

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

NATIONAL SHOOTING SPORTS)	
FOUNDATION, INC.,)	
)	
Plaintiff,)	
)	Civil No.
vs.)	1:25-cv-01115-RSB
)	
ANTHONY BROWN, et al.,)	Baltimore, Maryland
)	August 26, 2025
Defendants.)	10:00 a.m.
)	

**TRANSCRIPT OF PROCEEDINGS - PRELIMINARY INJUNCTION
BEFORE THE HONORABLE ROBERT S. BALLOU**

A P P E A R A N C E S

On Behalf of the Plaintiff:

Matthew D. Rowen, Esquire
James W. Porter, III, Esquire
John P. Sweeney, Esquire
Nicholas A. Aquart, Esquire

On Behalf of the Defendants:

Joshua R. Chazen, Esquire

(Computer-aided transcription of stenotype notes)

Reported by: Ronda J. Thomas, RMR, CRR
Federal Official Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201

1 (10:00 a.m.)

2 **THE COURT:** Please be seated. Good morning,
3 everybody. Let's call our case, if we can, please.

4 **THE CLERK:** Yes. Your Honor, calling the case of
5 National Shooting Sports Foundation Incorporated v. Brown, Case
6 Number RSB-25-cv-1115. The case is called for a hearing on a
7 Motion for Preliminary Injunction.

8 If the plaintiff counsel could put their appearance on the
9 record, please.

10 **MR. ROWEN:** Matthew Rowen for plaintiff.

11 **THE COURT:** Mr. Rowen, nice to meet you.

12 **MR. PORTER:** I'm James Porter, also for the plaintiff.

13 **THE COURT:** Mr. Porter, nice to meet you.

14 **MR. SWEENEY:** John Sweeney for the plaintiff as well,
15 Your Honor.

16 **THE COURT:** Mr. Sweeney.

17 **MR. AQUART:** Nicholas Aquart for the plaintiffs as
18 well, Your Honor.

19 **THE COURT:** Nice to meet you.

20 **MR. CHAZEN:** And Joshua Chazen on behalf of the
21 defendant.

22 **THE COURT:** You're outnumbered.

23 **MR. CHAZEN:** Outnumbered today. So we'll see if that
24 intellectual brain trust can meet my learned colleagues on the
25 other side.

1 **THE COURT:** All right. Well, thank you all very much.
2 Let the record reflect that the parties today are present by
3 way of their counsel.

4 Let me just start, there may have been a little bit of
5 confusion yesterday. We failed to put a notice of hearing on
6 the record. And thank you all for listening to me during our
7 conference call for the date of the hearing but we're all here.
8 We're ready to go in connection with this. I appreciate
9 y'all's briefs. I read those. I read the amicus as well. So
10 I'm ready to hear argument.

11 I believe, I guess, Mr. Rowen, are you going to take the
12 lead for us today?

13 **MR. ROWEN:** Yes, Your Honor.

14 **THE COURT:** Go right ahead, please.

15 **MR. ROWEN:** May I use the --

16 **THE COURT:** Wherever you are most comfortable is fine
17 by me. It's not often you have to walk back to the podium when
18 you go into the courtroom, right?

19 **MR. ROWEN:** Exactly.

20 Before I begin, I conferred with Mr. Chazen, and both
21 parties wanted to thank Your Honor for coming up from Roanoke.
22 We know it's a schlep, and it's a little bit of unusual
23 circumstances. So on behalf of both parties, we wanted to
24 thank you and your whole staff for coming in.

25 **THE COURT:** Well, I enjoyed the drive up. My law

1 clerk and I came up last night. We stayed down on the
2 waterfront and it was a beautiful night and very pleasant
3 evening and good food. So it was a good excuse to come up and
4 enjoy the Inner Harbor. Thank you.

5 **MR. ROWEN:** Glad to hear it.

6 With that out of the way, again, Matthew Rowen on behalf
7 of the plaintiff.

8 **THE COURT:** Yes, sir.

9 **MR. ROWEN:** Congress enacted the Protection of Lawful
10 Commerce in Arms Act to stamp out efforts by state and local
11 governments to use negligence and nuisance theories to impose
12 sweeping liability on members of the firearms industry and make
13 them pay to redress harms caused by third-party criminals who
14 misuse their lawful products.

15 For almost 20 years, the immunity that Congress conferred
16 held. But in the wake of the Supreme Court's 2022 decision in
17 *Bruen*, in which the court made clear once and for all that the
18 Second Amendment is not second class, a small handful of
19 states, the same handful of states that had defied *Heller* for a
20 decade, decided to try defying Congress's judgment, too.

21 Maryland House Bill 947 is the latest in this recent spate
22 of laws. So it should come as no surprise that Maryland House
23 Bill 947 conflicts with federal law and is preempted to the
24 extent it authorizes liability --

25 **THE COURT:** So as you raise the other states -- and

1 I'm going to stumble over the names, I'm going to use the
2 acronym -- NSSF has brought a number of suits, on my count I
3 think it was about seven or eight, and only one of them has
4 gotten to the merits to the extent that it is the merits on
5 summary judgment. Those have been dismissed on, I believe, on
6 standing grounds, and there's one abstention. And then the
7 Second Circuit recently affirmed -- was it Northern District of
8 New York, if I remember correctly.

9 So, thus far, you haven't convinced a court that any of
10 these laws are -- conflict with the congressional statute,
11 right?

12 **MR. ROWEN:** So we've convinced two district court
13 judges that there's a conflict. So let me take a step back.

14 So you're right, there are, I think, seven other states
15 have these laws. And the first handful of litigations that
16 were brought were all brought in a preenforcement posture.

