UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Knife Rights, Inc.; Cameron Sjodin; David Draeger; and Kevin Crystal,

Plaintiffs,

vs.

Keith Ellison, in his official capacity as Attorney General of the State of Minnesota; Brad Wise, in his official capacity as Sheriff of the Anoka County Sheriff's Office; Brad Johnson, in his official capacity as County Attorney of the Anoka County Attorney's Office,

Defendants.

Court File No. 24-cv-03749 (PJS/DTS)

DEFENDANT ELLISON'S REPLY MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT AND TO EXCLUDE EXPERT TESTIMONY, AND IN OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND TO EXCLUDE EXPERT TESTIMONY

INTRODUCTION

More than 60 years ago, the Minnesota Legislature banned switchblade knives after observing their use by street gangs, leaving law-abiding Minnesotans free to choose from a nearly countless array of other bladed weapons that Plaintiff Knife Rights itself concedes are better for self-defense. Legislatures throughout American history have done the same, responding to outbreaks of violence by restricting the possession and use of fighting knives, which were long considered far more dangerous than firearms. These legislative judgments, Plaintiffs say, were always unlawful under the Second Amendment. Plaintiffs, however, misread Supreme Court precedent as well as that of other federal courts that have rejected similar arguments. This Court should also reject Plaintiffs' misguided analysis and misapplication of *Bruen*.

ARGUMENT

I. THE COURT SHOULD GRANT DEFENDANT ELLISON'S MOTION FOR SUMMARY JUDGMENT AND DENY PLAINTIFFS' MOTION.[1]

Minnesota Statutes § 609.66, subd. 1(a)(4) is constitutional under the analysis established in *Bruen* and *Rahimi* and applied in the Eighth Circuit and other federal courts. The record shows that switchblades are not commonly used by law-abiding citizens for self-defense, a threshold inquiry for which Plaintiffs have the burden. Plaintiffs also fail to carry their burden that switchblades are not "dangerous and unusual," even if they are correct about that term's grammatical usage. The record also shows that Minnesota's law is consistent with the Nation's historical tradition of restricting weapons associated with fighting and crime.

A. Plaintiffs Misapply the *Bruen* Analysis.

The parties agree that *Bruen* is a two-step analysis but disagree on what those steps require. As Defendant Ellison argued in his opening brief, the Eighth Circuit and most federal courts analyze whether a weapon is in common use for self-defense at Step One, with the analysis focused on the characteristics of the weapon at issue. This is a separate, but related, analysis than whether the weapon is unusually dangerous. Plaintiffs bear the burden on both Step One analyses. At Step Two, the Court examines the "how and why"

[1] Plaintiffs ask the Court for a permanent injunction of Minnesota Statutes § 609.66, subd. 1(a)(4). As discussed in Defendant Ellison's opening memorandum, Plaintiffs lack standing to challenge the statute in its entirety. (Def.'s Mem. at 7 n. 11.) Plaintiffs do not argue otherwise. Defendant Ellison asks that the Court allow the parties to brief the scope of any injunction the Court may be inclined to grant.

of the regulation at issue and compares it to the "how and why" of historical antecedents to determine if the laws are "relevantly similar."

The record here shows that switchblades are not in common use by any relevant metric, are unusually dangerous, and have been historically restricted in the same manner as other bladed weapons associated with crime and fighting. Most federal courts have rejected Plaintiffs' arguments about how to apply *Bruen* and this Court should do the same.

1. Switchblades Are Not In Common Use For Self-Defense.

Plaintiffs must show that switchblades are commonly used by law-abiding persons for self-defense. *Bianchi v. Brown*, 111 F.4th 438, 449 (4th Cir. 2024) (en banc), *cert. denied sub nom.*,145 S. Ct. 1534 (2025). The issue is "not only whether a weapon might have some conceivable lawful use, but also whether such use is common." *United States v. Morgan,* 150 F.4th 1339, 1347–48 (10th Cir. 2025).

