

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD DIVISION**

ELLEN MISHAGA,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	No. 10-3187
	)	
JONATHON MONKEN,	)	
	)	
Defendant.	)	

**MOTION TO DISMISS**

NOW COMES the Defendant, Jonathon Monken, by and through his counsel, LISA MADIGAN, Attorney General for the State of Illinois, and for his Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) states as follows:

1. Plaintiff alleges in her complaint that her constitutional rights are being violated because the Illinois State Police will not issue an Illinois Firearm Owners Identification (“FOID”) Card to Plaintiff due to her Ohio residency.
2. Plaintiff alleges that as a result of not having an Illinois FOID Card, she cannot in Illinois possess firearms which she is lawfully able to possess in Ohio.
3. A plain reading of the Illinois FOID Card Act reveals that, as a nonresident who is lawfully able to possess firearms in her home state, Plaintiff is not required to have an Illinois FOID Card in order to firearms in Illinois. *See* 430 ILCS 65/2(b).
4. As such, Plaintiff has failed to state a claim for violation of her constitutional right to bear arms and right to travel, and Plaintiff’s complaint should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6).
5. Attached hereto and incorporated herein is a memorandum of law in support of this motion.

WHEREFORE, Defendant respectfully requests that this honorable Court grant his Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6).

Respectfully Submitted,

JONATHON MONKEN,

Defendant,

LISA MADIGAN, Attorney General,  
State of Illinois

Attorney for Defendant,

Joanna Belle Gunderson  
Illinois Bar # 6286292  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-1841

By: /s/ Joanna Belle Gunderson  
JOANNA BELLE GUNDERSON  
Assistant Attorney General

Of Counsel.

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**CERTIFICATE OF SERVICE**

I, Joanna Belle Gunderson, Assistant Attorney General, hereby certify that on October 15, 2010, I electronically filed the foregoing Motion to Dismiss with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following counsel of record for Plaintiff:

James M. Manley  
[jmanley@mountainstateslegal.com](mailto:jmanley@mountainstateslegal.com)

and I hereby certify that on October 15, 2010, I mailed by United States Postal Service, the document to the following non-registered participant:

NONE

Respectfully submitted,

/s/Joanna Belle Gunderson  
 Joanna Belle Gunderson  
 Illinois Bar # 6286292  
 Assistant Attorney General  
 Attorney for Defendant  
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