

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DWIGHT D. MITCHELL,

Plaintiff,

v.

Civil Action No. **3:26-cv-01511**

JENNIFER DAVENPORT, et al.,

Defendants.

**FIRST AMENDED COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF (42 U.S.C. § 1983)**

Dwight D. Mitchell
Plaintiff Pro Se
20 Summershade Circle
Piscataway, NJ 08854
[REDACTED]
ddm@maa-imcs.com

Local Civil Rule 10.1 Statement

The mailing addresses of the parties to this action are:

Dwight D. Mitchell
20 Summershade Circle
Piscataway, NJ 08854

Jennifer Davenport
Office of the Attorney General of New Jersey
25 Market Street
Trenton, New Jersey 08611

Jeanne Hengemuhle
Superintendent New Jersey State Police
1040 River Road
West Trenton, New Jersey 08628

TABLE OF CONTENTS

I. INTRODUCTION	4
II. PARTIES.....	7
III. JURISDICTION AND VENUE	8
IV. STANDING.....	8
V. RIPENESS	12
VI. STATEMENT OF FACTS	14
VII. CAUSES OF ACTION	26
COUNT I Second Amendment — As-Applied Challenge (42 U.S.C. § 1983).....	26
COUNT II Second Amendment — Facial Challenge (Alternative) (42 U.S.C. § 1983).....	30
COUNT III First Amendment — Compelled Speech (As Applied) (42 U.S.C. § 1983)	31
COUNT IV Fourteenth Amendment — Equal Protection (42 U.S.C. § 1983)	33
COUNT V <u>Supremacy Clause</u> — Conflict and Obstacle Preemption (FOPA as Applied) (Declaratory/Injunctive Relief).....	34
COUNT VI Fourth Amendment (Unreasonable Seizure) (As Applied) (42 U.S.C. § 1983)	35
COUNT VII <u>Fourteenth Amendment Due Process</u> (Passive Paperwork Criminalization) (As Applied) (42 U.S.C. § 1983).....	37
PRELIMINARY INJUNCTION CONSIDERATIONS / IRREPARABLE HARM	38
PRAYER FOR RELIEF	39

1 Plaintiff Dwight D. Mitchell (“Plaintiff”), appearing pro se, brings this
 2 action against Defendants Jennifer Davenport and Col. Jeanne Hengemuhle, and
 3 alleges as follows:
 4

5 **I. INTRODUCTION**

6 1. This is an action under 42 U.S.C. § 1983 for declaratory and
 7 injunctive relief. Plaintiff challenges the constitutionality of N.J.S.A. § 2C:58-
 8 4.4(b)(1), (b)(2), and (c) (collectively, the “Mandates”) —which impose criminal
 9 liability based on undefined statutory terms—as applied to a New Jersey
 10 permit-to-carry holder who is stopped or detained while engaged in lawful public
 11 carriage with a handgun stored in a motor vehicle. In Plaintiff’s intended public
 12 carriage covered by N.J.S.A. § 2C:58-4.4(b)(1), the handgun remains unloaded,
 13 locked in a container, vehicle safe, or trunk, and not readily accessible. Plaintiff’s
 14 transport tracks the Firearm Owners Protection Act (“FOPA”), 18 U.S.C. § 926A.
 15

16 2. Subsection (b)(1) criminalizes silence. It compels a permit holder—“if
 17 stopped or detained by law enforcement while carrying a handgun in public or
 18 traveling with a handgun in a motor vehicle”—to “immediately disclose” that
 19 status. A violation is a crime of the fourth degree. N.J.S.A. § 2C:58-4.4(b)(1). This
 20 Complaint refers to subsection (b)(1) as the “Disclosure Mandate.”
 21

22 3. Subsection (b)(2) criminalizes nonproduction of papers. It compels a
 23 permit holder to “display” his permit. A first violation is a disorderly persons
 24
 25
 26
 27
 28

1 offense. A second or subsequent offense escalates to a crime of the fourth degree.
2 N.J.S.A. § 2C:58-4.4(b)(2). This Complaint refers to subsection (b)(2) as the
3 “Display Mandate.”
4

5 4. Subsection (c) compels firearm surrender for inspection. It commands
6 that a permit holder—if “detained ... as part of a criminal investigation”—must
7 “provide the handgun ... upon request” for inspection. A violation is a crime of the
8 fourth degree. N.J.S.A. § 2C:58-4.4(c). This Complaint refers to subsection (c) as
9 the “Turnover Mandate.”
10
11

12 5. Plaintiff does not ask this Court to rewrite New Jersey’s firearms
13 code. Plaintiff seeks a narrow injunction against the Mandates as applied to the
14 lawful, peaceable conduct pleaded here. Plaintiff seeks an order preventing
15 enforcement that forces him to abandon constitutional rights or accept criminal
16 exposure. See *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20
17 (2008) (preliminary injunction standard).
18
19

20 6. Plaintiff does not dispute that officers may take constitutionally
21 justified safety measures in the presence of individualized facts. Plaintiff
22 challenges the State’s decision to impose categorical, felony-grade duties—
23 compelled speech, compelled display, and compelled surrender—during routine
24 stops even when the handgun is unloaded, locked, and inaccessible.
25
26
27
28

1 7. As applied to Plaintiff’s pleaded conduct—transporting a lawfully
2 owned handgun unloaded, secured, locked, and inaccessible—the Disclosure
3 Mandate (a) burdens Second Amendment conduct, (b) compels speech in violation
4 of the First Amendment, (c) creates an irrational classification under the Equal
5 Protection Clause, and (d) conflicts with federal objectives in FOPA. See *N.Y.*
6 *State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 30, 32–33 (2022); *United*
7 *States v. Rahimi*, 602 U.S. 680, 684–87 (2024) (reaffirming Bruen’s
8 text-and-history method and rejecting a “historical twin” demand); *Wooley v.*
9 *Maynard*, 430 U.S. 705, 714 (1977); *W. Va. State Bd. of Educ. v. Barnette*, 319
10 U.S. 624, 642 (1943); *303 Creative LLC v. Elenis*, 600 U.S. 570, 598–603 (2023);
11 *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp.*, 515 U.S. 557, 573 (1995);
12 *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000); *Revell v. Port Auth. of*
13 *N.Y. & N.J.*, 598 F.3d 128, 136–37 (3d Cir. 2010).

14
15
16
17
18
19 8. Plaintiff will exercise his First Amendment right to refrain from
20 speaking and will not disclose that he is traveling with a firearm when it is
21 unloaded, secured in a locked container, vehicle safe, or trunk, and not readily
22 accessible to any occupant while driving. Plaintiff seeks prospective relief. The
23 First Amendment prohibits compelled speech. See *Riley v. Nat’l Fed’n of the*
24 *Blind*, 487 U.S. 781, 795–97 (1988); *Wooley v. Maynard*, 430 U.S. 705, 714
25 (1977); *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943); *Ashcroft*
26
27
28

1 *v. Free Speech Coalition*, 535 U.S. 234, 244–45 (2002). Plaintiff seeks prospective
2 relief against Defendants under *Ex parte Young*, 209 U.S. 123, 155–56 (1908).