The Eighth Circuit and most others analyze "common use" at the first *Bruen* step, with the party challenging the law's constitutionality having the burden. *United States v. Veasley*, 98 F.4th 906, 908, 910 (8th Cir. 2024), *cert. denied*, 145 S. Ct. 304 (2024) (assuming handguns were in "common use" as part of the textual analysis of the Second Amendment); *Johnson v. Jacobson*, 804 F. Supp. 3d 927, 936 (D. Minn. 2025), *appeal docketed*, No. 25-3036 (8th Cir. Oct. 14, 2025) (describing "in common use today for self-defense" as a *Bruen* Step One issue). Contrary to Plaintiffs' argument, *Heller* did not create a rule that all weapons in common use cannot be banned. *See, e.g.*, *Bianchi*, 111 F.4th at 460 ("Just because a weapon happens to be in common use does not guarantee that it falls within the scope of the right to keep and bear arms.").

Plaintiffs are incorrect about both where "common use" fits into the *Bruen* analysis and which party bears the burden. (Pls.' Mem. 16-18.) But even if Plaintiffs are correct, their proof of "common use" fails for several reasons. First, Plaintiffs make no attempt to offer any actual evidence that switchblades are in common use *for self-defense*, arguing instead that no such evidence is required. (*Id.*) Courts in this district and elsewhere have decided otherwise. *Johnson*, 804 F. Supp. 3d at 936; *see Bianchi*, 111 F.4th at 449; *Rocky Mountain Gun Owners v. Polis*, 121 F.4th 96, 113 (10th Cir. 2024). Indeed, in *United States v. Charles*, the Eighth Circuit read the Supreme Court's jurisprudence as resting on a "common use for self-defense" rationale, citing both *Bruen* and *Heller*. 159 F.4th 545, 547 (8th Cir. 2025). That court found that the defendant's challenge to the federal machine gun ban "fail[ed] at step one" and did not proceed to Step Two. *Id.*

Charles' Step One analysis focused on characteristics of the weapon at issue, as have other federal courts post-*Bruen*. *Morgan*, 150 F.4th at 1347-48, 1350; *United States v. Rush,* 130 F.4th 633, 638-41 (7th Cir. 2025). Here, Plaintiffs agree that a fixed-blade knife is advantageous for self-defense. (Goodwin Decl. Ex. 1 at 75-76.) Indeed, evidence submitted by the Plaintiffs posits that the paradigmatic stiletto "would not be a serious knife fighter's choice of weapon," with a fixed-blade military or hunting knife being a "much better choice." (ECF No. 46-2, KR 188.) And there is no genuine dispute that a switchblade is a concealable and rapidly-deployable weapon. (Goodwin Decl. Ex. 5 at 50:2-53:17; Ex. 18.) Indeed, concealability is why at least one of the Plaintiffs wants one. (Goodwin Decl. Ex. 14 at 11:6-16.) Those characteristics make it an offensive weapon that is attractive to criminals, well-suited for a surprise attack. (Goodwin Decl. Ex. 5 at

50:2-53:17); *see Rush*, 130 F.4th at 637 (discussing short-barreled shotguns and rifles; concluding that "both involve a characteristic that makes the firearm especially attractive to criminals while adding little–if any–functionality to the firearm for lawful use). But if "no common-sense reasons exist for a law-abiding citizen to prefer a particular type of weapon for a lawful purpose like self-defense, and no evidence suggests that law-abiding citizens nonetheless commonly choose the weapon for lawful uses, then courts can conclude that the weapon is not in common use for lawful purposes." *United States v. Price*, 11 F.4th 392, 405 (4th Cir. 2024) (en banc).

