SECOND AMENDMENT — CONCEALED CARRY — SUPREME COURT OF ILLINOIS HOLDS SHALL-ISSUE GUN CONTROL REGIME PER SE CONSTITUTIONAL. — *People v. Thompson*, 2025 IL 129965.

The Supreme Court has long declared itself "supreme in the exposition of the law of the Constitution."[1] But that does not leave the state courts with nothing to say. Recently, in *People v. Thompson*,[2] the Supreme Court of Illinois upheld the state's concealed-carriage licensing regime against a facial Second Amendment challenge.[3] *Thompson* flipped the U.S. Supreme Court's reasoning in *New York State Rifle & Pistol Ass'n v. Bruen*[4] on its head, conjuring from a footnote and a concurrence a categorical exception to the history-and-tradition test that appears to consume the test itself in the firearm-permitting context. While *Thompson* confuses dictum with settled law, it provides a framework for other jurisdictions to avoid applying history and tradition while remaining within the letter of *Bruen*.

In Illinois, two criminal statutes regulate firearm carriage. The unlawful use of a weapon (UUW) statute bans the open carriage of firearms,[5] and the aggravated unlawful use of a weapon (AUUW) statute limits concealed-carry rights to the licensed carriage of a "pistol, revolver, or handgun."[6] The Firearm Concealed Carry Act[7] places further restrictions on the issuance of concealed carry licenses (CCLs). To be approved for a CCL, applicants must be at least twenty-one at the time of application; have a valid Firearm Owner's Identification Card, which is required for the possession of firearms in Illinois;[8] pass criminal-background and substance-abuse checks; and complete a firearms training course.[9] Concealed carriage absent a CCL constitutes AUUW, a felony offense.[10]

On March 25, 2020, police pulled over Tyshon Thompson after his vehicle and another exchanged gunfire on a highway.[11] The police

---

1 Cooper v. Aaron, 358 U.S. 1, 18 (1958).

2 2025 IL 129965.

3 *Id.* ¶ 3.

4 142 S. Ct. 2111 (2022).

5 *See* 720 ILL. COMP. STAT. 5/24-1(a)(10) (2025).

6 *Id.* 5/24-1.6(a)(1), (3)(A-5) (2025). The AUUW statute also criminalizes open carriage in conjunction with one of a number of aggravating factors, but those provisions were not at issue in *Thompson*. *See id.* 24-1.6(a)(2), (a)(3); *Thompson*, 2025 IL 129965, ¶ 1.

7 430 ILL. COMP. STAT. 66/1 (2025). Illinois was the last state in the nation to legalize concealed carriage outside of the home or office following the decision in *Moore v. Madigan*, 702 F.3d 933 (7th Cir. 2012), which overturned a statewide ban on the practice. *Id.* at 942; Casey Williams, *Concealed Firearm Licensing and the Need for Expanded Discretion in the Use of Criminal Records*, 66 DEPAUL L. REV. 935, 936 & n.15 (2017).

8 430 ILL. COMP. STAT. 65/2(a)(1) (2025).

9 *Id.* 66/25 (2025).

10 720 ILL. COMP. STAT. 5/24-1.6(a)(1), (a)(3)(A-5), (d)(1) (2025).

11 *Thompson*, 2025 IL 129965, ¶¶ 1, 5.

arrested Thompson after finding "an uncased, loaded handgun inside [his] glove compartment."[12] A grand jury indicted him under the AUUW statute for carrying in his "vehicle . . . a handgun . . . [that] was uncased, loaded, and immediately accessible, and [for which] he had not been issued a currently valid" CCL.[13] He was convicted and sentenced to thirty months in prison.[14]

