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City of Columbus Files Suit Against Judge Who Has Failed To Rule on the City's Gun Safety Lawsuit for over Three Years

City Attorney Zach Klein says delayed action delays justice for victims, limits City's ability to take actions to reduce gun violence in neighborhoods

COLUMBUS, OH— Columbus City Attorney Zach Klein today filed a lawsuit in the Ohio Supreme Court on behalf of the City of Columbus asking the Court to order Judge Stephen L. McIntosh to issue a decision in a lawsuit the City [filed in March 2019](#) challenging a state law that prohibits municipalities like Columbus from enacting gun safety ordinances aimed at combatting gun violence. The complaint in *procedendo* filed Monday would require the judge assigned to the lawsuit, Judge Stephen L. McIntosh, to issue a ruling on the City's request for injunctive relief, the State's motion to dismiss, and, if necessary, set a schedule for the lawsuit to continue.

“Justice delayed is justice denied, and the Court has remained silent on this case for more than three years as gun violence continues to devastate our communities,” said Columbus City Attorney Zach Klein. **“Cities like Columbus are feeling the impact of laws written by the gun lobby and passed by Statehouse Republicans that push more guns into our streets without any real safeguards to keep these weapons out of the hands of dangerous individuals. A decision in this lawsuit is critical to the city's ability to take the necessary steps to keep our kids and communities safe and to do something about gun violence.”**

In the March 2019 request for injunctive relief, the city contends that the General Assembly violated the Ohio Constitution's Home Rule Amendment and Separation of Powers doctrine when they enacted Am. Sub. House Bill 228, legislation that would place even greater restrictions on a municipality's ability to pass local gun ordinances than what already existed under state law.

Then-Gov. John Kasich initially vetoed the bill in part due to concerns that the changes violate the Ohio Constitution's Home Rule provision that allows local governments to pass ordinances specific to their residents' needs, without the threat of intrusion from the state. The bill also was opposed by the Ohio Fraternal Order of Police and the Ohio Prosecuting Attorney's Association. Despite the opposition, the General Assembly voted to override the governor's veto and the bill became law.

City Attorney Klein filed the original lawsuit against the State of Ohio in the Franklin County Court of Common Pleas in March 2019, which was then assigned to Judge McIntosh. Following a number of additional filings by both sides in this case and a status conference in March 2020, the Court has failed to issue any rulings concerning either the city or state's motions in this case.

The motion the city filed Monday cites the Rules of Superintendence for the Courts of Ohio, which provide that motions should be ruled upon within 120 days from filing. That date has long since passed.

A memo filed by the City Attorney's Office in support of the writ of *procedendo* states:

"The City of Columbus has been at the forefront of trying to address issues of gun violence. Whether it is preventing individuals who commit crimes of domestic violence from possessing firearms, partnering with the United States Attorney for the Southern District of Ohio in supplying personnel as special Assistant United States Attorneys in order to bring criminal charges, providing support for violence interpreters and other community support programs, funding, recruiting, and supporting police, and challenging laws that result in an increase in gun violence.

"As a part of that overall strategy, the City filed the underlying lawsuit challenging the State's amended firearms pre-emption law. That case was assigned to Judge McIntosh. Respondent Judge McIntosh has failed to rule on a motion for preliminary injunction for almost three years and six months. Likewise, he has failed to rule on a motion to dismiss for three years and four months. For a portion of this time, he was not conducting any trials because of courthouse closures due to COVID-19. The Relator has a right to have its case ruled upon in a reasonable amount of time. Under no circumstances, however, is waiting three and a half years reasonable. This Court should grant a peremptory writ and require Judge McIntosh to issue rulings on these outstanding motions, set a discovery schedule and trial order, as needed."

Find the City's filings [here](#).

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