3 4 **II. PARTIES**

5 9. Plaintiff Dwight D. Mitchell ("Plaintiff") is an individual residing at
6 20 Summershade Circle, Piscataway, New Jersey 08854.

7
8 10. Upon information and belief, Defendant Jennifer Davenport is the
9 Attorney General of New Jersey, with an office address at 25 Market Street,
10 Trenton, New Jersey 08611. She is sued in her official capacity. If the incumbent
11 Attorney General changes during this action, the successor is automatically
12 substituted under Fed. R. Civ. P. 25(d).
13

14
15 11. Upon information and belief, Defendant Col. Jeanne Hengemuhle is
16 the Superintendent of the New Jersey State Police, with an office address at 1040
17 River Road, West Trenton, New Jersey 08628. She is sued in her official capacity.
18 If the incumbent Superintendent changes during this action, the successor is
19 automatically substituted under Fed. R. Civ. P. 25(d).
20

21
22 12. Davenport and Hengemuhle, together with their officers, agents,
23 employees, and all persons acting in concert or participation with them, are
24 hereinafter referred to collectively as "Defendants."
25
26
27
28

III. JURISDICTION AND VENUE

13. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) because Plaintiff's claims arise under the Constitution and laws of the United States. Declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201–2202.

14. This action also arises under 42 U.S.C. § 1983, which supplies a cause of action against state officials who, acting under color of law, deprive individuals of rights secured by the Constitution.

15. Venue is proper in this District under 28 U.S.C. § 1391(b) because Defendants are state officers with enforcement authority in this District, Plaintiff resides in this District, and the threatened enforcement and injury pleaded here occur in this District.

16. This action seeks prospective declaratory and injunctive relief against state officials responsible for enforcing the challenged statute, a form of relief long recognized as proper under *Ex parte Young* and routinely adjudicated in federal courts before any criminal enforcement occurs.

IV. STANDING

17. Plaintiff has suffered injury in fact that is concrete, particularized, and ongoing. The Mandates impose felony-grade penalties during stops and detentions. Plaintiff responds by forgoing protected conduct. Since November 2025, Plaintiff

1 has not transported any firearm outside his home. Plaintiff's abstention is directly
2 and solely caused by the credible threat of criminal prosecution under N.J.S.A. §
3 2C:58-4.4(b)(1). Self-censorship and compelled abstention under a criminal statute
4 supply Article III injury. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–61
5 (2014); *Babbitt v. United Farm Workers Nat'l Union*, 442 U.S. 289, 298 (1979).
6
7

8 18. Plaintiff faces a credible, non-speculative enforcement threat. Plaintiff
9 intends to resume lawful public carriage, including transport incidental thereto for
10 lawful self-defense and professional purposes, immediately upon entry of
11 injunctive relief. That intended conduct falls within the Disclosure Mandate's
12 coverage during traffic stops and other detentions. Defendants possess and exercise
13 statewide authority to enforce, direct enforcement of, and supervise enforcement of
14 the Disclosure Mandate and have not disavowed enforcement against Plaintiff's
15 intended conduct. The statute compels "immediate" disclosure on pain of
16 fourth-degree liability without statutory guidance on sequencing, phrasing, or
17 timing relative to officer commands. Where a plaintiff refrains from
18 constitutionally protected conduct because a criminal statute covers the intended
19 conduct and the State has not disavowed enforcement, the injury is neither
20 speculative nor self-inflicted. *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118,
21 128–29 (2007); *Va. v. Am. Booksellers Ass'n*, 484 U.S. 383, 393 (1988).
22
23
24
25
26
27
28

1 19. Plaintiff’s injury and credible threat of enforcement are not limited to
2 § 2C:58-4.4(b)(1). Plaintiff is also chilled by § 2C:58-4.4(b)(2) because it
3 criminalizes the inability to “display” a physical permit during a roadside
4 encounter—even when Plaintiff remains continuously and validly licensed—and
5 escalates repeat nonproduction to a fourth-degree crime. Plaintiff is further chilled
6 by § 2C:58-4.4(c) because it authorizes compelled firearm turnover and
7 “inspection” whenever an officer characterizes a detention as part of a “criminal
8 investigation,” creating a credible risk that routine traffic enforcement will be
9 relabeled to trigger mandatory seizure and forced handling of a secured firearm.
10 These provisions independently deter Plaintiff’s intended lawful carriage and
11 expose him to arrest, prosecution, and collateral consequences absent injunctive
12 relief. See *Susan B. Anthony List*, 573 U.S. at 158–61; *MedImmune*, 549 U.S. at
13 128–29.

14 20. Plaintiff’s injury is traceable to Defendants and redressable by the
15 relief sought. In their official capacities as Attorney General and Superintendent of
16 the New Jersey State Police, Defendants possess supervisory and enforcement
17 authority over the statute’s application. Plaintiff intends to resume lawful public
18 carriage, including the transport incidental thereto, immediately upon entry of
19 injunctive relief.

1 21. Plaintiff has standing to assert his First Amendment compelled-speech
2 claim. The Disclosure Mandate forces Plaintiff to speak under threat of
3
4 fourth-degree criminal punishment during routine stops and detentions. The
5 compelled disclosure alters Plaintiff's lawful conduct and forces a choice between
6
7 compelled speech and criminal punishment. The loss of First Amendment
8 freedoms, even for minimal periods of time, constitutes irreparable injury. *Roman*
9 *Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020); *Elrod v. Burns*, 427
10 U.S. 347, 373 (1976).

12 22. Plaintiff has standing to bring his Second Amendment as-applied and
13 alternative facial challenges. A credible prosecution threat has already forced him
14
15 to forgo protected conduct. The Disclosure Mandate attaches categorically to his
16 intended carriage by motor vehicle, including when firearms are unloaded, locked,
17
18 and not readily accessible. The ongoing chilling of Second Amendment conduct
19 supports irreparable harm. See *Ezell v. City of Chicago*, 651 F.3d 684, 699 (7th
20 Cir. 2011); *Reilly v. City of Harrisburg*, 858 F.3d 173, 176-79 (3d Cir. 2017).