Thompson appealed his conviction to the intermediate state appeals court,[15] contending, inter alia, that the AUUW statute's open-carriage ban impermissibly abridged his Second Amendment rights.[16] Writing for the court, Justice McBride rejected this challenge.[17] In *Bruen*, she explained, the Supreme Court held that citizens cannot be required to show proper cause to receive a gun license.[18] This kind of "may-issue" regime, under which a state licensing authority maintains "discretion to deny a 'concealed-carry license' application," is inconsistent with the "Nation's historical tradition of firearm regulation" under *Bruen*.[19] Yet Justice McBride noted that *Bruen*'s history-and-tradition standard "does not grant an unrestricted right to carry firearms by all people and at all times."[20] Instead, referencing footnote nine of the *Bruen* majority opinion, she reasoned that "[t]he *Bruen* court explicitly held that open carry without a license was not mandated under the second amendment."[21] Footnote nine differentiated the "may-issue" regime at issue in *Bruen* from "shall-issue" regimes, which employ "narrow, objective, and definite standards" and "under which 'a general desire for self-defense is sufficient to obtain a [permit].'"[22] Because the Court had listed Illinois among shall-issue states,[23] Justice McBride concluded that "the *Bruen* court upheld Illinois's laws providing for a CCL application."[24] She also declined to consider Thompson's argument that Illinois's CCL regime was unconstitutionally discretionary, holding that, because he had

---

[12] *Id.* ¶ 5.

[13] *Id.* ¶ 6. Thompson was also charged with two counts of aggravated discharge of a firearm, but the Illinois Supreme Court did not consider those charges as part of his appeal. *Id.* ¶ 6 n.1.

[14] *Id.* ¶ 7.

[15] *See* People v. Thompson, 2023 IL App (1st) 220429-U.

[16] *Id.* ¶ 51. Thompson alleged further insufficiencies in the trial process in the appellate court, but he did not brief these issues before the Illinois Supreme Court. *See id.* ¶ 2; *Thompson*, 2025 IL 129965, ¶ 11, 13.

[17] *Thompson*, 2023 IL App (1st) 220429-U, ¶ 51.

[18] *Id.* ¶ 55.

[19] *Id.* ¶¶ 54, 55 (quoting and citing N.Y. State Rifle & Pistol Ass'n v. Bruen, 142 S. Ct. 2111, 2123–24, 2126 (2022)).

[20] *Id.* ¶ 56.

[21] *Id.* ¶ 58.

[22] *Id.* (alteration in original) (quoting *Bruen*, 142 S. Ct. at 2138 n.9).

[23] *Id.* ¶ 54 (quoting and citing *Bruen*, 142 S. Ct. at 2123 n.1).

[24] *Id.* ¶ 58.

never applied for a license, Thompson lacked standing to challenge the Firearm Concealed Carry Act.[25] Thompson appealed.[26]

The Supreme Court of Illinois affirmed.[27] Writing for the majority, Justice Rochford rejected Thompson's contention that his conviction "implicate[d]" the open-carriage ban.[28] Because Thompson was charged under the AUUW statute's restriction on unlicensed *concealed* carriage, Justice Rochford reasoned that the state's open-carriage law was not "at issue."[29] Thus, the court instead considered whether Illinois's restrictions on concealed carriage were facially unconstitutional[30] — that is, whether "no set of circumstances exists under which [the law] would be valid."[31] Thompson argued that, in failing to conduct a history-and-tradition analysis, the appellate court had committed reversible error.[32] Justice Rochford disagreed. While she acknowledged that "the *Bruen* Court undertook extensive analysis of the cited historical precursors," she reasoned that replicating this approach would be unnecessary as *Bruen* had already "address[ed] the precise issue presented in this appeal: whether shall-issue firearm licensing regimes, like those set forth in Illinois's Concealed Carry Act and [Firearm Owner's Identification] Card Act, comport with the second amendment."[33] Justice Rochford explained that "[t]he foundation of *Bruen*'s holding is the difference between the proper-cause requirements in may-issue licensing regimes and the objective requirements in shall-issue licensing regimes."[34] Quoting footnote nine in full,[35] she ruled that *Bruen* "expressly declared shall-issue licensing regimes facially constitutional."[36] She also quoted from Justice Kavanaugh's concurrence, which asserted that "shall-issue licensing regimes are constitutionally permissible" and subject only to as-applied challenges.[37] Justice Rochford reasoned that these elements amounted to an "express endorsement of shall-issue licensure[,] obviat[ing] the need for this court to apply the historical-tradition component of the *Bruen* analysis."[38]

