

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:23-cv-02563-JLK

ROCKY MOUNTAIN GUN OWNERS, and
ALICIA GARCIA,

Plaintiff,

v.

JARED S. POLIS, in his official capacity as Governor of the State of Colorado,

Defendant.

NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs respectfully notify this Court that a preliminary injunction was issued on February 9, 2026, in *Ortega v. Grisham*, D.C. No. 1:24-CV-00471-JB-SCY, a case challenging the constitutionality of New Mexico's seven-day firearms waiting period law.¹ A copy of the preliminary injunction is attached to this filing as Exhibit 1.

The Plaintiffs in *Ortega* had originally filed a Motion for Preliminary Injunction at the commencement of their lawsuit in May of 2024. After a hearing on the matter, the District Court judge denied the motion holding that: “(i) the Second Amendment's plain text does not cover the conduct of purchasing a firearm, which the Waiting Period Act implicates; (ii) the Waiting Period Act is presumptively Constitutional, because it is a condition or qualification on the commercial sale of firearms; and (iii) the Waiting Period Act is consistent with the Nation's historical tradition of commercial firearms regulations.” 741 F.Supp.3d 1027, 1067 (D. NM. 2024).

¹ The Attorney General and Governor of New Mexico, who are the named Defendants in the *Ortega* case, stipulated to the preliminary injunction being entered with respect to the named Plaintiffs.

The Plaintiffs appealed this decision, and after briefing and oral arguments, the Tenth Circuit Court of Appeals found that cooling-off firearms waiting periods, like the one at issue in *Ortega*, infringe on the Second Amendment by preventing the lawful acquisition of firearms, and that there are no “historically grounded exceptions to the right to keep and bear arms” that these waiting periods fit into. 148 F.4th 1134, 1139 (10th Cir.2025). The Tenth Circuit also found that cooling-off waiting periods are not a presumptively lawful condition or qualification on the commercial sale of firearms because they “cannot be met by any action” and are simply “an artificial delay on possession.” *Id.* at 1147. The case was reversed and remanded to the District Court with instructions to enter injunctive relief.

While the waiting period at issue in the *Ortega* case is 7 days, as opposed to 3 days under Colo. Rev. Stat. § 18-12-115 (the “Waiting Period Law”), the Tenth Circuit’s decision in *Ortega* does not rely on the length of the waiting period for its analysis. And Defendant Governor Polis offered no principled legal basis for distinguishing *Ortega* from this case in his supplemental authority. ECF 79.

Plaintiffs therefore respectfully urge this Court to reach final judgment forthwith.

Respectfully submitted,

/s/ Michael McCoy

Michael McCoy

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SAMUEL ORTEGA and REBECCA SCOTT,

Plaintiffs,

v.

No. CIV 24-0471 JB/SCY

MICHELLE LUJAN GRISHAM, in her official capacity as Governor of the State of New Mexico, and RAÚL TORREZ, in his official capacity as Attorney General of the State of New Mexico,

Defendants.

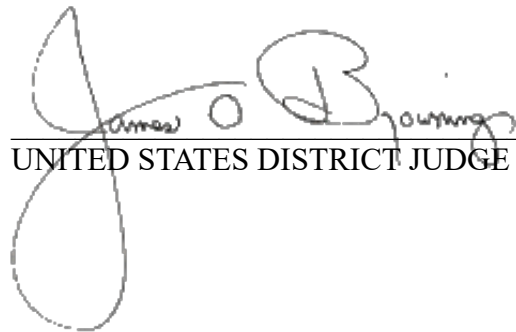
PRELIMINARY INJUNCTION ORDER

Having considered the Tenth Circuit’s opinion and judgment in the above-referenced appeal (Doc. Nos. 91-92), as well as the arguments of the parties, the Court ORDERS as follows:

1. The Defendants—the Governor of the State of New Mexico, and the Attorney General of the State of New Mexico—and each of their respective officers, agents, servants, and employees, and those persons in active concert or participation with them, as well as those duly sworn state law enforcement officers who gain knowledge of this injunction order—are hereby **ENJOINED** from implementing and/or enforcing against Plaintiff Samuel Ortega and Plaintiff Rebecca Scott the provisions of N.M. Stat. § 30-7-7.3 (The Waiting Period Act), which the United States Court of Appeals for the Tenth Circuit has determined to be unconstitutional as it pertains to individuals who have passed a background check.
2. This injunctive relief shall take effect immediately and remain in effect pending the conclusion and final disposition of all claims and causes of action before the Court in these proceedings.

3. The Court further ORDERS that on or before February 20, 2026, Defendants shall send Notice of this Preliminary Injunction Order to the New Mexico Department of Public Safety, which shall post the Notice on its website. The Notice must include a copy of this Preliminary Injunction Order. Defendants shall file with the Clerk of the Court a certification that the aforementioned Notice has been achieved on or before February 23, 2026.
4. No security bond is required under Federal Rule of Civil Procedure 65(c).

SO ORDERED this 9th day of February 2026.


UNITED STATES DISTRICT JUDGE