22 23. Plaintiff has standing to seek preemption-based declaratory and
23 injunctive relief because he engages in interstate travel covered by 18 U.S.C. §
24
25 926A and is presently deterred by the Disclosure Mandate's compelled-disclosure
26 requirement and criminal penalty during stops. Plaintiff engages in interstate public
27 carriage qualifying for federal safe-passage protection under 18 U.S.C. § 926A,
28

1 including travel between jurisdictions where he may lawfully possess and carry
2 firearms, with the firearm unloaded and not readily accessible. As applied to §
3 926A-qualifying travel, the Disclosure Mandate imposes additional state-law
4 conditions and criminal penalties that interfere with Congress’s purpose of
5 protecting safe passage from burdensome and inconsistent state restriction.
6
7

8 **V. RIPENESS**

9 24. Plaintiff’s claims present a justiciable controversy fit for judicial
10 decision. Plaintiff challenges a final, operative statute that presently governs his
11 conduct and imposes criminal liability for noncompliance during stops or
12 detentions. The Disclosure Mandate compels “immediate” disclosure under threat
13 of fourth-degree liability. The statute supplies no objective definition of
14 “immediately” and no safe harbor clarifying compliant timing. That design invites
15 discretionary enforcement. Pre-enforcement challenges are ripe when intended
16 conduct is arguably proscribed and the law chills constitutional rights. *Artway v.*
17 *Att’y Gen.*, 81 F.3d 1235, 1247 (3d Cir. 1996).
18
19
20
21

22 25. Withholding review imposes substantial hardship. The credible threat
23 of enforcement has already forced Plaintiff to stop transporting firearms incidental
24 to lawful public carriage and to cease professional instruction requiring such
25 transport. Plaintiff’s complete cessation is ongoing. The Disclosure Mandate’s
26 felony-grade penalty drives that cessation.
27
28

1 26. Plaintiff need not await arrest or prosecution. The threat is credible.
2 The intended conduct is covered. Defendants have not disavowed enforcement as
3 to Plaintiff. The Mandates therefore impose an ongoing restraint that forces
4 Plaintiff to refrain from constitutionally protected public carriage, submit to
5 compelled speech, or risk arrest and prosecution. See *Susan B. Anthony List*, 573
6 U.S. at 159–61; *Presbytery of N.J. of the Orthodox Presbyterian Church v. Florio*,
7 40 F.3d 1454, 1463 (3d Cir. 1994); *Nat’l Shooting Sports Found. v. Att’y Gen. of*
8 *N.J.*, 80 F.4th 215, 220–23 (3d Cir. 2023).

9 27. The claims are ripe because the statute’s compelled-speech
10 requirement and vagueness regarding “immediacy” exert present, daily pressure on
11 Plaintiff to alter or forgo protected conduct during routine stops. The undefined
12 timing command, coupled with felony-grade liability, grants officers after-the-fact
13 discretion to declare Plaintiff’s timing criminal. That structure chills protected
14 conduct and invites arbitrary enforcement. *Grayned v. City of Rockford*, 408 U.S.
15 104, 108–09 (1972); *Kolender v. Lawson*, 461 U.S. 352, 357–58 (1983). By
16 mandating immediate firearm disclosure under fourth-degree penalty, the statute
17 alters the dynamics of routine stops in a manner that reasonably deters lawful
18 public carriage. *Pennsylvania v. Mimms*, 434 U.S. 106, 110 (1977).

19 28. Plaintiff’s preemption claim is ripe because it is purely legal and
20 presently affects federally protected interstate travel. The Disclosure Mandate adds
21
22
23
24
25
26
27
28

1 a state-law criminal condition at the moment of a stop. As applied to §
2 926A-qualifying travel, the Disclosure Mandate stands as an obstacle to
3 Congress's objectives by imposing immediate compelled disclosure during a stop
4 or detention at the precise moment Congress sought to shield travelers from
5 discretionary arrest and prosecution. By attaching criminal liability to silence
6 during federally protected transport, the statute recreates the risk of arrest and
7 criminal exposure that § 926A was enacted to eliminate.
8
9

10 **VI. STATEMENT OF FACTS**

11
12 29. Before November 2025, Plaintiff regularly engaged in lawful public
13 carriage and incidental, secured vehicle transport of a handgun in New Jersey.
14 Since November 2025, Plaintiff has ceased transporting any firearm outside his
15 home because the Mandates impose criminal penalties during ordinary stops and
16 detentions and create a credible threat of arrest and prosecution for silence or
17 roadside nonproduction. Plaintiff's cessation continues. Plaintiff intends to resume
18 this lawful conduct immediately upon entry of prospective relief.
19
20

21
22 30. Plaintiff has ceased transporting firearms incidental to his lawful
23 public carriage in a motor vehicle solely because compliance with the Disclosure
24 Mandate subjects him to criminal liability for failure to immediately disclose under
25 threat of fourth-degree prosecution.
26
27
28

1 31. Before Plaintiff obtained his New Jersey “Permit to Carry” license,
2 the State did not require Plaintiff to disclose the presence of, display a license for,
3 or turn over a handgun to a law enforcement officer when a handgun was stored in
4 the vehicle during a traffic stop. Plaintiff’s handguns remain unloaded, secured in a
5 locked container, vehicle safe, or trunk, and not readily accessible to any occupant
6 while driving.
7

8 32. But for his New Jersey “Permit to Carry” licensure, Plaintiff is not
9 required to disclose the presence of, display a license for, or turn over a handgun to
10 a law enforcement officer when a handgun is stored in the vehicle during a traffic
11 stop. Plaintiff’s handguns remain unloaded, secured in a locked container, vehicle
12 safe, or trunk, and not readily accessible to any occupant while driving.
13

14 33. Plaintiff intends to resume lawful public carriage, including transport
15 incidental thereto for lawful self-defense and professional purposes, immediately
16 upon entry of injunctive relief.
17

18 34. Since November 2025, Plaintiff has not transported any firearm
19 outside his home.
20

21 35. Plaintiff’s abstention from transporting firearms is directly and solely
22 caused by the credible threat of criminal prosecution under N.J.S.A. § 2C:58-
23 4.4(b)(1) and (b)(2).
24
25
26
27
28

1 36. But for the Disclosure Mandate, Plaintiff intends to continue
2 transporting his handgun incidental to lawful public carriage in a manner designed
3 to maximize safety and compliance: unloaded, secured in a locked container,
4 vehicle safe, or trunk, and not readily accessible to any occupant while driving.
5

6 37. Plaintiff defines public carriage and bearing arms to include the lawful
7 possession and movement of a firearm in public for self-defense, whether on the
8 person or secured in a motor vehicle during ordinary public movement.
9

10 38. N.J.S.A. § 2C:58-4.4(b)(1) and (c) provide no definition of the phrase
11 “carrying a handgun in public.” The statute does not clarify whether “carrying”
12 refers only to a handgun worn on the person, a handgun immediately accessible in
13 a vehicle, or any circumstance in which a handgun is merely present in a motor
14 vehicle while a citizen moves through public space.
15

16 39. Because the statute leaves the triggering condition undefined in a
17 criminal statute, it delegates to individual officers the authority to determine—case
18 by case and after the fact—whether a citizen was “carrying a handgun in public”
19 for purposes of imposing criminal liability. A criminal statute that fails to define
20 the conduct triggering liability invites arbitrary enforcement and chills
21 constitutionally protected activity. See *Kolender v. Lawson*, 461 U.S. 352, 357–58
22 (1983); *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).
23
24
25
26
27
28

1 40. Temporary secured storage of a firearm during transit—including
2 storage unloaded in a locked container, vehicle safe, or trunk, and not readily
3 accessible to any occupant while driving—is incidental to and inseparable from
4 lawful public carriage and therefore falls within the Second Amendment’s
5 protection of bearing arms in public.
6

7
8 41. During public carriage by motor vehicle, Plaintiff is subject to being
9 stopped or detained by law enforcement for routine reasons, such as traffic
10 enforcement, accident scenes, or investigative detentions.
11

12 42. A routine traffic stop is a seizure. Its permissible duration is limited to
13 addressing the traffic violation and ordinary inquiries incident to the stop. The stop
14 may not be prolonged to pursue unrelated criminal investigations absent
15 independent reasonable suspicion. *Rodriguez v. United States*, 575 U.S. 348, 354–
16 57 (2015).
17
18

19 43. Section 2C:58-4.4(c) triggers on detention “as part of a criminal
20 investigation,” but the statute supplies no objective definition of “criminal
21 investigation.” That omission enables discretionary relabeling of routine traffic
22 enforcement into a “criminal investigation” to demand firearm turnover and
23 inspection.
24
25

26 44. The Disclosure Mandate compels Plaintiff to immediately disclose
27 that a handgun is stored in the vehicle during stops or detentions, on pain of
28

1 fourth-degree criminal liability under N.J.S.A. § 2C:58-4.4(b)(1). The statute
2 supplies no guidance on sequencing, phrasing, or timing relative to officer
3 commands, requests for identification, or other compliance requirements during a
4 stop.
5

6 45. Plaintiff wishes to remain silent about the presence of an unloaded,
7
8 locked, inaccessible handgun because compelled disclosure can escalate otherwise
9 routine encounters and create avoidable safety risk to Plaintiff.
10

11 46. Plaintiff reasonably fears that mistaken or delayed disclosure,
12 misunderstanding of the law, or field disagreement about what “immediate”
13 disclosure requires will expose him to arrest, prosecution, and collateral
14 consequences, including permit jeopardy arising from delayed or disputed
15 disclosure.
16

17 47. The statute provides no objective definition of immediately and
18 establishes no safe harbor clarifying when disclosure must occur during a stop or
19 detention.
20

21 48. The absence of a defined temporal standard invites discretionary
22 enforcement and exposes Plaintiff to criminal liability based on after-the-fact
23 judgments about timing.
24

25 49. The credible threat of enforcement imposes an ongoing present
26 restraint on Plaintiff's conduct.
27
28

1 50. Plaintiff must either refrain from constitutionally protected public
2 carriage, submit to compelled speech during police encounters, or risk arrest and
3 prosecution.
4

5 51. Plaintiff holds a valid New Jersey permit to carry. In ordinary life,
6 Plaintiff may at times be unable to immediately produce the physical permit card
7 during a traffic stop—for example, if a wallet is stolen, misplaced, damaged,
8 forgotten, or inaccessible at the roadside—despite being fully and continuously
9 licensed.
10

11 52. The Display Mandate criminalizes that passive failure to display even
12 when the permit is valid and could be promptly verified through ordinary
13 law-enforcement channels or produced shortly thereafter. Plaintiff alleges that his
14 valid New Jersey permit to carry is issued pursuant to a statewide licensing system
15 administered under the authority and oversight of the New Jersey State Police and
16 is reflected in official permitting records maintained by the State. During a routine
17 stop, officers may access statewide law-enforcement information systems or
18 dispatch channels to confirm licensing status. Temporary roadside nonproduction
19 of a physical permit card therefore does not reliably indicate unlicensed carry.
20 Nevertheless, the Display Mandate converts an otherwise lawful, continuously
21 licensed citizen into an arrestable suspect based solely on temporary inability to
22 display a physical card at the roadside.
23
24
25
26
27
28

1 53. New Jersey’s other licensing regimes commonly treat “failure to
2 exhibit” as fine-level conduct that may be cured by later proof of valid licensure,
3 not as indictable criminal conduct. See, e.g., N.J.S.A. § 23:3-1(f)(1)
4 (hunting/fishing/trapping—\$10 plus costs for failing to conspicuously display);
5 N.J.S.A. § 12:7-61 (boating license—failure to exhibit is presumptive evidence of
6 non-licensure); N.J.S.A. § 39:3-29 (driver’s license—\$150 penalty for failure to
7 exhibit upon request, and municipal court may dismiss upon later exhibition of a
8 license valid on the date charged). The Display Mandate departs from that
9 proportionate approach by criminalizing roadside nonproduction and escalating
10 repeat nonproduction to a fourth-degree crime.
11

12 54. Defendants possess and exercise statewide authority to enforce, direct
13 enforcement of, and supervise enforcement of the Mandates.
14

15 55. Plaintiff’s intended conduct is within the statute’s coverage during
16 routine stops.
17

18 56. Defendants have not disavowed enforcement against Plaintiff’s
19 intended conduct.
20

21 57. Plaintiff does not always carry a handgun on his person while engaged
22 in ordinary public movement.
23

24 58. In many ordinary circumstances, Plaintiff transports a handgun stored
25 in the vehicle rather than worn on his person.
26
27
28

1 59. When transporting a handgun in a vehicle, Plaintiff oftentimes stores
2 it unloaded, secured in a locked container, vehicle safe, or trunk, and not readily
3 accessible to any occupant while driving.
4

5 60. The Disclosure Mandate applies when Plaintiff is stopped or detained
6 while engaged in lawful public carriage with a handgun stored in a motor vehicle
7 and compels immediate disclosure that the handgun is stored in the vehicle.
8
9 N.J.S.A. § 2C:58-4.4(b)(1).
10

11 61. The Disclosure Mandate imposes heightened affirmative duties
12 backed by serious criminal penalties on permit holders who have undergone
13 extensive training, vetting, and licensure.
14

15 62. Plaintiff is a firearms instructor.

