

EXHIBIT 3

1 contend that if a violation of the Second Amendment is found, then the appropriate injunctive
2 relief would essentially create additional exceptions to the waiting period and the Fourteenth
3 Amendment issues would not need to be addressed. Because the Court has found violations of the
4 Second Amendment as discussed above, the Court will follow Plaintiffs' recommendation and
5 decline to reach the Fourteenth Amendment issues.

6
7 **V. ORDER**

8 The Court has found that the 10-day waiting periods of Penal Code § 26815(a) and §
9 27540(a) violate the Second Amendment as applied to certain groups. Plaintiffs urge the Court to
10 follow the approach of *Moore v. Madigan*, 702 F.3d 933, 942 (7th Cir. 2012), in which the
11 Seventh Circuit stayed its ruling for 180-days in order to give the Illinois legislature the
12 opportunity to craft new laws in light the unconstitutionality of various Illinois firearms laws. The
13 Court finds *Moore's* approach to be appropriate.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The 10-day waiting periods of California Penal Code § 26815(a) and § 27540(a) violate
16 the Second Amendment as applied to those individuals who successfully pass the
17 BFEC/standard background check prior to 10 days and who are in lawful possession of an
18 additional firearm as confirmed by the AFS system;
- 19 a. If the BFEC/standard background check for such an individual is completed and
20 approved before 10-days, Defendant shall immediately release the firearm for
21 delivery to such individual and shall not wait the full 10-days;
- 22 2. The 10-day waiting periods of California Penal Code § 26815(a) and § 27540(a) violate
23 the Second Amendment as applied to those individuals who successfully pass the
24 BFEC/standard background check prior to 10 days and who possess a valid CCW license
25 issued pursuant to California Penal Code § 26150 or § 26155;
- 26 a. If the BFEC/standard background check for such an individual is completed and
27 approved before 10-days, Defendant shall immediately release the firearm for
28 delivery to such individual and shall not wait the full 10-days;

1 3. The 10-day waiting periods of California Penal Code § 26815(a) and § 27540(a) violate
2 the Second Amendment as applied to those individuals who successfully pass the
3 BFEC/standard background check prior to 10 days and who possess both a valid COE
4 issued pursuant to California Penal Code § 26710 and a firearm as confirmed by the AFS
5 system.

6 a. If the BFEC/standard background check for such an individual is completed and
7 approved before 10-days, Defendant shall immediately release the firearm for
8 delivery to such individual and shall not wait the full 10-days;

9 4. Defendant shall modify their BFEC procedures as they deem necessary so as to be able to
10 comply fully and in good faith with this order;⁴³

11 5. Nothing in this order is to be construed as interfering with Defendant's authority to deny a
12 transfer or sale of a firearm to those who are prohibited by state or federal law from
13 possessing a firearm;

14 6. Nothing in this order is to be construed as interfering with the Defendant's ability to delay
15 a transfer or sale of a firearm when further investigation is required to confirm that a buyer
16 or transferee is not prohibited by state or federal law from possessing a firearm;

17 7. Paragraphs 1 through 6 of this order are stayed for a period of 180 days from entry of this
18 order;

19 8. The parties shall appear for a status conference on December 8, 2014 in Courtroom No. 2
20 at 1:30 p.m.;⁴⁴ and

21 9. The Clerk shall enter judgment in favor of Plaintiffs and against Defendant.

22 IT IS SO ORDERED.

23 Dated: August 22, 2014

24 
25 SENIOR DISTRICT JUDGE

26 ⁴³ The Court particularly directs Defendant's attention to the testimony Assistant Bureau Chief Buford and the
27 "simple" checks within AFS to determine if an individual has a firearm, has a valid CCW license, or has a valid COE.

28 ⁴⁴ The parties shall file a joint status conference report on December 1, 2014. If the parties agree upon a different date
for a status conference, they may file a stipulation with the Court to move the status conference.