the licensing statute.

A facial challenge is "the most difficult challenge to mount successfully[.]" *United*

States v. Salerno, 481 U.S. 739, 745 (1987). "To prevail, [Ms. Harrison] must show 'no set of circumstances' exists in which that law can be applied without violating the Second Amendment." *Rahimi*, 602 U.S. at 708 (Gorsuch, J., concurring) (quoting *Salerno*, 481 U.S. at 745); *see also United States v. Moore*, 666 F.3d 313, 318 (4th Cir. 2012) ("[T]he Supreme Court has long declared that a statute cannot be held unconstitutional if it has constitutional application.").

Bruen itself demonstrates why Ms. Harrison's facial challenge to PS § 5-306(a)'s permitting scheme must fail. *Bruen* only held that New York's "proper cause" requirement was unconstitutional; the Court did not invalidate New York's entire licensing regime. Indeed, the Court specifically noted that "nothing in our analysis should be interpreted to suggest the unconstitutionality of the 43 States' 'shall issue' licensing regimes." 597 U.S. at 38, n.9. Consistent with *Bruen*, this Court in *Rounds* invalidated only PS § 5-306(a)'s "good and substantial reason" requirement for a handgun permit; nothing in *Rounds* (or *Bruen*) suggests that the handgun permitting regime set forth in PS § 5-306(a) is unconstitutional on its face as to all applications. Moreover, our Supreme Court recently recognized "that in *Heller*, the Supreme Court identified categories of firearms regulations that it determined are generally consistent with the right to keep and bear arms codified in the Second Amendment." *Fooks*, __ Md. __, slip op. at 38. On this basis alone, we have no difficulty concluding that Ms. Harrison's challenge to Maryland's handgun permitting regime must fail.

We note that other courts have similarly concluded that the government may enact

firearm regulations that will pass constitutional muster. Perhaps the closest case, factually, to the case at bar is the recent decision in *Guns Save Life, Inc. v. Kelly*, __ N.E.3d __, 2025 IL App. (4th) 230662 (Ill. App. Ct. Apr. 29, 2025). There, Guns Save Life, Inc. ("GSL") brought an action challenging the Firearm Owners Identification Card Act ("FOID Act"), which "establishes a licensing system for the acquisition and possession of firearms in Illinois." *Id.*, slip op. at 1. GSL argued that the FOID Act violated the Second Amendment by requiring a license to own a firearm. *Id.* The FOID Act relies on objective criteria for issuance of a FOID card, thus classifying Illinois as a "shall issue" state under *Bruen*. In its analysis, the Appellate Court of Illinois found that "the Supreme Court distinguished 'shall issue' licensing regimes, 'where authorities must issue concealed-carry licenses whenever applicants satisfy certain threshold requirements, without granting licensing officials discretion to deny licenses based on perceived lack of need or suitability'" from "may issue" licensing regimes. *Id.*, slip op. at 9-10 (quoting *Bruen*, 597 U.S. at 13). The Illinois intermediate appellate court highlighted Justice Kavanaugh's concurring opinion in *Bruen* that "the Court's holding 'did not prohibit States from imposing licensing requirements for carrying a handgun for self-defense' and that it did not affect existing shall-issue licensing regimes." *Id.*, slip op. at 10-11 (quoting *Bruen*, 597 U.S. at 79 (Kavanaugh, J., concurring)).

The court then turned to *Bruen*'s second prong, noting that "the purpose of the FOID Act is 'to promote and protect the health, safety and welfare of the public' by establishing a system through which persons who are prohibited from acquiring and possessing firearms

and firearm ammunition can be identified by law enforcement." *Id.*, slip op. at 13 (quoting 430 Ill. Comp. Stat 65/1 (2022)). The court drew the analogy to "[h]istorical firearm laws that restricted the possession of firearms by dangerous individuals while at the same time allowing firearm possession by law-abiding, responsible citizens," calling those laws "relevantly similar to the FOID Act." *Id.*, slip op. at 14. The court relied on the discussion in *Rahimi* of "going armed" and surety laws, concluding that although the historical regulations are not identical to modern licensing laws, they do not have to be for modern laws "to pass constitutional muster." *Id.*, slip op. at 15-17. "[T]he State was not required to point to a founding-era firearm *licensing* scheme to justify the FOID Act. Here, the FOID Act seeks to identify those individuals unqualified to possess firearms . . . while recognizing the rights of law-abiding, responsible individuals to firearm possession. Such features are 'consistent with the principles that underpin our regulatory tradition.'" *Id.*, slip op. at 17 (quoting *Rahimi*, 602 U.S. at 692); *see also Commonwealth v. Mead*, 326 A.3d 1006 (Pa. Super. Ct. 2024) (holding that Pennsylvania statute criminalizing the carrying of a firearm without a license did not violate the Second Amendment); *State v. Vinge*, 564 P.3d 186 (Or. Ct. App. 2025) (holding that Oregon statute prohibiting the carrying of concealed weapons in public without a concealed carry license is facially constitutional); *People v. Langston*, __ N.W.3d __, No. 367270 (Mich. Ct. App. Apr. 25, 2024) (holding that "a shall-issue statutory scheme requiring a concealed pistol license does not inherently violate the Second and Fourteenth Amendments to the United States Constitution."), *application for leave to appeal denied*, 514 Mich. 878 (2024); *Sinissippi*