16 63. Transporting firearms incidental to lawful public carriage is necessary
17 to conduct lawful instruction, demonstrations, and professional training services.
18

19 64. Because the Disclosure Mandate criminalizes failure to immediately
20 disclose the presence of a secured firearm during any stop or detention, Plaintiff
21 has ceased transporting firearms incidental to lawful public carriage and has ceased
22 conducting instruction requiring such transport.
23

24 65. Since November 2025, Plaintiff has not carried a firearm in public and
25 has not transported any firearm outside his home.
26
27
28

1 66. Plaintiff's complete cessation is ongoing and is directly attributable to
2 the Disclosure Mandate's compelled immediate disclosure requirement backed by
3 fourth-degree criminal penalties.
4

5 67. Plaintiff's intended transport is peaceable and non-threatening; the
6 handgun is not carried on his person, brandished, or handled during transit; it is
7 secured for safe and lawful transport incidental to public carriage.
8

9 68. Based on his professional experience providing firearms instruction to
10 both civilians and law enforcement personnel, Plaintiff is familiar with commonly
11 applied officer-safety response protocols during vehicle stops.
12

13 69. Plaintiff understands that the mention of a firearm during a stop is
14 routinely treated as a heightened safety signal that may alter officer response
15 posture even where the firearm is unloaded, locked, and not readily accessible.
16

17 70. The statute applies categorically without any individualized suspicion
18 that a permit holder is dangerous.
19

20 71. By mandating immediate firearm disclosure under fourth-degree
21 penalty, the statute alters the dynamics of routine stops in a manner that reasonably
22 deters lawful public carriage. *Mimms*, 434 U.S. 106, 110.
23

24 72. The Turnover Mandate compels physical transfer of the handgun to
25 law enforcement for "inspection," which is a seizure. In Plaintiff's as-applied
26 scenario, compliance would often require Plaintiff to access a locked container,
27
28

1 vehicle safe, or trunk and handle a handgun during a roadside encounter—
2 precisely the type of forced handling that increases risk and escalates ordinary
3 traffic stops.
4

5 73. Under Terry’s framework, officer-safety measures require facts
6 supporting reasonable suspicion that the person is armed and presently dangerous,
7 not merely armed. *Terry v. Ohio*, 392 U.S. 1, 30 (1968); *Arizona v. Johnson*, 555
8 U.S. 323, 326–27, 332–33 (2009). For vehicle protective searches, the justification
9 requires a reasonable belief that the suspect is dangerous and may gain immediate
10 control of weapons. *Michigan v. Long*, 463 U.S. 1032, 1049–50 (1983).
11

12 74. The Third Circuit has rejected an “automatic firearm exception” to
13 Terry where the facts do not indicate illegal possession or dangerousness. *United*
14 *States v. Ubiles*, 224 F.3d 213, 217–18 (3d Cir. 2000).
15

16 75. Plaintiff engages in interstate public carriage qualifying for federal
17 safe-passage protection under 18 U.S.C. § 926A, including travel between
18 jurisdictions where he may lawfully possess and carry firearms, with the firearm
19 unloaded and not readily accessible. See *Revell v. Port Auth. of N.Y. & N.J.*, 598
20 F.3d 128, 136–37 (3d Cir. 2010).
21

22 76. As applied to § 926A-qualifying travel, the Disclosure Mandate
23 imposes additional state-law conditions and criminal penalties that interfere with
24
25
26
27
28

1 Congress's purpose of protecting safe passage from burdensome and inconsistent
2 state restrictions.

3
4 77. Plaintiff intends to immediately resume lawful public carriage and
5 transportation of his handgun in the manner described in this Complaint upon entry
6 of injunctive relief. Until such relief is granted, Plaintiff must continue to refrain
7 from constitutionally protected conduct to avoid criminal prosecution under the
8 challenged statute. This ongoing deterrence imposes a present and continuing
9 constitutional injury that will persist each day the statute remains enforceable
10 against Plaintiff.
11

12
13 78. The statutory design creates a self-triggering enforcement loop. A
14 lawful permit holder who cannot immediately “display” a physical permit during a
15 traffic stop can be converted into an arrestable suspect for a paperwork omission,
16 thereby enabling or pressuring mandatory firearm turnover and inspection. This
17 scheme chills Plaintiff’s exercise of the right to bear arms by attaching escalating
18 criminal penalties and compelled steps to ordinary traffic encounters even when
19 the handgun is unloaded, locked, and inaccessible.
20
21

22
23 79. The criminalization of a nonviolent, regulatory paperwork omission
24 functions as a gateway to severe collateral consequences, including loss of firearms
25 eligibility. It operates as a self-triggering mechanism in which a momentary
26 regulatory lapse is transformed into a criminal offense that can then serve as a
27
28

1 basis for permanent disarmament. The State cannot identify a historical tradition of
2 disarming ordinary, law-abiding citizens based solely on regulatory noncompliance
3 untethered to individualized dangerousness.
4

5 80. Defendants have never disavowed enforcement of N.J.S.A. § 2C:58-
6 4.4(b)(1), (b)(2), or (c) against permit holders engaged in the type of secured
7 vehicle transport described in this Complaint. Public guidance issued by the New
8 Jersey State Police instructs permit holders that disclosure and permit display are
9 mandatory if stopped while carrying or traveling with a handgun. Those
10 instructions confirm that the Mandates are intended to apply during routine traffic
11 stops and other ordinary law-enforcement encounters.
12
13
14

15 81. Plaintiff regularly drives on public roads in New Jersey. Like all
16 drivers, Plaintiff is subject to routine traffic stops, accident investigations, and
17 other ordinary police encounters. During such encounters Plaintiff may be required
18 to stop his vehicle and interact with law-enforcement officers while engaged in the
19 type of firearm transport described in this Complaint.
20
21

22 82. During a routine traffic stop, drivers are ordinarily required to follow
23 officer instructions regarding identification, vehicle documentation, and other
24 compliance procedures. The statute requires “immediate” firearm disclosure but
25 provides no guidance regarding timing relative to officer commands. As a result, a
26 permit holder may be forced to choose between interrupting an officer, delaying
27
28

1 disclosure, or waiting for instructions—any of which may later be characterized as
2 criminally insufficient timing.

3
4 83. Based on Plaintiff's professional experience providing firearms
5 instruction to both civilians and law-enforcement personnel, Plaintiff understands
6 that the mention of a firearm during a vehicle stop commonly alters officer
7 response posture. Such responses may include commands for occupants to exit the
8 vehicle, heightened officer caution, or temporary seizure of firearms. Because
9 Plaintiff's firearm would be unloaded, locked, and not readily accessible during
10 transport, compelled disclosure itself can transform an otherwise routine encounter
11 into a heightened law-enforcement event.
12
13

14
15 84. The Mandates apply regardless of whether a firearm is accessible or
16 capable of immediate use. Plaintiff's intended transport involves an unloaded
17 handgun secured in a locked container, vehicle safe, or trunk and not readily
18 accessible during travel. Nevertheless, the statute imposes the same criminal
19 disclosure and turnover duties on Plaintiff as it would on a person carrying a
20 loaded handgun on the person.
21
22

23 **VII. CAUSES OF ACTION**

24 **COUNT I**

25 **Second Amendment — As-Applied Challenge (42 U.S.C. § 1983)**

26
27 85. Plaintiff repeats and realleges the allegations contained in paragraphs
28 1 through 84, as if fully set forth herein.