That other kinds of knives are also fast and concealable does not mean that legislatures are required to ban those as well at the risk of losing the ability to regulate entirely. (Pls.' Mem. 20-21.) A handgun is more concealable than a short-barreled shotgun, but the Second Amendment does not bar lawmakers from banning the latter. *District of Columbia v. Heller*, 554 U.S. 570, 625 (2008); *Rush*, 130 F.4th at 640. Instead, the Legislature may choose, as it did here, to ban a weapon that is not well-suited for self-defense and that "has been commonly associated with urban gang fighting in literature and film." *Welfare of S.M.L.*, No. A10-1661, 2011 WL 2750298, at *4 (Minn. Ct. App. July 18, 2011) (distinguishing between a pocketknife and a switchblade).[2] Here, moreover, the Legislature based its decision on the real-world observations of law enforcement. (Goodwin Decl. Exs. 3, 6-11.) The Legislature's concern with fighting weapons is

[2] Plaintiffs' "categorical commonality argument, in addition to being unsupported by any citation to legal authority, fails because a switchblade is not the same thing as a non-automatic pocketknife. *S.M.L.,* 2011 WL 2750298, at *4.

illustrated by the banning of metal knuckles in the same sentence. Minn. Stat. § 609.66, subd. 1(a)(4).

Plaintiffs' purported "evidence" of common use consists of excerpts of articles by knife collectors, anecdotal observations, and conclusory expert opinions. (Pl. Mem. 18-21.) Moreover, although Plaintiffs quibble with Mr. Escobar's expertise, they offer no evidence to rebut his citations to numerous self-defense materials that recommend *against* switchblades for self-defense. (Goodwin Decl. Ex. 4, ¶¶ 36-37, 46-48, 62-66.) Nor do Plaintiffs offer any meaningful rebuttal to the testimony of state and local law enforcement officers at the time of enactment showing that switchblades were commonly used by street gangs at the time. (Goodwin Decl. Exs. 3, 6-11.) Instead, they cite to a law review article positing that legislators lacked statistics proving switchblades were actually used to commit crimes. (Pl. Mem. 7.) But there is no requirement that a legislative body have *actual-use* crime statistics on a particular weapon before banning it.

Plaintiffs instead ask this Court to estimate the number of switchblades in existence or the number of jurisdictions in which they are currently lawful, simplistic approaches that federal courts commonly reject. (Pls.' Mem. 19-20.) Plaintiffs' ownership test, based on data that originated in the 1950s and their own perusal of the Internet, asks the Court to conduct the "trivial counting exercise" that most courts have rejected. *Bianchi*, 111 F.4th at 460; *Duncan*, 133 F.4th at 883 (collecting cases rejecting "ownership statistics" theory of common use). Plaintiffs mistakenly rely on a non-binding concurrence from *Caetano v. Massachusetts*, 577 U.S. 411 (2016), the central premise of which has been roundly

rejected. *See Ocean State Tactical, LLC v. Rhode Island,* 95 F.4th 38, 48-51 (1st Cir. 2024) (rejecting "popularity test" approach to common use).

Finally, Plaintiffs' effort to count jurisdictions in which switchblades are currently lawful reveals the flaw in their argument. If the number of jurisdictions were relevant, a ban on switchblades would have been constitutional in the 1950s when Minnesota joined at least 20 other states (and many local governments) in restricting access to switchblades. The analysis would then shift based on subsequent legislative developments. This cannot be, as weapons would pass in and out of constitutionally-protected status depending on legislative tightening and loosening of restrictions. *See Bevis v. City of Naperville*, Illinois, 85 F.4th 1175, 1198 (7th Cir. 2023) (explaining the anomalous result of the federal AR-15 ban being constitutional before it expired in 2004, but unconstitutional after, based on ownership numbers alone).

Plaintiffs misapply *Bruen* and have not proven switchblades are in common use, for self-defense or otherwise. Accordingly, their challenge to Minnesota's law fails.

2. Switchblades Are Dangerous And Unusual.

Weapons that are "dangerous and unusual" are not entitled to Second Amendment protection. *Bruen*, 597 U.S. at 21. Although Plaintiffs posit that "dangerous and unusual" is conjunctive, several federal circuit courts have held that "dangerous and unusual" is a "hendiadys" that would have been understood in the Founding era as meaning "unusually dangerous" or "uncommonly dangerous." *Nat'l Ass'n for Gun Rts. v. Lamont*, 153 F.4th 213, 234 (2d Cir. 2025); *Hanson v. District of Columbia,* 120 F.4th 223, 238 n.7 (D.C. Cir. 2024), *cert. denied*, 145 S. Ct. 2778 (2025).

