

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

Northern Division

DANA CRISWELL,

Plaintiff,

vs.

CHOKWE ANTAR LUMUMBA, in his
official capacity of Mayor of Jackson,
Mississippi, and CITY OF JACKSON,
MISSISSIPPI,

Defendants.

Civil Action No.: 3:20-cv-294-DPJ-FKB

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. This is a constitutional challenge to Mayor Chokwe Antar Lumumba’s and the City of Jackson’s overreaching attempts to “suspend” the constitutional right to carry a firearm openly in public for self-defense – a right that is protected by the Second Amendment to the United States Constitution, Article 3, Section 12 of the Mississippi Constitution, and Mississippi statutory law.

2. Defendants have exploited the present public health crisis caused by the exponential spread of COVID-19, the respiratory disease caused by the novel coronavirus SARS-CoV-2, as a pretext to target persons exercising their constitutional right to carry a firearm openly in public for self-defense.

PARTIES

3. Plaintiff Dana Criswell (“Rep. Criswell”) is an adult resident of Olive Branch, Mississippi.

4. Defendant Chokwe Antar Lumumba is and was at all times relevant hereto the duly-elected Mayor of Jackson, Mississippi, and as such was responsible for the promulgation and implementation of the policies, procedures, and practices of the City of Jackson, Mississippi. He is being sued in his official capacity only.

5. Defendant City of Jackson, Mississippi, (“Jackson” or “City”) is a municipal corporation and political subdivision organized under the laws of the State of Mississippi, and as such, was and is responsible for the policies, procedures, and practices implemented through its various agencies, agents, departments, and employees.

JURISDICTION AND VENUE

6. Plaintiff brings this civil rights lawsuit pursuant to the Second Amendment to the United States Constitution, the Civil Rights Act of 1871, 42 U.S.C. § 1983, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–02.

7. Plaintiff seeks declaratory and injunctive relief against the enforcement of a local order entitled “Mayoral Executive Order Suspending Open Carry of Firearms in the City of Jackson, Mississippi” (“Executive Order”).

8. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331 and 1343.

9. This Court has supplemental jurisdiction over claims arising under the Mississippi Constitution pursuant to 28 U.S.C. § 1367(a).

10. Venue lies in this Court pursuant to 28 U.S.C. § 1391(b).

FACTS

The Exercise of Plaintiff Dana Criswell’s Constitutional Rights

11. Plaintiff Dana Criswell is a gun owner, a Federal Firearms Licensed Dealer, and a duly elected state Representative to the Mississippi House of Representatives. For self-defense,

he carries a firearm with him every time he is in public, and sometimes carries his firearm openly in a holster.

12. As a member of the Legislature, Rep. Criswell travels to Jackson, Mississippi often.

13. In the past, Rep. Criswell has openly carried a firearm in a holster while in public in Jackson, Mississippi, for self-defense.

14. Rep. Criswell intends to continue openly carrying a firearm in a holster while in public in Jackson, Mississippi, for self-defense.

15. Rep. Criswell intends to be in Jackson, Mississippi, on or before April 30, 2020, and wishes to exercise his constitutional right to openly carry a firearm in public in Jackson, Mississippi, for self-defense.

16. On April 25, 2020, Rep. Criswell saw an online video in which Mayor Lumumba announced that he was “suspending” the right to openly carry a firearm in Jackson, Mississippi, at least until April 30, 2020

The Unconstitutional Executive Order

17. On April 25, 2020, an online video was posted to a YouTube.com channel belonging to the City of Jackson. The title of the video was “Mayor Lumumba’s Open Carry Order During the COVID-19 Pandemic.” In the video, Mayor Lumumba announced that he was issuing an executive order to “suspend” the right to openly carry a firearm in Jackson, Mississippi, due to the COVID-19 pandemic.

18. The video was later removed, seemingly because Mayor Lumumba incorrectly cited an irrelevant statute when claiming he had authority to issue the Executive Order. However, upon information and belief, the original video can be viewed online at: <https://youtu.be/O85UPFUgQNg> (last visited April 27, 2020).

19. Later on the same day, April 25, 2020, a revised online video was posted to a YouTube.com channel belonging to the City of Jackson. In the video, Mayor Lumumba again announced that he was issuing an executive order to “suspend” the right to openly carry a firearm in Jackson, Mississippi, due to the COVID-19 pandemic. That video is available at <https://youtu.be/GCALhM4bLkI> (last visited April 27, 2020).

20. On April 25, 2020, a petition was posted on the website www.change.org by an account named “Mayor Chokwe Antar Lumumba” which included the video of the Mayor’s announcement, the text of his announcement, and a request for members of the public to sign a petition in order to “Join Jackson Mayor Chokwe Antar Lumumba in the fight to repeal the Open Carry Law in Mississippi!” The petition is available at: https://www.change.org/p/mississippi-state-senate-repeal-open-carry-in-mississippi?utm_content=cl_sharecopy_21760251_en-US%3Av10&recruiter=1081096764&recruited_by_id=5862eff0-86ab-11ea-9e2d-61fb29499f0c&utm_source=share_petition&utm_medium=copylink&utm_campaign=psf_combo_share_initial&utm_term=psf_combo_share_initial (last visited April 27, 2020).

21. A copy of an unsigned, undated, executive order has also been circulated by state and local media outlets reporting it to be the Executive Order announced by Mayor Lumumba. A copy of the unsigned Executive Order is attached hereto as Exhibit “1”.

22. Upon information and belief, Mayor Lumumba has signed the Executive Order and it is now in effect.

23. The Executive Order states in part: “IT IS ORDERED that there shall be an immediate suspension of the following activity in the City of Jackson: the carrying of an unconcealed loaded or unloaded pistol or revolver or any other firearm, carried upon the person in a sheath, belt holster or shoulder holster or in a purse, handbag, satchel, other similar bag or

briefcase or fully enclosed case, with such pistol, revolver, or firearm being wholly or partially visible.” *Id.*

24. The Executive Order invades fundamental rights while having no real or substantial relationship to the COVID-19 pandemic.

25. The Executive Order does not claim that openly carrying firearms causes an increased risk of coronavirus infection, either to the firearm carrier or to anyone else.

26. Rather, the Executive Order claims that the novel coronavirus spreads “illness and fear,” which in turn makes citizens “prone to amassing guns and ammunition,” and that such acquisition of guns is “usually accompanied by increased likelihood of unintentional shootings, intimate partner violence, and gun suicide,” and that shootings have happened in Jackson during the coronavirus pandemic. *See* Exhibit 1.

27. The Executive Order states that there have been “nearly a dozen shootings” in the City of Jackson since the issuance of “Stay-at-Home” and “Shelter-in-Place” orders, but does not claim that any of those shootings have been committed by persons exercising their right to openly carry firearms in public places in Jackson, Mississippi, or that those shootings would not have occurred if there were no right to openly carry firearms in public places in Jackson, Mississippi. *Id.*

28. In the online videos announcing the Executive Order, Mayor Lumumba also discussed his views on the public policy rationales for eliminating the right to openly carry firearms, all of which bore no relationship to the ongoing COVID-19 pandemic.

29. In the online videos announcing the Executive Order, Mayor Lumumba also called on state leaders to permanently repeal Mississippi statutes which exempt the open carry of firearms from criminal offenses related to the concealment of deadly weapons.

30. April 26, 2020, Mississippi Attorney General Lynn Fitch sent a letter to Mayor Lumumba, advising him that the City of Jackson “lacks statutory authority to suspend a state statute or constitutional provision” and requested that Mayor Lumumba to rescind his Executive Order immediately. A copy of the letter is attached hereto as Exhibit “2”.

31. Upon information and belief, Mayor Lumumba has not rescinded the Executive Order.

32. On April 27, 2020, Mayor Lumumba held a press conference in which he spoke briefly about his decision to issue the Executive Order. An online video of the press conference can be viewed at: https://youtu.be/DX-Ux9pYg_k (last visited April 27, 2020).

33. During the press conference, Mayor Lumumba discussed his “motivations” for issuing the Executive Order.

34. None of the motivations discussed by Mayor Lumumba involved any public health risks related to the COVID-19 pandemic, or any past events occurring during the pandemic which could have been prevented by his Executive Order.

35. In fact, during the press conference, Mayor Lumumba seemingly acknowledged that his Executive Order was unconstitutional and unlawful, saying: “I’d rather be wrong for the right reasons, than be right for the wrong reasons.”

36. The Executive Order purports to be in effect through Thursday, April 30, 2020. *Id.*

37. However, the expiration of the Executive Order falls on the same day as the expiration of a civil emergency proclamation also issued by Mayor Lumumba.

38. At this time, it is unclear whether Mayor Lumumba will extend his civil emergency proclamation beyond April, 30, 2020, and if so, whether he will likewise extend the Executive Order “suspending” the right to openly carry firearms beyond April 30, 2020.

39. Mayor Lumumba's Executive Order is in contravention of the Federal Constitution, the Mississippi Constitution, and Mississippi law.

INJURY TO PLAINTIFF

40. Defendants, through the Executive Order, have implicitly ordered Rep. Criswell, and others similarly situated, to cease exercising their constitutional right to openly carry a firearm in Jackson, Mississippi, and have implicitly threatened criminal punishment if he and others continue to exercise that constitutional right.

41. Defendants issued this Executive Order and made this threat based solely on the fact that Plaintiff and others similarly situated openly carry firearms, and not based on any evidence that the open carrying of firearms increases any public health risks related to the COVID-19 pandemic.

42. Based on the threat of future criminal action against him by Defendants, Plaintiff has been forced to cease openly carrying a firearm in Jackson, Mississippi, until after April 30, 2020, and potentially longer.

43. But for the Executive Order, Rep. Criswell would exercise his constitutional right to openly carry a firearm in public in Jackson, Mississippi, for self-defense, on or before April 30, 2020.

CAUSES OF ACTION

Count 1: Right to Bear Arms

44. Plaintiff re-alleges and incorporates the allegations set forth in the preceding paragraphs.

45. The Second Amendment to the United States Constitution protects the right to carry a firearm openly in public for self-defense.

46. Article 3, Section 12 of the Mississippi Constitution likewise protects the right to carry a firearm openly in public for self-defense.

47. Laws which burden conduct protected by the Second Amendment to the United States Constitution and Article 3, Section 12 of the Mississippi Constitution are subject to heightened scrutiny.

48. Prohibiting the carrying of firearms openly in public imposes substantial burden on the very core of the right secured by the Second Amendment and Article 3, Section 12: the lawful purpose of self-defense.

49. The Executive Order amounts to a destruction of the core Second Amendment and Article 3, Section 12 right carry a firearm openly for self-defense, and is thus unconstitutional under any level of scrutiny.

50. The Executive Order is not appropriately tailored to serve a sufficiently important governmental interest, and burdens substantially more protected conduct than is necessary to further any such interest.

51. Individual rights secured by the U.S. Constitution and the Mississippi Constitution do not disappear during a public health crisis.

52. While the Executive Order purports to have been enacted in response to the COVID-19 pandemic, it has no real or substantial relation to the COVID-19 pandemic, and is beyond all question a plain, palpable invasion of rights secured by the fundamental law.

53. While Executive Order purports to exercise civil emergency powers, in reality, the Defendants have exploited the present crisis as a pretext to target persons exercising their constitutional right to carry a firearm openly in public for self-defense.

54. The Executive Order exercises purported statutory power in an arbitrary, unreasonable manner, and through arbitrary and oppressive prohibitions.

55. Plaintiff has no other remedy by which to prevent or minimize the continuing irreparable harm to his constitutional rights.

56. Unless the Executive Order is declared unconstitutional and permanently enjoined, Plaintiff will continue to suffer great and irreparable harm.

Count 2: Illegal Ultra Vires Action

57. Plaintiff re-alleges and incorporates the allegations set forth in the preceding paragraphs.

58. Under Mississippi law, the governing authorities of every municipality have the authority to promulgate and enforce orders, resolutions, and ordinances which are specifically authorized by provisions of general law, or which relate to municipal affairs, property, or finances, so long as such orders, resolutions, or ordinances are not inconsistent with the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi. Miss. Code. § 21-17-5.

59. The Executive Order cites Mississippi Code Section 45-17-7(e) as its purported authority to suspend the right to carry a firearm openly in public for self-defense.

60. Section 45-17-7(e) authorizes a mayor, who has proclaimed the existence of a “civil emergency” under the provisions of Section 45-17-3, to, “in the interest of public safety and welfare . . . [i]ssue such other orders as are necessary for the protection of life and property.” Miss. Code. § 45-17-7(e)

61. A separate paragraph of the same statute, Section 45-17-7(d) authorizes mayor, during a civil emergency, to “[O]rder the discontinuance of selling, distributing, dispensing or

giving away of any firearms or ammunition of any character whatsoever.” Miss. Code. § 45-17-7(d). This provision does not authorize a mayor to suspend the right to carry a firearm openly in public for self-defense.

62. Nothing in Section 45-17-7 authorizes a mayor to suspend any provision of statutory law or the constitutional right to carry a firearm openly in public for self-defense.

63. No other provision of general law authorizes a mayor to suspend any provision of statutory law or the constitutional right to carry a firearm openly in public for self-defense.

64. In fact, Section 45-9-51(1) expressly prohibits municipal governing authorities from suspending the constitutional right to carry a firearm openly in public for self-defense, providing that “no county or municipality may adopt any ordinance that restricts the possession, carrying, transportation, sale, transfer or ownership of firearms or ammunition or their components.” Miss. Code § 45-9-51(1).

65. Rather, in the event of a natural disaster, the Mississippi Legislature, under Mississippi Code Section 33-15-11(c)(1), has expressly delegated to the Governor the power to “[t]o suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with a disaster or emergency.” Miss. Code. § 33-15-11(c)(1).

66. In his March 14, 2020, state of emergency proclamation (“Proclamation”) (attached hereto as Exhibit “3”), Governor Reeves stated: “Pursuant to Miss. Code Ann. § 33-15-11(c)(1) the provisions of state statutes, rules, regulations or orders may be temporarily suspended or modified if compliance with such provisions would prevent, hinder, or delay action necessary to cope with this outbreak.” *See* Exhibit 3.

67. Nothing in the Governor’s Proclamation authorizes a mayor to suspend any provision of statutory law or the constitutional right to carry a firearm openly in public for self-defense.

68. Other state statutes likewise ensure that the constitutional right to carry a firearm openly in public for self-defense is protected. For example, Section 97-37-1, the statute criminalizing the concealment of a deadly weapon, clarifies that “[f]or the purposes of this section, ‘concealed’ means hidden or obscured from common observation and shall not include [various weapons], including, but not limited to, a loaded or unloaded pistol carried upon the person in a sheath, belt holster or shoulder holster that is wholly or partially visible, or carried upon the person in a scabbard or case for carrying the weapon that is wholly or partially visible.” Miss. Code. § 97-37-1(4).

69. Similarly, Section 45-9-101, the statute authorizing the issuance of licenses to carry concealed weapons clarifies that “[a] license under this section is not required for a loaded or unloaded pistol or revolver to be carried upon the person in a sheath, belt holster or shoulder holster or in a purse, handbag, satchel, other similar bag or briefcase or fully enclosed case if the person is not engaged in criminal activity other than a misdemeanor traffic offense, is not otherwise prohibited from possessing a pistol or revolver under state or federal law, and is not in a [various sensitive locations described in the statute].” Miss. Code. § 45-9-101(24).

70. Orders issued by a mayor that are inconsistent with the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi, are void. Miss. Code. § 21-17-5.

71. Defendants’ attempts to enforce the Executive Order exceed their authority under Miss. Code. § 21-17-5 and other provisions of general law and are therefore void.

72. Plaintiff has no other remedy by which to prevent or minimize the continuing irreparable harm to his constitutional rights.

73. Unless enjoined or otherwise prohibited by this Court, Plaintiff will continue to suffer great and irreparable harm by Defendants' enforcement of the Executive Order.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

A. An entry of judgment declaring that Defendants' enforcement of the Executive Order is unconstitutional both on its face and as applied.

B. An entry of judgement declaring that the Defendants' enforcement of the Executive Order is ultra vires, void, and of no effect because it exceeds the Defendants' statutory authority.

C. An *ex parte* temporary restraining order or preliminary injunction prohibiting Defendants and their agents from unconstitutionally enforcing the Executive Order against Plaintiff and others similarly situated for the duration of this litigation;

D. A permanent injunction prohibiting Defendants and their agents from unconstitutionally enforcing the Executive Order against Plaintiff and others similarly situated;

E. An award of attorneys' fees, costs, and expenses in this action pursuant to 42 U.S.C. § 1988; and

F. Any other relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED, this the 27th day of April, 2020.

/s/ Aaron R. Rice
Aaron R. Rice
MS Bar No. 103892
MISSISSIPPI JUSTICE INSTITUTE
520 George St.
Jackson, Mississippi 39202
Tel: (601) 969-1300
Email: aaron.rice@msjustice.org

D. Sterling Kidd
MS Bar No. 103670
BAKER, DONELSON, BEARMAN,
CALDWELL, & BERKOWITZ, PC
One Eastover Center
100 Vision Drive, Suite 400
Jackson, Mississippi 39211
Tel: (601) 351-8932
Fax: (601) 974-8932
Email: skidd@bakerdonelson.com

Attorneys for Plaintiffs

MAYORAL EXECUTIVE ORDER SUSPENDING OPEN CARRY OF FIREARMS IN THE CITY OF JACKSON, MISSISSIPPI

WHEREAS, on March 16, 2020, I, Chokwe Antar Lumumba, Mayor of the City of Jackson, Mississippi, pursuant to authority vested in me by Section 45-17-3 of the Mississippi Code of 1972, as amended, and in the public interest and for the general welfare of the City of Jackson, issued a civil emergency proclamation for the City of Jackson, with said civil emergency still in effect through April 30, 2020; and

WHEREAS, as recently as April 3, 2020, the American Medical Association stated that “[d]uring a crisis such as the COVID-19 pandemic, it is common for everyone to experience increased levels of distress and anxiety, particularly as a result of social isolation;”¹ and

WHEREAS, as recently as April 13, 2020, an article in the *New England Journal of Medicine* stated that “[u]ncertain prognoses, looming severe shortages of resources for testing and treatment and for protecting responders and health care providers from infection, imposition of unfamiliar public health measures that infringe on personal freedoms, large and growing financial losses, and conflicting messages from authorities are among the major stressors that undoubtedly will contribute to widespread emotional distress and increased risk for psychiatric illness associated with Covid-19;”² and

WHEREAS, as the novel coronavirus (SARS-CoV-2) spreads illness and fear, citizens are prone to amassing guns and ammunition; and

WHEREAS, such acquisition of guns is usually accompanied by increased likelihood of unintentional shootings, intimate partner violence, and gun suicide; and

WHEREAS, since the issuance of Stay-at-Home and Shelter-in-Place Orders by the Mayor of the City of Jackson and the Governor of the State of Mississippi, respectively, there have been nearly a dozen shootings in the City of Jackson – seven being fatal, including the death of two minor children.

NOW, THEREFORE, I, Chokwe Antar Lumumba, Mayor of the City of Jackson, Mississippi, in the public interest and for the general welfare of the City of Jackson, do hereby suspend the following activity in the City of Jackson: the carrying of an unconcealed loaded or unloaded pistol or revolver or any other firearm, carried upon the person in a sheath, belt holster or shoulder holster or in a purse, handbag, satchel, other similar bag or briefcase or fully enclosed case, with such pistol, revolver, or firearm being wholly or partially visible.

IT IS ORDERED that there shall be an immediate suspension of the following activity in the City of Jackson: the carrying of an unconcealed loaded or unloaded pistol or revolver or any

¹ (<https://www.ama-assn.org/delivering-care/public-health/managing-mental-health-during-covid-19>)

² Betty Pfefferbaum, M.D., J.D., and Carol S. North, M.D., M.P.E., “Mental Health and the Covid-19 Pandemic,” *The New England Journal of Medicine* (April 13, 2020) <https://www.nejm.org/doi/full/10.1056/NEJMp2008017>.

other firearm, carried upon the person in a sheath, belt holster or shoulder holster or in a purse, handbag, satchel, other similar bag or briefcase or fully enclosed case, with such pistol, revolver, or firearm being wholly or partially visible.

IT IS FURTHER ORDERED that this Order shall be effective immediately and remain in full force and effect through Thursday, April 30, 2020. A Proclamation of Executive Order rescinding the corresponding Civil Emergency will automatically rescind this Executive Order.

WITNESS MY HAND, on this the ____ day of _____, 2020 at _____ a.m./p.m.

**CHOKWE A. LUMUMBA, MAYOR
CITY OF JACKSON, MISSISSIPPI**

ATTEST:

CITY CLERK



April 26, 2020

The Honorable Chokwe Antar Lumumba
Jackson City Hall
219 South President Street
Jackson, Mississippi 39205

Re: City of Jackson's Executive Order Suspending Mississippi's Open-Carry Law

Dear Mayor Lumumba:

I have reviewed your recently issued "Mayoral Executive Order Suspending Open Carry of Firearms in the City of Jackson, Mississippi" ("Order"), wherein you ostensibly suspend the right to openly carry firearms within the City of Jackson ("City"), until April 30, 2020. I have serious concerns about the Order and the burden it imposes upon Mississippians' constitutional right to possess firearms.

In the Order, you cite Mississippi Code Annotated Section 45-17-7(e) as your purported authority to suspend the right. As you are aware, Section 45-17-7(e) authorizes a mayor, who has proclaimed the existence of a "civil emergency" under the provisions of Section 45-17-3, to, "in the interest of public safety and welfare . . . [i]ssue such other orders as are necessary for the protection of life and property."¹ Neither Section 45-17-7, nor any other provision of law governing municipal civil emergencies, authorizes a mayor to suspend any valid state statute or constitutional right.

Section 33-15-11(c)(1) authorizes *the Governor* to "suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, . . . if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with a disaster or emergency." In his March 14, 2020, state of emergency proclamation ("Proclamation"), Governor Reeves authorized the temporary suspension or modification of certain statutes "if compliance with such provisions would prevent, hinder, or delay action necessary to cope with [the COVID-19] outbreak," citing Section 33-15-11(c)(1).

¹ Notably, Section 45-17-7(d) authorizes "the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever" during the pendency of the civil emergency. Even this subsection does not authorize a local government to curtail the carrying or possession of firearms.

The Honorable Chokwe Antar Lumumba
April 26, 2020
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The Governor's Proclamation does not authorize you to suspend the right to open carry, or any other statute or constitutional provision governing firearm possession.

While the Order seeks to suspend the "open carry of firearms," it does not identify any specific statute or statutes that it seeks to suspend. The right to keep and bear arms is a natural right, enshrined in the Constitutions of the United States and the State of Mississippi. In an effort to provide safeguards to the diminution of this right, the Mississippi Legislature has imposed strict limitations on a municipality's authority to regulate "the possession, carrying, transportation, sale, transfer or ownership of firearms or ammunition or their components."²

Further, in addition to the Attorney General's broad authority to see that Mississippi's laws are properly enforced, the Legislature has charged my office with ensuring local governing authorities do not exceed their statutory power to restrict certain firearm possession.³

The Order cites recent homicides committed within the City – seven within recent weeks, including two young children. These heinous crimes are heartbreaking, especially because innocent children were victims. As Mississippi's Chief Legal Officer, I stand ready to assist the City in the prosecution of those who played a role in this violence, to the extent Mississippi law allows, and to provide victims advocacy services for the victims and their families. To the best of my knowledge, however, there is no evidence that the State's open carry law was implicated in these crimes or that your order would have changed the outcomes.

Mississippians enjoy the right to lawfully open carry in all of Mississippi's 82 counties and in every municipality within the State. The City of Jackson is no exception. The City lacks statutory authority to suspend a state statute or constitutional provision. Accordingly, I ask that you rescind the Order immediately.

I take seriously my obligation to protect Mississippians' constitutional rights, and I will take every action available to my office to ensure these rights are not infringed upon. If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Fitch". The signature is written in a cursive, flowing style with a large initial "L" and "F".

Lynn Fitch
Attorney General

² Miss. Code Ann. §§ 45-9-51 – 53.

³ See Miss. Code Ann. § 45-9-53.