1 86. Defendants, acting under color of state law, enforce and supervise
2 enforcement of N.J.S.A. § 2C:58-4.4(b)(1), (b)(2), and (c). Those Mandates
3 impose criminally enforceable duties during routine stops and detentions while
4 Plaintiff engages in lawful public carriage by motor vehicle with a handgun
5 unloaded, locked in a container, vehicle safe, or trunk, and not readily accessible to
6 any occupant while driving. Defendants' conduct is attributable to them in their
7 official capacities as Attorney General and Superintendent of the New Jersey State
8 Police. They possess concrete supervisory and enforcement authority over the
9 statute's application and have not disavowed enforcement against Plaintiff's
10 intended conduct.
11

12 87. The Disclosure Mandate, as applied to Plaintiff's conduct and
13 intended resumption of lawful public carriage—including secured transport of an
14 unloaded, locked, and inaccessible handgun—burdens conduct covered by the
15 Second Amendment's plain text. The right to bear arms encompasses public
16 carriage for lawful purposes, including movement in public spaces by motor
17 vehicle, and includes temporary secured storage incidental to such carriage. See
18 *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 24, 30, 32–33 (2022);
19 *United States v. Rahimi*, 602 U.S. 680, 684–687 (2024); *District of Columbia v.*
20 *Heller*, 554 U.S. 570, 582–84 (2008); *Range v. Att'y Gen. U.S.*, 124 F.4th 218 (3d
21 Cir. 2024) (en banc).
22
23
24
25
26
27
28

1 88. The Disclosure Mandate conditions the right to bear arms on
2 compelled verbal disclosure during a stop or detention regardless of whether the
3 firearm is accessible or poses any danger. The criminal consequence attaches
4 because Plaintiff engages in protected carriage, not because of misuse or dangerous
5 conduct. By conditioning exercise of the right to bear arms on speech compelled
6 under threat of criminal sanction, the Disclosure Mandate imposes an
7 unconstitutional condition. *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S.
8 595, 604 (2013); *Perry v. Sindermann*, 408 U.S. 593, 597 (1972).

9 89. The statutory design creates a self-triggering enforcement loop. A
10 lawful permit holder who cannot immediately “display” a physical permit during a
11 traffic stop can be converted into an arrestable suspect for a paperwork omission,
12 thereby enabling or pressuring mandatory firearm turnover and inspection. This
13 scheme chills Plaintiff’s exercise of the right to bear arms by attaching escalating
14 criminal penalties and compelled steps to ordinary traffic encounters even when
15 the handgun is unloaded, locked, and inaccessible. Plaintiff notes *Lara v. Comm’r,*
16 *Pa. State Police*, 91 F.4th 122 (3d Cir. 2024), but because that decision has been
17 vacated, Plaintiff does not rely on it as controlling authority and instead grounds
18 his claims directly in binding Supreme Court precedent. See *Paris v. Lara*, 145 S.
19 Ct. 369 (2024). See also *Bruen*, 597 U.S. at 24, 30, 32–33; *Rahimi*, 602 U.S. at
20 687–91.

1 90. The criminalization of a nonviolent, regulatory paperwork omission
2 functions as a gateway to severe collateral consequences, including loss of firearms
3 eligibility. It operates as a self-triggering mechanism in which a momentary
4 regulatory lapse is transformed into a criminal offense that can then serve as a
5 basis for permanent disarmament. The State cannot identify a historical tradition of
6 disarming ordinary, law-abiding citizens based solely on regulatory noncompliance
7 untethered to individualized dangerousness. See *Bruen*, 597 U.S. at 24–25, 29–30;
8 *Rahimi*, 602 U.S. at 692–94.

9 91. The Supreme Court has recognized that the right to keep and bear
10 arms is a fundamental constitutional liberty applicable to the States through the
11 Fourteenth Amendment. *McDonald v. City of Chicago*, 561 U.S. 742, 767–78
12 (2010). Because the right is fundamental, state regulatory mechanisms that operate
13 to disable or disarm otherwise law-abiding citizens must rest on historical tradition
14 rather than modern policy preferences. See *Bruen*, 597 U.S. 1, 24–25.

15 92. The Due Process Clause limits the government’s ability to criminalize
16 passive omissions when the underlying conduct is otherwise lawful. In *Lambert v.*
17 *California*, the Supreme Court held that a criminal penalty for failing to comply
18 with a regulatory registration requirement violated due process when the conduct
19 was wholly passive and lacked circumstances that would reasonably alert a person
20 to criminal liability. *Lambert v. California*, 355 U.S. 225, 228–29 (1957). Like the
21
22
23
24
25
26
27
28

1 ordinance invalidated in *Lambert*, the challenged statute criminalizes a regulatory
2 omission tied to otherwise lawful conduct—here, the lawful possession and
3 transport of a firearm by a licensed permit holder—and transforms passive silence
4 into a criminal offense carrying severe collateral consequences.

5
6 93. The Disclosure Mandate lacks any relevant historical analogue. It
7 does not require individualized findings of dangerousness or judicial process. It
8 applies categorically to all permit holders engaged in lawful public carriage,
9 including those transporting firearms that are unloaded, locked, and not readily
10 accessible. The statute is untethered from historical tradition and fails *Bruen*’s and
11 *Rahimi*’s historical-tradition standard. See *Bruen*, 597 U.S. at 47–49; *Rahimi*, 602
12 U.S. at 687–91.

13 **COUNT II**

14 **Second Amendment — Facial Challenge (Alternative) (42 U.S.C. § 1983)**

15
16 94. Plaintiff repeats and realleges the allegations contained in paragraphs
17 1 through 93, as if fully set forth herein.

18
19 95. Defendants, acting under color of state law, enforce and supervise
20 enforcement of N.J.S.A. § 2C:58-4.4(b)(1), which imposes a categorical criminal
21 condition on all permit holders engaged in public carriage by motor vehicle,
22 including those transporting firearms that are unloaded, locked, and not readily
23 accessible. This alternative facial challenge is limited to subsection (b)(1) and does
24 not seek facial invalidation of subsections (b)(2) or (c).

97. The Disclosure Mandate is facially invalid to the extent it requires immediate disclosure during a stop or detention regardless of firearm accessibility, dangerousness, or individualized suspicion. The statute's compelled-disclosure requirement operates categorically, not based on individualized dangerousness, and exceeds the historical limits recognized in *Bruen*.

98. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 97, as if fully set forth herein.

1 Plaintiff does not challenge an officer’s authority to ask questions or to take
2 constitutionally justified safety measures. Plaintiff challenges the State’s decision
3 to criminalize silence and to impose an undefined timing mandate (“immediately”)
4 backed by felony-grade penalties in routine encounters where less restrictive
5 alternatives exist.
6

7
8 100. The Disclosure Mandate compels a specific message about lawful
9 firearm possession that Plaintiff would not otherwise convey. It criminalizes
10 silence based solely on Plaintiff’s exercise of constitutionally protected conduct.
11 See *Wooley*, 430 U.S. at 714; *Barnette*, 319 U.S. at 642; *Riley*, 487 U.S. at 795–97;
12 *303 Creative*, 600 U.S. at 597–603; *NIFLA v. Becerra*, 585 U.S. 755, 766–68
13 (2018).
14

15
16 101. The compelled disclosure is content-based, triggered by Plaintiff’s
17 lawful conduct and permit status, and is not narrowly tailored to any
18 individualized, articulable officer-safety need. The statute applies categorically
19 regardless of firearm accessibility or the reason for the stop. See *Hurley*, 515 U.S.
20 at 573.
21

22
23 102. The undefined requirement that disclosure be “immediate,” coupled
24 with criminal liability, grants officers unfettered discretion to decide after the fact
25 whether Plaintiff’s timing was sufficient. That design chills protected conduct and
26
27
28

invites arbitrary enforcement. *Grayned*, 408 U.S. at 108–09; *Kolender*, 461 U.S. at 357–58.

103. The compelled disclosure alters Plaintiff’s lawful conduct, chills constitutional rights, and forces Plaintiff to choose between compelled speech and criminal punishment during routine stops. That coercion inflicts a present and ongoing injury. See *Ashcroft*, 535 U.S. at 244–45.

COUNT IV

Fourteenth Amendment — Equal Protection (42 U.S.C. § 1983)

104. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 103, as if fully set forth herein.

105. Defendants, acting under color of state law, enforce and supervise enforcement of N.J.S.A. § 2C:58-4.4(b)(1), which creates a classification that turns solely on permit status. Licensed permit holders are subject to a criminally enforceable duty of immediate disclosure during a stop or detention, while other lawful firearm transporters whose firearms are equally unloaded, locked, and inaccessible are not. This Equal Protection claim targets the classification created by subsection (b)(1)’s disclosure requirement.

106. Permit holders and other lawful firearm transporters are similarly situated with respect to firearm accessibility and dangerousness, yet only permit holders face criminal liability for silence. The statute does not turn on carriage legality or risk. It turns on permit status alone.

108. Because the challenged classification burdens the exercise of fundamental constitutional rights—including the right to bear arms and the right to refrain from compelled speech—its differential treatment warrants careful judicial scrutiny. See *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000); *Hill v. Borough of Kutztown*, 455 F.3d 225, 239 (3d Cir. 2006).

109. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 108, as if fully set forth herein.

111. As applied to § 926A-qualifying travel, the Disclosure Mandate stands as an obstacle to Congress’s objectives by imposing a state-law criminal condition—immediate compelled disclosure during a stop or detention—at the precise moment Congress sought to shield travelers from discretionary arrest and prosecution. By attaching criminal liability to silence during federally protected transport, the statute recreates the risk of arrest and criminal exposure that § 926A was enacted to eliminate.

112. Under the Supremacy Clause, state laws that conflict with federal law or stand as an obstacle to the accomplishment and execution of Congress’s full purposes and objectives are preempted. Plaintiff seeks only prospective equitable relief against state officers to prevent ongoing enforcement of a state criminal condition that is preempted as applied. *Arizona v. United States*, 567 U.S. 387, 399 (2012); *Gade v. Nat’l Solid Wastes Mgmt. Ass’n*, 505 U.S. 88, 98 (1992); *Verizon Md. Inc. v. Pub. Serv. Comm’n of Md.*, 535 U.S. 635, 642 (2002); *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85, 96 n.14 (1983); *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 326–28 (2015); *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).

COUNT VI

Fourth Amendment (Unreasonable Seizure) (As Applied) (42 U.S.C. § 1983)

113. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 112, as if fully set forth herein.

1 114. Section 2C:58-4.4(c) authorizes and compels a physical seizure and
2 “inspection” of Plaintiff’s handgun upon an officer’s request whenever Plaintiff is
3 detained “as part of a criminal investigation.” As applied to Plaintiff’s intended
4 conduct—transporting a handgun in a motor vehicle unloaded, in a locked
5 container, vehicle safe, or trunk during routine stops—this compelled turnover is
6 an unreasonable seizure absent individualized suspicion that Plaintiff is armed and
7 dangerous. *Terry*, 392 U.S. at 30; *Johnson*, 555 U.S. at 332–33; *Long*, 463 U.S. at
8 1049–50.
9
10
11

12 115. A routine traffic stop may not be prolonged beyond its traffic mission
13 to pursue an unrelated criminal investigation absent independent reasonable
14 suspicion. *Rodriguez*, 575 U.S. 348, 354–57. Section 2C:58-4.4(c)’s “criminal
15 investigation” trigger and mandatory inspection mechanism invites mission creep
16 from traffic enforcement into an inspection/seizure regime without the
17 constitutionally required predicate.
18
19

20 116. The Third Circuit has rejected an “automatic firearm exception” to
21 *Terry*; the mere possibility that a person lawfully possesses a firearm does not itself
22 supply reasonable suspicion of criminal activity or dangerousness. *Ubiles*, 224
23 F.3d at 217–18.
24
25

26 117. As applied here, § 2C:58-4.4(c) compels a seizure and forced handling
27 of a secured firearm during a stop despite the absence of facts indicating that
28

1 Plaintiff is armed and dangerous, rendering the seizure unreasonable under the
2 Fourth Amendment.

3
4 **COUNT VII**
5 **Fourteenth Amendment Due Process (Passive Paperwork Criminalization)**
6 **(As Applied) (42 U.S.C. § 1983)**

7 118. Plaintiff repeats and realleges the allegations contained in paragraphs
8 1 through 117, as if fully set forth herein.