Even if "dangerous and unusual" is conjunctive, Plaintiffs' purported proof still fails. Switchblades are "dangerous" because, as is true of machine guns, they are "likely to cause serious bodily harm." *United States v. Bridges*, 150 F.4th 517, 525 (6th Cir. 2025) (analyzing dangerousness and unusualness separately and concluding that machine guns are dangerous based on the definition in Black's law dictionary). Many courts, including the Eighth Circuit, agree. (Def.'s Mem. 17-18.)

Switchblades are also unusual because, as discussed above in reference to common use, they are not typically owned by law-abiding citizens for lawful purposes.[3] Moreover, as with sawed-off shotguns and machine guns, switchblades' "historical connection to crime in the United States illustrates its lack of connection to lawful purposes." *Bridges*, 150 F.4th at 528. This connection is shown, not with statistics, but through the observations of actual law enforcement officers. (Goodwin Decl. Exs. 3, 6-11.) So switchblades are both dangerous and unusual, rendering them not protected by the Second Amendment at *Bruen* Step One.

3. Minnesota's Switchblade Ban Fits Well Within The Nation's Historical Tradition Of Weapons Regulation.

As discussed in Defendant Ellison's opening memorandum, Minnesota's law is consistent with a long regulatory tradition regulating bladed weapons commonly associated with crime and fighting. (Def.'s Mem. 19-24.) Relying on the work of Professor Roth, the *en banc* Fourth Circuit commented that "[t]hroughout this history lies a strong tradition of regulating those weapons that were invented for offensive purposes and were ultimately

[3] *See supra* Section I.A.1.

proven to pose exceptional dangers to innocent civilians." *Bianchi*, 111 F.4th at 441-42; *see Lamont*, 153 F.4th at 235. Such is the case with Minnesota's law, rendering it well-within the historical tradition of weapons regulation.

Plaintiffs' argument ignores the "how and why" analysis of *Bruen* as well as the historical analysis of *Rahimi*. (Pls.' Mem. 34-37.) Plaintiffs also offer no expert testimony of their own and fail to mention that a unanimous Ninth Circuit panel recently rejected their historical argument, as has the United States Department of Justice. *Knife Rts., Inc. v. Bonta*, 165 F.4th 1330, 1339 (9th Cir. 2026) (analyzing statute prohibiting "a wide range of conduct" only in the context of concealed carrying in public); Appellees Br., Doc. 80, *Knife Rights, Inc., v. Bondi*, No. 25-10754 (5th Cir.), at 12-23 (Dec. 22, 2025) ("DOJ Br."). This Court, too, should reject their arguments.

First, Plaintiffs do not acknowledge *Bruen's* "how" analysis, which asks how the regulation at issue burdens their right to armed self-defense. (Def.'s Mem. 21.) The burden here is negligible as Plaintiffs remain free to possess countless other bladed weapons, including fixed-blade weapons that they themselves agree are advantageous for self-defense. (Def.'s Mem. 20-24; Goodwin Decl. Ex.1 at 75-76.) Minnesota's switchblade law is "but another example of a state regulating excessively dangerous weapons once their incompatibility with a lawful and safe society becomes apparent, while nonetheless preserving avenues for armed self-defense." *Bianchi*, 111 F.4th at 441-442.