STATE OF MISSISSIPPI

Office of the Governor



PROCLAMATION

WHEREAS, the State Health Officer has reported that there is a high risk for an outbreak of the novel coronavirus, identified as COVID-19, in the State of Mississippi; and

WHEREAS, on March 11, 2020, the Mississippi State Department of Health confirmed the first presumptive case of the novel coronavirus (COVID-19) in Mississippi and the Mississippi State Department of Health has since that time worked to identify, contact, and test others in Mississippi potentially exposed to COVID-19 in coordination with the United States Centers for Disease Control and Prevention (CDC); and

WHEREAS, COVID-19, a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that has not been previously identified in humans and can easily spread from person to person; and

WHEREAS, the CDC identifies the potential public health threat posed by COVID-19 both globally and in the United States as “very high”, and has advised that person-to-person spread of COVID-19 will continue to occur globally, including within the United States; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency for COVID-19 beginning on January 27, 2020, on March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic, and on March 13, 2020, the President of the United States declared a nationwide state of emergency due to the coronavirus COVID-19 pandemic; and

WHEREAS, the CDC currently indicates there are approximately 106,000 confirmed cases of COVID-19 worldwide with 1,323 of those cases in the United States, and the Mississippi State Department of Health has now confirmed localized person-to-person spread of COVID-19 in Mississippi, significantly increasing the risk of exposure and infection to Mississippi’s general public and creating an extreme public health risk that may spread quickly; and

WHEREAS, on March 4, 2020, I signed Executive Order No. 1457 to create the Mississippi Coronavirus (COVID-19) Preparedness and Response Planning Steering Committee chaired by the Mississippi State Health Officer in order to coordinate and assist with efforts related to implementation and review of Mississippi’s pandemic preparedness and response to hazards related to the outbreak of COVID-19; and

WHEREAS, the Mississippi State Department of Health has instituted a Public Health Incident Management Team to manage the public health aspects of this outbreak; and

WHEREAS, the Mississippi Emergency Management Agency, State Emergency Operations Center, is coordinating resources across state government to support the Mississippi State Department of Health and local officials in alleviating the impact to people, property, and infrastructure and is assessing the magnitude and long-term effects of the incident with the Mississippi State Department of Health; and

WHEREAS, the worldwide outbreak of COVID-19 and the effects of its extreme risk of person-to-person transmission throughout the United States and Mississippi significantly impact the life and health of our people, as well as the economy of Mississippi; and

WHEREAS, the risk of spread of COVID-19 within Mississippi constitutes a public emergency that may result in substantial injury or harm to life, health, and property within Mississippi.

NOW, THEREFORE, I, Tate Reeves, Governor of the State of Mississippi, pursuant to the Constitution of the State of Mississippi and Miss. Code Ann. § 33-15-11(b)(17), do hereby declare that a State of Emergency exists in the State of Mississippi, and direct that the

Mississippi Comprehensive Emergency Management Plan be implemented. Pursuant to Miss. Code Ann § 33-15-11(c), state agencies and departments are directed to utilize state resources and to do everything reasonably possible to assist communities and entities affected by the outbreak.

As a result of this event, I also hereby direct the Mississippi State Department of Health, the Mississippi Emergency Management Agency, and other agencies, boards, and commissions, to identify and provide appropriate personnel for conducting necessary and ongoing incident related assessments.

FURTHER, I direct the following:

Pursuant to Miss. Code Ann. § 33-15-11(c)(1) the provisions of state statutes, rules, regulations or orders may be temporarily suspended or modified if compliance with such provisions would prevent, hinder, or delay action necessary to cope with this outbreak.

Health care facilities that have invoked their emergency operation plans in response to this outbreak may implement the "alternative standards of care" plans provided therein, and such are declared to be the state approved standard of care in health care facilities to be executed by health care professionals and allied professions and occupations providing services in response to this outbreak.

All health care professionals and assisting personnel executing in good faith under the "alternative standards of care" are hereby declared to be "Emergency Management Workers" of the State of Mississippi for the purposes of Miss. Code Ann. Title 41.

The State Health Officer shall inform members of the public on how to protect themselves and actions being taken in response to this outbreak.

The Mississippi State Department of Health and Mississippi Emergency Management Agency seek federal assistance as may be available.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

DONE in the City of Jackson, on the 14TH day of March, in the year of our Lord, two thousand and twenty, and of the Independence of the United States of America, the two hundred and forty-fourth.


TATE REEVES
GOVERNOR

BY THE GOVERNOR


MICHAEL D. WATSON, JR.
SECRETARY OF STATE