

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA CARRY.ORG, INC.,)	
TIMOTHY BEARDEN,)	
)	
PLAINTIFFS,)	
)	DOCKET NO. 1:08-CV-2171-MHS
-VS-)	
)	
CITY OF ATLANTA, ET AL.,)	
)	
DEFENDANTS.)	

TRANSCRIPT OF PRELIMINARY INJUNCTION PROCEEDINGS
BEFORE THE HONORABLE MARVIN H. SHOOB
UNITED STATES SENIOR DISTRICT COURT JUDGE
MONDAY, AUGUST 11, 2008

APPEARANCES:

ON BEHALF OF THE PLAINTIFF:

JOHN R. MONROE, ESQ.

ON BEHALF OF THE DEFENDANT:

MICHAEL P. KENNY, ESQ.
YONETTE SAM-BUCHANAN, ESQ.
CHRISTOPHER A. RILEY, ESQ.
JOSHUA D. JEWKES, ESQ.

ELISE SMITH EVANS, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

1 THE COURT: Have a seat.

2 After having read all the parties' written submissions
3 and considering the evidence and arguments presented in court
4 today, the Court finds that plaintiffs have failed to carry their
5 burden of establishing their entitlement to a preliminary
6 injunction. First and foremost, plaintiffs have failed to
7 establish a substantial likelihood of success on the merits. In
8 order to succeed on the merits of any of their claims,
9 plaintiff -- plaintiffs must establish that House Bill 89 as
10 codified, O.C.G.A. Section 16-11-127(e) applies to airports. In
11 relevant part, the law simply provides that persons with Georgia
12 firearms license may carry guns in "public transportation." The
13 law makes no mention of airports.

14 This Court must construe the law according to the
15 ordinary meaning of the words used in the statute. The Court
16 cannot rely on what legislators say they intended when the words
17 of the statute do not clearly express that intention. The common
18 and ordinary meaning of the words "public transportation" does
19 not include airports. Therefore, the Court finds that plaintiffs
20 have not established a substantial likelihood of success on the
21 merits of their claim that the law permits them to carry guns in
22 airports.

23 Furthermore, even if the law clearly did apply to
24 airports, defendants have raised a serious question as to whether
25 the law would be preempted by federal law. Following 9/11,

1 Congress created the Transportation Security Administration and
2 gave it sweeping regulatory authority over safety and security at
3 domestic airports. Under our Constitution, federal law is
4 supreme. If Congress has occupied the field of airport safety
5 and security, then Georgia cannot interfere with Congress'
6 regulatory scheme by creating a right that would allow people to
7 carry guns in airports.

8 While the preemption question is not yet ripe for a
9 final decision, the Court finds that plaintiffs have not
10 demonstrated that they are substantially likely to succeed on
11 this issue.

12 Plaintiffs have also failed to carry their burden with
13 respect to the other requirements for a preliminary injunction.
14 First, plaintiffs have failed to show that they will suffer
15 irreparable harm if an injunction is not granted. The only harm
16 plaintiffs will suffer is that they will not be able to carry
17 guns at the airport. This is something they have not been able
18 to do since at least 1976. It will not cause plaintiffs any
19 irreparable harm if this state of affairs is allowed to continue
20 until this Court has a chance to issue a final decision on the
21 merits of plaintiffs' claims.

22 Second, the evidence shows that granting an injunction
23 would cause far more harm to defendants than denying an
24 injunction would cause plaintiffs. If licensed gun owners are
25 allowed to carry their weapons into the airport, defendants would

1 have to substantially alter their security procedures to take
2 this into account. These necessary changes would not only have a
3 significant adverse economic impact, they would also make the
4 airport less safe. Law enforcement officers would be forced to
5 monitor the activities of individuals carrying guns instead of
6 focusing on other potential threats, thus increasing the risk to
7 the traveling public.

8 Furthermore, the Court rejects plaintiffs' contentions
9 that all Georgia firearm license holders have demonstrated that
10 they are law-abiding citizens and, thus, will pose no threat to
11 safety and security at the airport. The only requirement to
12 obtain a firearms license in Georgia are to pay a \$15 fee,
13 undergo a criminal background check, and at the discretion of the
14 Probate Court, a mental health background check. There is no
15 requirement that applicants demonstrate any proficiency in the
16 handling of a firearm. This hardly assures that all persons
17 obtaining a license pose no threat.

18 Finally, issuing an injunction in this case would not
19 serve the public interest. There can be no doubt that the public
20 has a substantial interest in safe air travel. Where there is
21 any question as to whether the public safety and welfare is
22 threatened, the Court must rule on the side of that public
23 interest. Here the evidence demonstrates at the very least that
24 there is a significant question as to whether permitting the
25 carrying of guns in the airport poses a serious threat to the