Second, Plaintiffs ignore *Rahimi* in apparently insisting that Defendant Ellison point to a Founding-era "historical twin" for its law. *United States v. Rahimi*, 602 U.S. 680, 692 (2024). First, Plaintiffs are wrong, as Professor Roth states that the "Founding Generation

passed laws in a number of states that restricted the use or ownership of certain types of weapons after it became obvious that those weapons, including certain fighting knives and percussion-cap pistols, were being used in crime by people who carried them concealed on their persons and were thus contributing to the rising crime rates." (Goodwin Decl. Ex. 2, ¶ 26.) This regulatory tradition continued throughout the 1800s and into the 1900s and included bans on concealed-carry as well as possession. (*Id*. ¶¶ 18-41.); *see also* DOJ Br. at 24-27 (and citations therein).

Second, the law need only be "relevantly similar" to historical regulations of bladed weaponry. *Rahimi*, 602 U.S. at 692. As detailed extensively, Minnesota's law is "relevantly similar" to bans or restrictions on fighting knives regulated by legislatures throughout history. (Def.'s Mem. 19-24.) Indeed, as the Second Circuit stated recently in a case about assault weapons, the relevant "historical antecedents […] imposed targeted restrictions on unusually dangerous weapons of an offensive character—dirk and Bowie knives, as well as machine guns and submachine guns […]" *Lamont*, 153 F.4th at 235 (citation modified). Minnesota's law is just such a targeted restriction on a narrow class of weaponry, leaving "alternative avenues for the legal possession of less inherently dangerous arms for self-defense and other lawful purposes." *Id*.

The parties agree that Plaintiffs' facial challenge requires them to show that the Switchblade Ban is unconstitutional in all applications. (Pls.' Br. 10-11 (citing *Rahimi*). "If some *applications* are constitutional, then facially speaking, the statute is too." *Veasley*, 98 F.4th at 908 (emphasis added). So if a challenged statute can constitutionally be applied to a particular subset of conduct, such as carrying a switchblade in public or in sensitive

places, the statute survives a facial challenge. DOJ Br. at 28-31. This straightforward analysis does not, as Plaintiff argues, impermissibly "re-write" the statute; Plaintiffs themselves say they desire to carry a switchblade in public. (ECF No. 1, ¶¶ 6, 11-13). Rather, the Court simply must determine whether the law may permissibly be applied to any conduct. *E.g.*, *Knife Rts*, 165 F.4th at 1339 (analyzing statute prohibiting "a wide range of conduct" only in the context of concealed carrying in public).

But ultimately, it does not matter whether Minnesota's law is analyzed as a ban on possession or concealed-carry. The purpose (i.e., the "why") of all such restrictions was "to address concerns about threats to public safety caused by the use of switchblades in criminal activity," which "closely mirrors the purposes for which antebellum and post-Civil War legislatures" adopted similar regulations of fighting knives. Knife Rights, 165 F.4th at 1345 (quotation modified). Plaintiffs' theory—that concealed-carry restrictions represented the apex of legislative authority over knives—also rests on the flawed assumption that legislatures "maximally exercised their power to regulate" such weapons. *Rahimi*, 602 U.S. at 740 (Barrett, J. concurring) (rejecting "use-it-or-lose it" view of regulatory authority). Plaintiffs rule would impose the kind of "regulatory straightjacket" that *Bruen* rejected. *Id*. (quoting *Bruen*, 597 U.S. at 30). Plaintiffs' attack on Defendant's historical antecedents fails.

II. THE COURT SHOULD DENY PLAINTIFFS' *DAUBERT* MOTION.

Plaintiff's motion to exclude the expert testimony of Robert Escobar and Randolph Roth lacks merit. Mr. Escobar used historical examples to explain how switchblades are associated with criminality and detailed why switchblades are dangerous and uncommon

self-defense weapons.[4] Professor Roth relied on over forty years of experience and extensive historical research to explain the Nation's tradition of regulating weapons associated with fighting and crime. Their testimony will help the Court understand the evidence at issue and should not be excluded.

A. Mr. Escobar.

Mr. Escobar rendered three core opinions. First, criminals prefer edged weapons that are culturally understood to be intimidating, including switchblades. (Goodwin Decl. Ex. 4, ¶¶ 12.) Second, tactical knife article-based recommendations suggest a lack of commonality. (*Id.* ¶ 68.) Third, switchblades are ill-suited for self-defense because of the risk of mechanical failure, user error, and poor structural integrity. (*Id.* ¶ 70.)