The court went on to address Thompson's alternative arguments. First, Thompson insisted that the Firearm Concealed Carry Act gives

---

[25] *Id.* ¶ 59.
[26] *Thompson*, 2025 IL 129965, ¶ 11.
[27] *Id.* ¶ 54.
[28] *Id.* ¶ 15. Justice Rochford's opinion was joined by Chief Justice Theis and Justices Neville, Holder White, and Cunningham.
[29] *Id.*
[30] *See id.* ¶ 24.
[31] *Id.* ¶ 14.
[32] *See id.* ¶ 2.
[33] *Id.* ¶ 38.
[34] *Id.* ¶ 39.
[35] *Id.* (quoting N.Y. State Rifle & Pistol Ass'n v. Bruen, 142 S. Ct. 2111, 2138 n.9 (2022)).
[36] *Id.*
[37] *Id.* ¶ 41 (quoting *Bruen*, 142 S. Ct. at 2162 (Kavanaugh, J., concurring)).
[38] *Id.* ¶ 44.

officials too much discretion to deny certification in the firearm training course.[39] But Justice Rochford held that Thompson had conceded this point when he acknowledged in briefing that the Act "provides an 'objective description of the required training'" and requires the issuance of a certificate upon completion.[40] Second, Thompson argued that allowing law enforcement to "object to . . . CCL application[s]" from people they reasonably suspect pose "a danger to [themselves] or others" made the regime "impermissibly discretionary."[41] In response, Justice Rochford again cited footnote nine, reasoning that *Bruen* countenanced mental health checks for this purpose.[42] Third, Thompson argued that because Illinois law requires citizens seeking concealed-carry permits to obtain two levels of licensure — first, the Firearm Owner's Identification Card required of all gun owners, then the additional CCL license — it was unlike the shall-issue regimes described in *Bruen*.[43] He contended that the Illinois law turns "ordinary law-abiding citizens . . . into criminals when they fail to undergo two separate licensing processes."[44] Again Justice Rochford ruled that the dual-licensing scheme is still a shall-issue regime because it "do[es] not require applicants to show an atypical need" and aims to limit carriage to "law-abiding, responsible citizens."[45]

Justice Overstreet dissented. Writing only for himself, he argued that *Bruen* "emphasized, expressly and in no uncertain terms, that when courts are faced with" Second Amendment challenges, they "*must*" engage in historical analysis.[46] He began by appealing to "the elementary principle that, when our country's highest court issues crucial, landmark rulings that define the basic meaning of our Bill of Rights," it employs "clear, direct, and express language, not . . . hints or indirect suggestions hidden in a vague footnote in a case where the issue was not raised."[47] Underscoring the centrality of history-and-tradition analyses to landmark Second Amendment cases,[48] Justice Overstreet argued that *United States v. Rahimi*[49] "did not short-circuit the text-and-history analysis merely because the end result . . . was consistent with 'what common sense suggests'";[50] rather, a court "'must' conduct" the text-and-history

---

39 *Id.* ¶ 48.

40 *Id.* (quoting Brief and Argument for Defendant-Appellant at 30, *Thompson*, 2025 IL 129965).

41 *Id.* ¶ 49 (citing 430 ILL. COMP. STAT. 66/15(a) (2025)).

42 *Id.* (citing *Bruen*, 142 S. Ct. at 2138 n.9).

43 Reply Brief for Petitioner-Appellant at 21, *Thompson*, 2025 IL 129965.

44 *Id.*

45 *Thompson*, 2025 IL 129965, ¶ 50.

46 *Id.* ¶ 68 (Overstreet, J., dissenting).

47 *Id.* ¶ 58.

48 *See id.* ¶ 63 (reviewing District of Columbia v. Heller, 554 U.S. 570 (2008)); *id.* ¶¶ 69–72 (reviewing N.Y. State Rifle & Pistol Ass'n v. Bruen, 142 S. Ct. 2111 (2022)); *id.* ¶¶ 74–75 (reviewing United States v. Rahimi, 144 S. Ct. 1889 (2024)).

49 144 S. Ct. 1889 (2024).

50 *Thompson*, 2025 IL 129965, ¶ 76 (quoting *Rahimi*, 144 S. Ct. at 1901).

analysis.[51] Justice Overstreet went on to criticize the majority's conclusion that *Bruen* had resolved the constitutionality of shall-issue regimes.[52] He noted that, to remain true to its own decree that history and tradition must lead any Second Amendment analysis, the Court must have "*sua sponte* . . . conducted a nonpublic text-and-history analysis of shall-issue licensing, . . . seek[ing] out the relevant historical precursors from some undefined historical record, without the" benefit of adverse party presentation.[53] But because such conjecture would be "absurd,"[54] Justice Overstreet argued that footnote nine suggests only "that the text-and-history analysis of 'shall issue' licensing statutes will be different than the analysis set out in *Bruen*."[55]

Justice Overstreet also dismissed the significance of the concurrence by Justice Kavanaugh, whose embrace of shall-issue licensing did not command a majority of the Court.[56] Concluding that the lower court committed reversible error, Justice Overstreet would have vacated the decision and remanded the case.[57]

The *Thompson* majority's reasoning rests on what is likely dictum. Nevertheless, it provides a blueprint for other jurisdictions to preserve their shall-issue regimes against facial challenges — and to avoid applying *Bruen*'s history-and-tradition test in the process. The majority's avoidance of history is unsurprising given the structural barriers for courts — especially state courts — to engage in searching historical analyses. While its treatment of precedent is shaky, *Thompson* advances two policy goals that may well influence other courts: first, limiting when state courts must conduct burdensome, bespoke historical inquiries in Second Amendment cases, and second, preserving the state's firearms licensing regime.

Thompson's reading of *Bruen* is at turns strained and suspect. *Bruen* held that "when the Second Amendment's plain text covers an individual's conduct," the government must overcome the presumption that such conduct is constitutionally protected by showing its regulation to be "consistent with this Nation's historical tradition of firearm regulation."[58] Yet the Supreme Court of Illinois treated footnote nine as an explicit carveout from that holding, citing Ninth Circuit precedent that reasoned that "the location" of a statement, "whether in the text or in a footnote," was "a matter of style" rather than substance.[59] Yet, stylish

---

[51] *Id.* ¶ 77 (quoting *Bruen*, 142 S. Ct. at 2126).

[52] *Id.* ¶ 79.

[53] *Id.*

[54] *Id.* ¶ 80.

[55] *Id.* ¶ 81.

[56] *Id.* ¶ 85. Only Chief Justice Roberts joined Justice Kavanaugh's concurrence. *Id.* (citing *Bruen*, 142 S. Ct. at 2162–63 (Kavanaugh, J., concurring)).

[57] *Id.* ¶ 87.

[58] *Bruen*, 142 S. Ct. at 2126.

[59] *Thompson*, 2025 IL 129965, ¶¶ 39–40 (quoting Phillips v. Osborne, 444 F.2d 778, 782 (9th Cir. 1971)).

or not, footnote nine is very likely dictum.[60] Shall-issue regimes were not at issue in *Bruen*, and the question of their constitutionality was not properly before the Court.[61] While the majority in *Thompson* contended that "the *Bruen* Court went out of its way to address [this] issue,"[62] such proactivity does not render footnote nine binding law. And Justice Kavanaugh's concurrence, on which *Thompson* also relied,[63] is equally nonbinding. At bottom, history and tradition is apposite for facial challenges to shall-issue regimes.

But there are good reasons why state courts could find *Thompson*'s reasoning appealing. By cobbling together a "holding" from footnote nine and Justice Kavanaugh's concurrence, the *Thompson* majority sidestepped entirely the need for deep historical analysis — a line of inquiry the court appeared determined to avoid.[64] It is not difficult to imagine why. While *Bruen* allows courts to rely on "the historical record compiled by the parties" (in lieu of assembling one themselves),[65] it nonetheless requires courts to search diligently for the appropriate "historical analogies."[66] This process can prove a headache for judges. As Justice Barrett acknowledged in her concurrence in *Rahimi*, the history-and-tradition standard does not identify the level of generality at which the search for a historical analogue must be conducted,[67] and lower courts have struggled to apply it consistently.[68] Moreover, many — including the Justices themselves — have raised serious doubts about the

---

60 *See Dictum*, BLACK'S LAW DICTIONARY (12th ed. 2024) (defining obiter dictum as "[a] judicial comment made while delivering a judicial opinion, but one that is unnecessary to the decision in the case and therefore not precedential (although it may be considered persuasive)").

61 *See Thompson*, 2025 IL 129965, ¶ 86 (Overstreet, J., dissenting); *see also Bruen*, 142 S. Ct. at 2138 n.9 (explaining that "nothing in [the Court's] analysis" bears on the "[]constitutionality of the 43 States' 'shall-issue' licensing regimes").

62 *Thompson*, 2025 IL 129965, ¶ 38.

63 *See id.* ¶ 41.

64 Instead, the court turned to traditional tools of legal analysis: closely reading the text of *Bruen* and distinguishing on the facts. *See id.* ¶¶ 35–39.

65 *Bruen*, 142 S. Ct. at 2131 n.6.

66 *Id.* at 2132.

67 *See* United States v. Rahimi, 144 S. Ct. 1889, 1925–26 (2024) (Barrett, J., concurring) (noting the "level of generality problem," *id.* at 1925, and emphasizing that "a court must be careful not to read a principle at such a high level of generality that it waters down the right" to bear arms, *id.* at 1926).

68 *See* Jacob D. Charles, *The Dead Hand of a Silent Past:* Bruen*, Gun Rights, and the Shackles of History*, 73 DUKE L.J. 67, 139–40 (2023). Some judges have found the task of analogizing so unworkable as to criticize the *Bruen* decision in their writings. *See, e.g.*, United States v. Bartucci, 658 F. Supp. 3d 794, 800 (E.D. Cal. 2023) ("[T]he unique test the Supreme Court announced in *Bruen* does not provide lower courts with clear guidance as to how analogous modern laws must be to founding-era gun laws. In the short time post-*Bruen*, this has caused disarray among the lower courts when applying the new framework.").

institutional competence of the judiciary to engage in historical factfinding at all.[69]

These difficulties are redoubled in the state courts, which have increasingly been asked to weigh in on issues of Second Amendment interpretation.[70] Because state courts oversee "the vast majority of firearms-related" prosecutions,[71] they are frequently the loci of enforcement-based challenges to firearms regimes.[72] Yet state courts are a poor venue for the kind of intense historical exegesis required under *Bruen*. For one, the cost and capacity limitations of the forums pose logistical challenges. State courts routinely suffer from congested dockets and threadbare budgets.[73] It is difficult to imagine state court judges, say, appointing (and paying) historian-consultants to help them parse the provenance of a particular regulation, as has been considered in federal court.[74] Removing the need for historical analysis over a subset of challenges to firearms regulations alleviates a logistical nightmare for overburdened state judges.

---

[69] *See, e.g.*, Joseph Blocher & Eric Ruben, *Originalism-by-Analogy and Second Amendment Adjudication*, 133 YALE L.J. 99, 168–73 (2023) (arguing that courts lack the resources and empirical knowledge base to draw effectively from history); *Rahimi*, 144 S. Ct. at 1925 (Barrett, J., concurring) ("Courts have struggled with this use of history in the wake of *Bruen*."); *id.* at 1926 (Jackson, J., concurring) ("[T]he experiences of courts applying [*Bruen*'s] history-and-tradition test should bear on our assessment of [its] workability . . . . This case highlights the apparent difficulty faced by judges on the ground.").

[70] Only thirty-five published state court opinions in 2021 mentioned *District of Columbia v. Heller*, 554 U.S. 570 (2008). As of December 23, 2025, 344 state court opinions have already cited *Bruen*, and nine state supreme courts have looked to *Bruen* on Second Amendment issues: Delaware (Johns v. State, No. 441, 2025 WL 3637521, at *17–19 (Del. Dec. 16, 2025)), Illinois (*Thompson*, 2025 IL 129965, ¶¶ 31–43), Iowa (State v. Woods, 23 N.W.3d 258, 264 (Iowa 2025)), Kansas (State v. McCray, 579 P.3d 126, 132–38 (Kan. 2025)), Maryland (Fooks v. State, 337 A.3d 83, 85–86 (Md. 2025)), Massachusetts (Commonwealth v. Marquis, 252 N.E.3d 991, 1007–14 (Mass. 2025); Commonwealth v. Donnell, 252 N.E.3d 475, 482–84 (Mass. 2025); Commonwealth v. Ferrara, 264 N.E.3d 1247, 1252 (Mass. 2025); Commonwealth v. Rios, 258 N.E.3d 303, 328 (Mass. 2025); Commonwealth v. Rodriguez, 267 N.E.3d 77, 90–92 (Mass. 2025)), Nevada (Cocking v. State, 567 P.3d 348, 351–55 (Nev. 2025)), New York (People v. Johnson, No. 86, 2025 WL 3259873, at *6–8 (N.Y. Nov. 24, 2025)), and Washington (State v. Gator's Custom Guns, Inc., 568 P.3d 278, 282 (Wash. 2025)). WESTLAW, STATE L. DATABASE, "second amendment" & bruen, 344 results (Dec. 24, 2025) (on file with the Harvard Law School Library).

[71] Jonathan Abel, *Going Federal, Staying Stateside: Felons, Firearms, and the "Federalization" of Crime*, 73 AM. U. L. REV. 585, 648 (2024) (quoting David E. Patton, *Guns, Crime Control, and a Systemic Approach to Federal Sentencing*, 32 CARDOZO L. REV. 1427, 1464 (2011)).

[72] *See, e.g.*, cases cited *supra* note 70. Of the thirteen state supreme court cases listed, only *State v. Gator's Custom Guns*, 568 P.3d 278 (Wash. 2025), was initially filed as a civil case. *See id.* at 281. The rest involved Second Amendment claims arising out of criminal law. *See* cases cited *supra* note 70.

[73] *See* Diego A. Zambrano, *Federal Expansion and the Decay of State Courts*, 86 U. CHI. L. REV. 2101, 2103 (2019). As of 2019, state courts were host to nearly seventeen million civil cases a year, while federal courts heard fewer than 300,000. *Id.*

[74] *See* Charles, *supra* note 68, at 146–47 (quoting United States v. Bullock, No. 18-CR-165, 2022 WL 16649175, at *3 (S.D. Miss. Oct. 27, 2022); FED. R. EVID. 706(a)).