9 119. Section 2C:58-4.4(b)(2) criminalizes the failure to “display” a permit
10 during a stop, including where the individual is in fact validly licensed but cannot
11 produce the physical permit at the roadside. As applied to Plaintiff—who is validly
12 licensed—this imposes criminal liability for a passive paperwork omission without
13 a meaningful safe harbor, cure mechanism, or objective standard.
14

15
16 120. Due process prohibits imposing criminal punishment for passive
17 conduct in circumstances where the regulated person has no reason to know their
18 omission is criminal or where the statute imposes strict liability for inaction
19 without fair notice in a way that is fundamentally unfair. *Lambert*, 355 U.S. at
20 228–30.
21

22
23 121. New Jersey’s other licensing schemes commonly treat “failure to
24 exhibit” as presumptive evidence or fine-level conduct—not indictable criminal
25 liability—underscoring how § 2C:58-4.4(b)(2) is an outlier penalty for a
26 status/paperwork omission. See N.J.S.A. § 12:7-61; N.J.S.A. § 23:3-1(f)(1).
27
28

1 122. As applied, § 2C:58-4.4(b)(2) also operates as a self-triggering
2 enforcement mechanism. Inability to display a valid permit can convert a lawful
3 permit holder into a criminal suspect during a stop, increasing the risk of arrest and
4 triggering additional compelled steps, including firearm turnover demands under §
5 2C:58-4.4(c).
6

7
8 **PRELIMINARY INJUNCTION CONSIDERATIONS / IRREPARABLE**

9 **HARM**

10 123. Plaintiff repeats and realleges the allegations contained in paragraphs
11 1 through 122, as if fully set forth herein.
12

13 124. Plaintiff pleads the following allegations to demonstrate the
14 immediacy, continuing nature, and irreparability of the constitutional injuries
15 supporting prospective equitable relief.
16

17 125. The loss or burdening of constitutional rights constitutes irreparable
18 injury as a matter of law. *Elrod*, 427 U.S. at 373 (1976).
19

20 126. The loss of First Amendment freedoms, even for minimal periods of
21 time, unquestionably constitutes irreparable injury. *Roman Cath. Diocese*, 592 U.S.
22 at 19; *Elrod*, 427 U.S. at 373. The compelled choice between silence and criminal
23 liability inflicts immediate and ongoing First Amendment harm independent of any
24 completed prosecution.
25
26
27
28

1 127. The ongoing chilling of Plaintiff's Second Amendment right to
2 engage in lawful public carriage, including secured transport incidental thereto,
3 constitutes present constitutional injury not compensable by money damages. See
4 *Ezell*, 651 F.3d at 699; *Reilly*, 858 F.3d at 179.
5

6 128. The threat of arrest, prosecution, and criminal record exposure for a
7 fourth-degree offense imposes reputational, professional, and liberty harms that
8 cannot be undone by subsequent monetary relief.
9

10 129. Absent injunctive relief, Plaintiff must continuously forgo
11 constitutionally protected conduct to avoid criminal exposure, a coercive restraint
12 that itself constitutes irreparable harm.
13
14

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff Dwight D. Mitchell respectfully requests that this
17 Court:
18

19 130. Declare that N.J.S.A. § 2C:58-4.4(b)(1) is unconstitutional under the
20 Second Amendment as applied to Plaintiff Dwight D. Mitchell's lawful public
21 carriage of a handgun stored in a vehicle that is unloaded, locked, and not readily
22 accessible, as enforced by Jennifer Davenport and Col. Jeanne Hengemuhle.
23

24 131. Declare, in the alternative, that N.J.S.A. § 2C:58-4.4(b)(1) is
25 unconstitutional on its face, as enforced by Jennifer Davenport and Col. Jeanne
26 Hengemuhle.
27
28

1 132. Declare that N.J.S.A. § 2C:58-4.4(b)(1) violates the First Amendment
2 as applied to compelled disclosure of an unloaded, locked, inaccessible handgun
3 stored in a vehicle, as enforced by Jennifer Davenport and Col. Jeanne
4 Hengemuhle.
5

6 133. Declare that N.J.S.A. § 2C:58-4.4(b)(1) violates the Equal Protection
7 Clause as applied, as enforced by Jennifer Davenport and Col. Jeanne
8 Hengemuhle.
9

10 134. Declare that N.J.S.A. § 2C:58-4.4(b)(2) violates the Second and
11 Fourteenth Amendments as applied to Plaintiff where he holds a valid permit to
12 carry and, during a routine traffic stop, is unable to display the physical permit card
13 at the roadside notwithstanding his valid licensure.
14

15 135. Declare that N.J.S.A. § 2C:58-4.4(c) violates the Fourth and Second
16 Amendments as applied to Plaintiff by compelling firearm turnover and inspection
17 during routine stops and where there is no individualized, articulable basis to
18 suspect Plaintiff is armed and presently dangerous or otherwise subject to a lawful
19 seizure.
20

21 136. Declare and enjoin enforcement of N.J.S.A. § 2C:58-4.4(b)(1)–(2)
22 against Plaintiff only to the extent the State seeks to impose criminal liability
23 during 18 U.S.C. § 926A-qualifying interstate transportation (as specifically
24 pleaded) in a manner that creates a direct conflict with federal safe-passage
25
26
27
28

1 protection, consistent with 18 U.S.C. § 927’s “direct and positive conflict”
2 requirement, as enforced by Jennifer Davenport and Col. Jeanne Hengemuhle.
3

4 137. Temporarily, preliminarily, and permanently enjoin Defendants, their
5 officers, agents, employees, and all persons acting in concert with them from
6 enforcing N.J.S.A. § 2C:58-4.4(b)(1) against Plaintiff as applied to Plaintiff’s
7 lawful public carriage by motor vehicle where the handgun is unloaded, secured in
8 a locked container, vehicle safe, or trunk, and not readily accessible to any
9 occupant while driving, including during routine traffic stops absent an
10 independent lawful basis under the Fourth Amendment to prolong the stop beyond
11 its traffic mission.
12
13

14 138. Temporarily, preliminarily, and permanently enjoin Defendants, their
15 officers, agents, employees, and all persons acting in concert with them from
16 enforcing N.J.S.A. § 2C:58-4.4(b)(2) against Plaintiff as applied in the limited
17 circumstance where Plaintiff holds a valid permit to carry but, during a routine
18 traffic stop, is unable to immediately display the physical permit card
19 notwithstanding valid licensure, and from enforcing N.J.S.A. § 2C:58-4.4(c)
20 against Plaintiff as applied during routine traffic stops to compel firearm turnover
21 and “inspection” absent an independent lawful basis under the Fourth Amendment
22 to seize the firearm or to prolong the stop beyond its mission.
23
24
25
26
27
28

1 139. Plaintiff has filed this compliant pro se while he seeks to retain legal
2 counsel. Award Plaintiff allowable costs under Fed. R. Civ. P. 54(d) and such other
3 relief as the Court deems just and proper.
4

5
6 Respectfully submitted,
7

8 /s/ Dwight D. Mitchell
9 Dwight D. Mitchell
10 Plaintiff Pro Se
11 20 Summershade Circle
12 Piscataway, NJ 08854
13 ddm@maa-imcs.com

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Dated: March 8, 2026