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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4343-14T1

IN THE MATTER OF THE APPLICATION
FOR PERMIT TO CARRY A HANDGUN
OF JOHN L. REIDER.

Submitted October 31, 2016 – Decided April 3, 2017

Before Judges Nugent and Haas.

On appeal from Superior Court of New Jersey,
Law Division, Union County.

Evan F. Nappen, attorney for appellant John
L. Reider (Louis P. Nappen, on the briefs).

Grace H. Park, Acting Union County Prosecutor,
attorney for respondent State of New Jersey
(Milton S. Leibowitz, Special Deputy Attorney
General/Acting Assistant Prosecutor, of
counsel and on the brief).

PER CURIAM

A month after the Rahway Police Chief granted petitioner John L. Reider's application to renew his permit to carry a handgun, a Law Division judge denied the application. Petitioner appealed from the judge's April 20, 2015 memorializing order. We affirm.

We derive the following procedural history and facts from the record on appeal. In March 2015, petitioner filed his renewal

application for a permit to carry a handgun. On his application, he listed his occupation as a "Security Guard/Private Investigator" with Armor Security, Inc., in Elizabeth. Petitioner attached three endorsements to his application attesting to his good moral character and behavior, and his ability to exercise self-control. He also attached his employer's letter stating, in part:

Mr. Reider will be responsible for the safety and welfare of employees and customers, he acts as a deterrent, and protects property and reduces losses. Armor Security[,] Inc. is under contract to respond to burglary alarms, and also Mr. Reider will also be involved in surveillances, stakeouts, undercover assignments, fugitive recovery, criminal investigations, high value payroll protection, high value truck escorts, alarm responses and building searches which require apprehending intruders and holding them for local police arrests. In addition, Mr. Reider will frequently be assigned to armed accounts and to hold shifts for armed officers on vacation or sick leave.

. . . .

The execution of the aforementioned duties subjects Mr. Reider to a substantial threat to serious bodily harm. It is imperative that Mr. Reider be permitted to carry a handgun since he will be thrust into situations where the presence of a handgun will reduce the threat of unjustifiable harm to both Mr. Reider and those individuals on whose behalf he is assigned to perform investigations or protect.

Petitioner's application included a second letter from the Managing Member of GDNJ, LLC, who stated petitioner would also be employed by that company as an armed security officer. The letter continued:

His duties will include but not be limited to: (Uniformed or client requirements) of: armed cash courier, armed payroll escort, armed bank guard, special protection services of individuals, transportation of valuables, etc. recovery services, investigations etc. The employee will carry the firearm only while on duty or on assignment for the company and to and from his home.

An example of an assignment would be the protection of individuals who repair ATM machine[s] throughout the State. . . . The technician will proceed to fix the machine; this may require the technician to open the safe to fix the ATM. This exposes currency in the hundreds of thousands. . . . One technician can have one to ten calls a night in their designated county. A security guard is needed to protect the technician from being hurt and or robbed.

After evaluating the submissions, Judge Stuart Peim denied petitioner's application. In a written statement of reasons appended to the denial order, the judge first noted the application listed only Armor Security, Inc., as petitioner's employer. For that reason, the judge did not consider the GDNJ letter. After reviewing petitioner's application and relevant case law, the judge concluded:

In the instant case, the applicant has not shown specific threats against his person. Employer's letter of need asserts that "It is imperative that Mr. Reider be permitted to carry a handgun since he will be thrust into situations where the presence of a handgun will reduce the threat of unjustifiable harm to both Mr. Reider and those individuals on whose behalf he is assigned to perform investigations or protect." However, the Employer's letter does not outline specific occasions when this employee, its clients or others have been subject to such danger. These bare statements do not provide information necessary to meet the required criteria set forth in our case law. Applicant has not shown any danger to the applicant or to others associated with this employment or locations with the required specificity. Although applicant submitted a letter of need from GDNJ Protective Services LLC, an armored security agency involved with the protection of ATM machine technicians, this employer is not included in the application for renewal of permit to carry a handgun . . . Accordingly, the stringent requirements of our law have not been satisfied and as such this application is **DENIED**.

We affirm, substantially for the reasons expressed by Judge Peim. New Jersey's handgun licensing provisions are contained in N.J.S.A. 2C:58-4. The statute provides in pertinent part:

If the application has been approved by the chief police officer or the superintendent, as the case may be, the applicant shall forthwith present it to the Superior Court of the county in which the applicant resides, or to the Superior Court in any county where he intends to carry a handgun, in the case of a nonresident or employee of an armored car company. The court shall issue the permit to the applicant if, but only if, it is satisfied

that the applicant is a person of good character who is not subject to any of the disabilities set forth in [N.J.S.A.] 2C:58-3c., that he is thoroughly familiar with the safe handling and use of handguns, and that he has a justifiable need to carry a handgun. The court may at its discretion issue a limited-type permit which would restrict the applicant as to the types of handguns he may carry and where and for what purposes such handguns may be carried.

[N.J.S.A. 2C:58-4(d).]

"[E]mployees of a private-security agency have [no] preferred right by virtue of their status to obtain a permit to carry a gun." In re Preis, 118 N.J. 564, 566 (1990). The statute makes an exception only for employees of armored-car companies. See N.J.S.A. 2C:58-4.1. Thus, petitioner was required to comply with N.J.A.C. 13:54-2.4, which provides:

(d) Each application form shall also be accompanied by a written certification of justifiable need to carry a handgun, which shall be under oath and which:

. . . .

2. In the case of employees of private detective agencies, armored car companies and private security companies, that:

i. In the course of performing statutorily authorized duties, the applicant is subject to a substantial threat of serious bodily harm; and

ii. That carrying a handgun by the applicant is necessary to reduce the threat

of unjustifiable serious bodily harm to any person.

We agree with Judge Peim that conclusory assertions parroting statutory language are insufficient to satisfy the statutory requirements for obtaining a permit to carry a handgun.

Petitioner's contention that the statute as applied to him violates the separation of powers doctrine is unavailing. As our Supreme Court has explained:

So concerned is the Legislature about this licensing process that it allows only a Superior Court judge to issue a permit, after applicants first obtain approval from their local chief of police. In this (as perhaps in the case of election laws) the Legislature has reposed what is essentially an executive function in the judicial branch. We have acceded to that legislative delegation because "[t]he New Jersey Legislature has long been aware of the dangers inherent in the carrying of handguns and the urgent necessity of their regulation," although we "might well have declined the designation" because the "functions . . . were clearly non-judicial in nature." Siccardi v. State, 59 N.J. 545, 553 (1971).

[Preis, supra, 118 N.J. at 569.]

Petitioner also asserts he was denied due process. He argues he should have been afforded a hearing and that the judge should have considered the Police Chief's reasons for granting the permit. Petitioner does not discuss, however, under what circumstances process is due. The licensing statute provides that "[i]f the

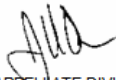
superintendent or chief police officer approves an application and the Superior Court denies the application and refuses to issue a permit, the applicant may appeal such denial in accordance with law and the rules governing the courts of this State." N.J.S.A. 2C:58-4(e). Petitioner has cited no authority to support his argument that a hearing is required in matters involving perfunctory licensing applications. Significantly, he was afforded the opportunity to provide with his application the information necessary to satisfy the statutory criteria.

We have considered petitioner's remaining arguments and found them to be without sufficient merit to warrant further discussion.

R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION