

IN THE
COURT OF APPEALS OF VIRGINIA

Record No. _____

COLONEL MATTHEW D. HANLEY
(In His Official Capacity as Superintendent of the Virginia State Police),
Defendant,

v.

RAUL WILSON, et al.,
Plaintiffs.

ATTORNEY GENERAL ELECT JONES'S EMERGENCY MOTION FOR
EXTENSION OF TIME TO FILE NOTICE OF APPEAL

Matthew R. McGuire
(VSB #84194)

ARKTOUROS PLLC
1717 N St., N.W., Suite 1
Washington, D.C. 20036
(804) 301-0921
mmcguire@arktouros.co

December 1, 2025

Attorney General Elect Jay Jones hereby moves this Court under Rules 5A:3(a) and 5A:6(a) for an order extending the time within which a notice of appeal may be filed from December 1, 2025 until January 30, 2026.

1. This case involves a challenge brought by Plaintiffs to the constitutionality of Virginia Code § 18.2-308.2:5, a critical Virginia public safety law that requires a background check be successfully completed before all firearms sales are made within the Commonwealth. This statute provides immense public health benefits to Virginia residents because effective background checks indisputably save lives.

2. In a final order entered on October 29, 2025, attached as Exhibit A, the trial court found that Virginia Code § 18.2-308.2:5 was unconstitutional as applied to persons 18 to 20 years of age under Article I, § 13 of the Constitution of Virginia. As part of the October 29 final order, the trial court further ruled that § 18.2-308.2:5 must be stricken in its entirety based on the reasoning in an October 16, 2025 letter opinion, which is attached as Exhibit B.

3. Under Virginia Code § 8.01-675.3 and Rule 5A:6(a), Defendant Matthew D. Hanley is required to file his notice of appeal in the trial court by December 1, 2025, unless that date is extended by this Court under Rules 5A:3 and 5A:6.

4. Defendant Hanley was represented by the Attorney General before the trial court. Although the Attorney General defended the validity of Virginia Code § 18.2-308.2:5 before the trial court, the Attorney General has given no indication that a notice of appeal will be timely filed by December 1, 2025, or that an extension will otherwise be sought.

5. After the trial court's final order was entered, Attorney General Elect Jones was elected to be the next Attorney General of Virginia as of January 17, 2026. The Attorney General Elect's transition office reached out to General Miyares's office this morning after learning that no notice of appeal had been filed, but General Miyares's office has not responded as of the filing of this motion. Attorney General Elect Jones then waited until 4:00 p.m. today to check whether a notice of appeal has been filed at the Circuit Court for the City of Lynchburg. To Attorney General Elect Jones's knowledge, no notice of appeal has been filed.

6. Due to the uncertainty about whether the Attorney General will file a notice of appeal or seek an extension and thereby ensure that Attorney General Elect Jones may defend Virginia law, Attorney General Elect Jones moves on an emergency basis to extend the deadline for filing a notice of appeal to January 30, 2026 so that he may have adequate time to get into office and coordinate with the Governor and the General Assembly to

determine the most appropriate response to this Virginia law being held unconstitutional.

7. Attorney General Elect Jones respectfully requests that this Court grant this motion to extend the deadline for filing the notice of appeal in this case to ensure Virginia's elected officials who will be principally responsible for addressing the trial court's order have a full opportunity to determine whether an appeal is warranted. The trial court's order strikes down a significant gun control measure and introduces significant uncertainty into Virginia law with respect to whether (1) a single Virginia trial court can enjoin a validly enacted law Commonwealth-wide as it applies to parties not before the court, *e.g.*, *Trump v. CASA, Inc.*, 606 U.S. 831 (2025); and (2) a trial court has the authority under the Constitution of Virginia to hold an Act of the General Assembly unconstitutional without the concurrence of a majority of the Supreme Court of Virginia, Va. Const., Art. IV, § 2; *accord* II A.E. Dick Howard, *Commentaries on the Constitution of Virginia* 726 (1974). This Court's prompt intervention is required to avoid these additional constitutional questions and to otherwise ensure a full defense of Virginia Code § 18.2-308.2:5.

Attorney General Elect Jones contacted counsel for Defendant as recently as this morning (December 1), requesting that a motion for

extension of time be filed but no response has been received. Counsel for Attorney General Elect Jones contacted counsel for Defendant and Plaintiffs today (December 1) to advise them of the filing of this motion as soon as it became apparent that filing was necessary because no notice of appeal had been filed. To ensure this motion was filed before the notice of appeal deadline passed, counsel for Attorney General Elect Jones was unable to obtain the position of Defendant or Plaintiff before this motion was filed.

For the foregoing reasons, this Court should grant an extension of time until January 30, 2026 within which to file a notice of appeal from the trial court's October 29, 2025 final order.

December 1, 2025.

Respectfully submitted,

By: /s/ Matthew R. McGuire
Matthew R. McGuire (VSB #84194)
ARKTOUROS PLLC
1717 N St., N.W., Suite 1
Washington, D.C. 20036
(804) 301-0921
mmcguire@arktouros.co

CERTIFICATE OF SERVICE AND FILING

I certify that an electronic copy of this motion was filed with the Clerk of this Court in Portable Document Format (PDF) on December 1, 2025. I further certify that a copy of this motion has been served by e-mail on all counsel of record on December 1, 2025:

Calvin C. Brown (VSB No. 93192)
Pebbles I. Burgess (VSB No. 74817)
Assistant Attorneys General
Office of the Attorney General
202 North 9th Street
Richmond, VA 23219
(804) 786-4933
cbrown@oag.state.va.us
pburgess@oag.state.va.us
Counsel for Defendant Hanley

David Browne, Esq. (VSB #65306)
Spiro & Browne, PLC
6802 Paragon Place, Suite 410
Richmond, Virginia 23230
(804) 573-9220
dbrowne@sblawva.com

Robert J. Olson (VSB No. 82488)
William J. Olson (VSB No. 15841)
William J. Olson, P.C.
370 Maple Avenue West, Suite 4
Vienna VA 22180
114 Creekside Lane
Winchester, Va 22602
wjo@mindspring.com
Counsel for Plaintiffs

/s/ Matthew R. McGuire