

Docket Nos. 93678, 93685, 93728 cons.-Agenda 11-September 2003.

STEPHEN YOUNG *et al.*, Appellees, v. BRYCO ARMS *et al.*, Appellants.

Opinion filed November 18, 2004.

JUSTICE GARMAN delivered the opinion of the court:

The five plaintiffs in these three consolidated actions are the special administrators, as well as surviving family members, of individuals who were killed in the City of Chicago in crimes involving illegal firearms. In each case, the killer was either a minor or a young adult who had obtained the weapon from a minor. In three instances (plaintiffs Young, Smith, and Ceriale), the illegal weapons were recovered and traced to specific defendants. In the two remaining instances (plaintiffs Macias and Bowman), the guns used in the fatal shootings were never recovered. Plaintiffs' theories of liability included negligence and public nuisance.

Each plaintiff named 21 manufacturers and distributors of firearms as defendants. This group of 21 defendants included the manufacturers of the three recovered weapons and two distributors who handled one of the recovered weapons. In addition, plaintiffs Young and Ceriale named the retail gun dealers who sold the weapons used in the shootings of their sons. Plaintiff Smith named the 15-year-old gang member who shot and killed her pregnant daughter. Thus, the 24 named defendants included 8 who had been involved in the manufacture, distribution, sale, or use of the specific guns used in the shootings of Andrew Young, Salada Smith, and Michael Ceriale, as well as 16 other manufacturers, distributors, and dealers. These 16 others are the so-called "unrelated defendants," who, plaintiffs claim, are members of a core group of irresponsible businesses that significantly contribute to the creation and maintenance of the alleged public nuisance.

The negligence counts (counts V and VI of all three complaints) were dismissed by the circuit court and are no longer at issue. The circuit court denied defendants' various motions to dismiss the public nuisance counts, but certified for immediate interlocutory appeal (155 Ill. 2d R. 308) the question of whether the plaintiffs had stated a cause of action for public nuisance.

The appellate court held that the two plaintiffs who could not identify the defendants who manufactured, distributed, or sold the specific firearms used in the killings of their loved ones lacked standing altogether because their injury was not "fairly traceable" to any named defendant. 327 Ill. App. 3d at 948, 972, quoting *Glisson v. City of Marian*, 188 Ill. 2d 211, 221. These plaintiffs, Macias and Bowman, did not seek leave to appeal.

The appellate court also held that the three plaintiffs who could identify the specific firearms used in the shootings of their decedents had stated a cause of action for public nuisance in count I of each of their complaints.⁽¹⁾ 327 Ill. App. 3d at 972-73. Because count I of each complaint was directed at only the manufacturer of an identified weapon, this holding does not apply to the distributor defendants. As a result, none of the distributor defendants are parties to this appeal.

Count II of each complaint alleged that the "unrelated defendants" participated in the creation and perpetuation of a public nuisance. The appellate court held that all five plaintiffs lacked standing to press their claims against those defendants who did not manufacture, distribute, or sell the three recovered firearms. 327 Ill. App. 3d at 972-73. Plaintiffs Young, Smith, and Ceriale did not seek leave to appeal the dismissal of their claims against the unrelated defendants.

In counts III and IV, plaintiffs, as representatives of a class of similarly situated individuals, sought to