Circumventing the *Bruen* two-step may also serve a deeper policy purpose. Despite the assurances of Justices Thomas and Kavanaugh,[75] there is reason to believe that shall-issue firearm regimes may fail under rigorous historical scrutiny. Indeed, the distinction between may-issue and shall-issue schemes is hardly an originalist one[76]: May-issue regimes first appeared in the late nineteenth century, while shall-issue regimes did not arrive until the 1960s.[77] Given the late entry of shall-issue licensure, there is no guarantee that a sufficiently close historical analogue exists that could justify the policy. As Justice Overstreet noted, there is no evidence that the *Bruen* Court conducted any sub silentio historical analysis of shall-issue policies,[78] and the court in *Thompson* may have been wary of what the history could turn up. Setting aside history entirely ensured that the court could uphold the Illinois law while avoiding injecting the strictures of history and tradition into state precedents.

Whatever the rationale, contriving a holding from *Bruen*'s dicta allowed the *Thompson* court to substantially narrow the scope of historical analysis necessary in Second Amendment cases. Since *District of Columbia v. Heller*,[79] the Supreme Court has underscored the centrality of history in assessing the constitutionality of firearm-control schemes.[80] Yet *Thompson* opens up a massive exception: So long as a state operates a shall-issue permitting scheme, that policy *necessarily* survives a facial Second Amendment challenge.[81] And because shall-issue regulations are the only schemes left standing after *Bruen*,[82] the decision takes facial challenges to firearm permitting schemes off the table entirely. In this context, the *Thompson* exception swallows *Bruen* whole.

If this approach is proper — if *Bruen* did in fact immunize all shall-issue regulations from facial challenges — it limits history as a tool of Second Amendment jurisprudence. Indeed, a wider embrace of *Thompson*'s logic would herald the end of facial challenges to concealed-carriage regulations entirely. Litigants would be limited to challenging

---

[75] *See* N.Y. State Rifle & Pistol Ass'n v. Bruen, 142 S. Ct. 2111, 2138 n.9 (2022); *id.* at 2161 (Kavanaugh, J., concurring).

[76] *See* Adam M. Samaha, *Is* Bruen *Constitutional? On the Methodology that Saved Most Gun Licensing*, 98 N.Y.U. L. REV. 1928, 1933 (2023); *see also* H. RICHARD UVILLER & WILLIAM G. MERKEL, THE MILITIA AND THE RIGHT TO ARMS, OR, HOW THE SECOND AMENDMENT FELL SILENT 167 (2002) ("[T]he Framers perceived no threat of abuse of liberties in the restriction of weapons owned for purely private ends."); ADAM WINKLER, GUNFIGHT 115–17 (2011) (canvassing gun-control regulation at the Founding).

[77] Samaha, *supra* note 76, at 1933. Professor Adam Samaha notes the irony that "if older really were better in constitutional debate, shall-issue regimes would look worse than may-issue regimes." *Id.*

[78] *Thompson*, 2025 IL 129965, ¶ 79 (Overstreet, J., dissenting).

[79] 554 U.S. 570 (2008).

[80] *See Thompson*, 2025 IL 129965, ¶ 68 (Overstreet, J., dissenting).

[81] *See id.* ¶ 39 (majority opinion) ("The *Bruen* Court expressly declared shall-issue licensing regimes facially constitutional under the second amendment . . . .").

[82] *See* N.Y. State Rifle & Pistol Ass'n v. Bruen, 142 S. Ct. 2111, 2138 & n.9 (2022).

regimes only as applied to specific facts — for instance, if "lengthy wait times in processing license applications or exorbitant fees" infringe upon their right to carry.[83] As other state courts grapple with facial challenges to their shall-issue permitting schemes, *Thompson* provides a template by which they may affirm their shall-issue regimes, and, in that context, set aside history and tradition altogether.

[83] *Id.* at 2138 n.9; *see also id.* at 2162 (Kavanaugh, J., concurring) (explaining that "shall-issue licensing regimes are constitutionally permissible, subject of course to an as-applied challenge if a shall-issue licensing regime does not operate in that manner in practice").