Plaintiffs seek wholesale exclusion based solely on Mr. Escobar's purported lack of expertise. (Pls.' Mem. 40-42.) They argue that because Mr. Escobar is not a knife expert, designer, manufacturer, engineer, he is unqualified to provide expert opinions. (*Id.*) But "Rule 702 does not require a witness to possess all (or even most) conceivably relevant 'knowledge, skill, experience, training, or education' to qualify as an expert." *Minn. Chamber of Com. v. Choi*, 765 F. Supp. 3d 821, 844 (D. Minn. 2025) (citing Fed. R. Evid. 702 and rejecting a similar argument that Plaintiffs make here). The question "is whether the witness possesses a sufficient quantity and quality of these attributes to 'help the trier

[4] Mr. Escobar's testimony on the characteristics of switchblades that increase the danger of using them for self-defense were cited favorably in a similar case brought by Knife Rights. *Knife Rts., Inc.*, Case No.: 3:23-cv-00474, 2024 WL 4224809, at *5-6 (S.D.C.A. Aug. 23, 2024); *see Knife Rts.*, 165 F.4th at 1343 (citing book published by Mr. Escobar).

of fact to understand the evidence or to determine a fact in issue.'" *Id.* (quoting Fed. R. Evid. 702(a)).

Mr. Escobar clears that bar. He has authored several books on the study of weaponry, conducted extensive research on weapons—including bladed weapons—using a range of source material, and trained for decades in martial arts and self-defense. (Goodwin Decl. Ex. 4, ¶¶ 4-6, 12.) Through his research and experience, Mr. Escobar gained expertise and specialized knowledge in the origins and uses of switchblades, including their ineffectiveness for self-defense. (*Id.* ¶ 6.) And unlike Plaintiffs' experts, Mr. Escobar cites underlying sources that support his testimony. (*See generally id.*)

Further, an "expert with more generalized knowledge in a field can typically testify even if they are not a specialist." *Keller Indus. v. Eng'g & Constr. Innovations Inc.*, No. 21-cv-2218, 2024 WL 198999, at *11 (D. Minn. Jan. 18, 2024). Mr. Escobar's opinions regarding the association of switchblades with criminality and their lack of commonality for self-defense align comfortably with his generalized knowledge of bladed weapons.[5]

B. Professor Roth.

Professor Roth opined about the history of homicides in the United States and historical restrictions imposed in response to new technologies deemed particularly lethal, prone to misuse, or dangerous. (Goodwin Decl. Ex. 2, ¶ 8.) He concluded that since 1791, governments have responded whenever new weapons, including fighting knives, have

[5] If the Court has reservations, any "gaps in an expert witness's qualifications or knowledge generally go to the weight of the testimony and not its admissibility." *E.g., Am. Dairy Queen Corp. v. W.B. Mason Co. 543 F. Supp. 3d 695*, 721 (D. Minn. 2021).

posed a threat to public safety, and provided historical analogues to the Switchblade Ban dating to the Founding Generation. (*Id.* ¶¶ 8, 11, 22-27, 35-41, 50.)

Plaintiffs argue that Professor Roth lacks expertise on the history of weapons regulations and that those opinions should be excluded. Specifically, Plaintiffs claim that because Professor Roth has not conducted his own empirical research on the history of switchblade violence, their criminal uses, weapons laws, or automatic knives, he cannot opine on historical weapons regulations. (Pls.' Mem. 42-43.) But this argument is both inaccurate and a misunderstanding of Rule 702.

Professor Roth has taught history with a focus on criminology and crime for almost 50 years. (Goodwin Decl. Ex. 2, ¶ 1.) Again, Plaintiffs ignore that an "expert with more generalized knowledge in a field can typically testify even if they are not a specialist." *Keller Indus., Inc.*, 2024 WL 198999, at *11. Professor Roth's opinions on historical weapons regulations fit comfortably within his generalized knowledge about the history of violence and crime.