Rod & Gun Club, Inc. v. Raoul, 253 N.E.3d 346 (Ill. App. Ct. 2024) (holding that statutes "criminalizing the carriage of firearms in violation of Illinois's concealed carry licensing system are consistent with American historical precedent and do not violate the second amendment"), *appeal pending*, (Sept. 1, 2024).

In *Maryland Shall Issue, Inc. v. Moore*, on rehearing en banc, the Fourth Circuit came to the same conclusion, albeit by different means. 116 F.4th 211 (4th Cir. 2024), *cert. denied*, 145 S. Ct. 1049. The plaintiffs in *Maryland Shall Issue* challenged the constitutionality of Maryland's Firearm Safety Act ("FSA"), which requires, among other measures, a statutory licensing regime for handgun purchases to ensure comprehensive background checks. Under the FSA, the State of Maryland does not retain any discretion to deny a handgun qualification license ("HQL") to applicants who meet the statutory requirements. *Id.* at 216. The plaintiffs mounted a facial challenge to the FSA, claiming that the law violates their Second Amendment ability to purchase a handgun by imposing requirements that amount to a "temporary deprivation." *Id.* In applying the *Bruen* test, the Fourth Circuit held that "the Supreme Court in *Bruen* foreclosed the plaintiffs' 'temporary deprivation' argument by stating that, despite some delay occasioned by 'shall-issue' permit processes, this type of licensing law is presumptively constitutional because it operates merely to ensure that individuals seeking to exercise their Second Amendment rights are 'law-abiding' persons." *Id.* (quoting *Bruen*, 597 U.S. at 38 n.9).

Interestingly, the majority in *Maryland Shall Issue* decided the case under the first prong of *Bruen*, finding that because shall-issue licensing statutes are presumptively

constitutional, the plaintiffs had the burden at the first step to rebut the presumption of constitutionality afforded to such a statute. *Id.* at 229. The plaintiffs having failed to do so, the Fourth Circuit declined to reach the second prong under *Bruen*, stating, "[w]e are not free to ignore the Supreme Court's clear guidance on the presumptive constitutionality of 'shall-issue' licensing regimes, nor to unduly constrain legislatures seeking to employ such measures to prevent handgun misuse and violent criminal activity." *Id.* The court concluded that "governments may continue to enforce 'shall-issue' firearms licensing regulations that impose non-abusive, objective requirements like background checks and firearm safety training. And because the plaintiffs in this case have failed to rebut the presumptive constitutionality of the 'shall-issue' HQL statute, we reject their facial constitutional challenge." *Id.*

The concurrence in *Maryland Shall Issue* reached the same result, but analyzed the case differently, finding that *Bruen*'s first prong was met under the plain language of the Second Amendment and that the case should have been analyzed under *Bruen*'s second prong. *Id.* at 230 (Rushing, J., concurring). Using a second prong analysis, the concurring judges found that "Maryland's handgun license requirement is consistent with the Second Amendment." *Id.* Drawing historical parallels to surety and "going armed" laws, as established in *Rahimi*, the concurrence found that "[d]espite the different enforcement mechanism, a shall-issue licensing regime *can* be consistent with the historical tradition of disarming those who have demonstrated a proclivity for violence or whose possession of guns would otherwise threaten public safety." *Id.* at 235. The concurrence stated that

"Maryland's handgun license requirement fits comfortably within *Bruen*'s criteria for a constitutional shall-issue licensing regime." *Id.* at 236.

In conclusion, the overwhelming weight of authority demonstrates that Ms. Harrison cannot prevail in her facial challenge to Maryland's handgun licensing regime as set forth in PS § 5-306(a). We therefore affirm the judgment of the circuit court.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. APPELLANT TO PAY COSTS.