17 **THE COURT:** Right. Create a standing problem.

18 **MR. ROWEN:** Right. All but the New York case were --
19 all of those were dismissed on standing grounds.

20 **THE COURT:** Right.

21 **MR. ROWEN:** So the exceptions were California and New
22 Jersey. In the first go around in New Jersey, Judge Quereshi
23 there ruled that the statute is preempted by the PLCAA. That
24 eventually was reversed on standing grounds given that it was
25 in a preenforcement posture. And there, the Attorney General's

1 counsel for New Jersey represented it had no intention of suing
2 NSSF members for conduct that was not otherwise unlawful. That
3 intention proved not to be entirely accurate, but we're
4 litigating that now in New Jersey. And we'll be appealing the
5 New Jersey District Court's recent decision on abstention
6 grounds.

7 And in California, the district court judge there in *NSSF*
8 *v. Bonta* held that a related provision, that we did have
9 standing with respect to that, and that that violates the
10 Dormant Commerce Clause by directly regulating out-of-state
11 conduct, the same way that we alleged the HB947 does here.

12 And I think there are two things to take away from that:
13 One is we're not in a preenforcement context here. We know the
14 Attorney General -- at least what the Attorney General thinks
15 the statute covers because it brought an action. It brought an
16 action against an NSSF member. The Attorney General uses that
17 to say, well, that some trigger *Younger* abstention in the same
18 way that Judge Quereshi recently held in the District of New
19 Jersey.

20 And, on that point, while we respectfully disagree with
21 Judge Quereshi's opinion and are appealing it, I actually don't
22 think it maps here at all.

23 So the fundamental prerequisite for the *Younger*
24 abstention, and the Fourth Circuit has made this clear, is a
25 request to enjoin state court proceedings.

1 And I want to be as explicit as I possibly can. We're not
2 asking Your Honor to enjoin anything.

3 **THE COURT:** But the relief that you seek, you are
4 asking to enjoin. I mean, and that is a declaration that says
5 this statute can't be applied to any NSSF member, including
6 Glock, right?

7 **MR. ROWEN:** To the extent that's how Your Honor reads
8 our request for relief --

9 **THE COURT:** Is that what you're asking for?

10 **MR. ROWEN:** So I don't think so. Precisely because
11 what we're seeking is forward-looking relief. And to the
12 extent that Your Honor reads our request for relief that way,
13 I'm happy to say we are -- we accept that the Glock suit is
14 going to rise and fall on its own terms. To the extent Your
15 Honor thinks it prevail --

16 **THE COURT:** But it can't be -- it can't be that -- I
17 can declare a statute unconstitutional or preempted from today
18 forward and say that before then it was not, right? As a
19 practical matter --

20 **MR. ROWEN:** Well, with respect you can, Your Honor.
21 And the Fourth Circuit made this clear in the *Jonathan R.* case,
22 which is 41 F.4th 316, where the court made clear that -- so
23 they said -- I'll get you the exact quote.

24 They said, "It's true that a district court might find
25 violation where a state court might not but that's not enough

1 to trigger *Younger*." That's Pages 333 and 334. That ordinary
2 res judicata principles are not enough to trigger *Younger*.

3 The court made clear that what is the fundamental
4 prerequisite to trigger *Younger* abstention is the request to
5 enjoin or interfere with state court proceedings.

6 And we are not asking you to enjoin the Glock suit.

7 We accept that there is no relief here that we can get
8 today that will preclude that suit from going forward.

9 Now, sure, that court may, you know, if Your Honor agrees
10 with us across the board, that court may find Your Honor's
11 opinion very persuasive in the same way that the Third Circuit
12 might find the Fourth Circuit opinions very persuasive. But
13 there would be neither preclusive effect -- and, again, we are
14 not asking for any interference with the Glock suit.

15 The Fourth Circuit has made crystal clear that the only
16 type of relief that triggers *Younger* is a request to interfere
17 with state court proceedings.

18 **THE COURT:** But your request for relief, number two,
19 is a preliminary injunction asking the attorney -- to enjoin
20 the Attorney General from enforcing, from enforcing. And to go
21 forward with that lawsuit would be enforcing that statute,
22 would it not?

23 **MR. ROWEN:** So we intended that to be forward-looking.
24 To the extent Your Honor isn't reading it that way, I'm happy
25 to cut against ourselves here and say we are only asking for

1 future enforcements, not with respect to the Glock suit. That
2 suit's gonna rise and fall on its own terms in state court.

3 **THE COURT:** So how does that court deal with -- and
4 this is where -- I don't want to say it doesn't make a lot of
5 sense, but I'm having a hard time putting the pieces together
6 to where let's say I agree with you, and I find that there's
7 either preemption or it violates the commerce clause, whatever
8 it may be, and that court disagrees, right? Then you've got
9 one of your members who doesn't get the benefit of the ruling
10 from this court and is being held liable from the enforcement
11 of a statute that this court says can't be enforced against it,
12 right?

13 In other words, Maryland wouldn't be able to bring another
14 lawsuit against Glock for something similar or different or
15 whatever it may be. How does that work?

16 **MR. ROWEN:** So I think that outcome respects
17 federalism because and the way it would work it would be sort
18 of in a normal course where if two different parties in two
19 different courts challenged the same statute --

20 **THE COURT:** But there's also federalism that's
21 respected by allowing the Maryland court to make a decision on
22 these exact same issues about its own statute. And then if --
23 whoever disagrees, whatever the outcome is, let that work its
24 way up to the Maryland Supreme Court and beyond, if necessary.

25 **MR. ROWEN:** So in the Fourth Circuit, in *Jonathan R.*,