Accepting the premise of Plaintiffs' argument would mean that any expert relying on the research of others would automatically be excluded. They cite no requirement in Rule 702 that an expert's testimony must be based on their own empirical research. Unlike Plaintiffs' experts, Professor Roth cites an extensive amount of empirical research throughout his Declaration to factually support his conclusions on historical weapons regulations. (*See generally* Goodwin Decl., Ex. 2.) Professor Roth also testified that he relied on the research of experts in historical weapons regulations and that such reliance is typical for historians. (*E.g.*, Goodwin Decl. Ex. 5 at 12:14-20, 19:7-25, 20:24-21:21, 40:4-

22, 59:2-60:4, 68:20-69:18); *Bliv, Inc. v. Charter Oak Fire Ins.,* 159 F.4th 539, 543 (8th Cir. 2025) ("The rule allows an expert to rely completely on information collected by others, so long as it is reasonable to do so in the expert's field.").

There is no question Professor Roth employed "the same level of intellectual rigor that characterizes the practice of an expert in the relevant field." *Kumho Tire Co. v. Carmichael,* 526 U.S. 137, 152 (1999). The Court should reject Plaintiff's motion with respect to Professor Roth.

III. THE COURT SHOULD GRANT DEFENDANT ELLISON'S *DAUBERT* MOTION.

In opposing Defendant Ellison's *Daubert* motion, Plaintiffs do not dispute that their experts' opinions on commonality lack factual support beyond personal experience. As a result, their opinions on commonality should be excluded.

Plaintiffs argue that their experts' opinions can be based solely on specialized knowledge and experience without any underlying support. (Pls.' Mem. 37-39.) In making this argument, Plaintiffs misconstrue Defendant Ellison's position as one requiring all expert opinions to be based on empirical research. What Defendant Ellison argues is that their opinions are unsupported by sufficient facts, amount to conclusory statements without sufficient evidentiary support, are connected to any possible data solely by *ipse dixit*, and should be excluded because it is impossible to bridge the analytical gap between any underlying facts and their opinions. Plaintiffs all but concede that their experts did not conduct their own research, evaluate or rely on the research of others, or otherwise set forth any apparent factual grounds for their opinions on commonality.

Instead, Plaintiffs advance unsupported attorney argument that expert opinions based solely on personal experience are admissible so long as the experts provide an explanation. (Pls.' Mem. 39.) Experience based expert testimony, however, is only admissible if the experts "explain how that experience leads to the conclusion reached, why that experience is a sufficient basis for the opinion, and how that experience is reliably applied to the facts." *E.g., United States v. Vesey*, 338 F.3d 913, 917 (8th Cir. 2003) (quoting Fed. R. Evid. 702 advisory committee's note to 2000 amendment) (citation modified). We do not have that here and still know nothing about the methodology used by Plaintiffs' experts to arrive at their conclusions on commonality. *See Synergetics, Inc. v. Hurst*, 477 F.3d 949, 955 (8th Cir. 2007) (cautioning trial courts to focus "specifically on the methodology and not the conclusions"). Ultimately, Plaintiffs' experts' opinions on commonality are "so fundamentally unsupported that [they] can offer no assistance to the [factfinder]." *Bonner v. ISP Techs., Inc.,* 259 F.3d 924, 929–30 (8th Cir. 2001) (citation modified).

Finally, with respect to Defendant Ellison's relevance argument, Plaintiffs do not dispute that the opinions at issue relate to knives that are not subject to the Switchblade Ban. (Pls.' Mem. 39.) Defendant Ellison maintains that these opinions are irrelevant, unhelpful to the Court, and should be excluded.

CONCLUSION

Minnesota Statutes 609.66, subd. 1(a)(4) is constitutional. Defendant Ellison's motion for summary judgment should be granted and Plaintiffs' denied.

Dated: April 3, 2026

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