

**NOT FOR PUBLICATION WITHOUT THE  
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court."  
Although it is posted on the internet, this opinion is binding only on the  
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-4756-15T1

IN THE MATTER OF THE  
DENIAL OF THOMAS TEDESCO'S  
REQUEST FOR A SECOND AND/OR  
DUPLICATE FIREARMS PURCHASER  
IDENTIFICATION CARD.

---

Submitted September 12, 2017 – Decided September 20, 2017

Before Judges Fasciale and Summers.

On appeal from Superior Court, Law Division,  
Bergen County.

Michael J. Beatrice, attorney for appellant.

Gurbir S. Grewal, Bergen County Prosecutor,  
attorney for respondent (Ian C. Kennedy,  
Assistant Prosecutor, of counsel and on the  
brief).

PER CURIAM

Tedesco appeals from a May 23, 2016 order denying his request for a "second and/or duplicate Firearms Purchaser Identification Card (FPIC)." Judge Edward A. Jerejian entered the order and rendered a thorough oral opinion. After conducting a hearing, the judge found that it would be against the public health, safety, and welfare for Tedesco to receive the FPIC. There exists

substantial credible evidence in the record to support such a finding. We therefore affirm.

Tedesco discharged a weapon into a stack of magazines located in a bathroom, while his wife and sons were downstairs in the home. The police arrived at the residence and instructed Tedesco to exit the bathroom. He eventually complied and the police arrested him. Tedesco later admitted that he had fired the weapon that night because he had previously been depressed and intoxicated.

Tedesco did not dispute that he had fired the weapon in the bathroom, or that his wife and children were downstairs. Instead, he offered evidence that he had resolved his mental health and alcohol issues. He testified that since the incident, he completed substance abuse and alcohol treatment. Tedesco produced at the hearing medical reports from his treating physicians stating that since the incident he has remained sober and has properly treated his depression.

The judge commended Tedesco for making progress towards his alcohol and mental health issues. But the judge determined, after having had the opportunity to observe and listen to him testify, that Tedesco could relapse at any time. The judge then made an independent finding that it would be against the public health, safety, and welfare for Tedesco to receive the FPIC, upheld the

police chief's denial of Tedesco's application for the FPIC, and entered the order under review.

On appeal, Tedesco argues that the judge's findings – that it would not be in the interest of the public health, safety, and welfare for him to receive the FPIC – are against the weight of the evidence.

The law governing this appeal is well settled. A municipal police chief has the discretion, "subject to standards which have been adjudged constitutionally adequate[,] " to grant or deny an individual's application for a handgun permit or identification card. Weston v. State, 60 N.J. 36, 43 (1972). "The function of the Police Chief as the local administrative official charged with responsibility for the original decision to grant or withhold . . . involves largely the exercise of an informal discretion, based upon the information disclosed by a good faith investigation." In re Application of Boyadjian, 362 N.J. Super. 463, 475 (App. Div.) (citations and internal quotation marks omitted), certif. denied, 178 N.J. 250 (2003).

When reviewing an application, a police chief must consider the interests of the community and must not make a decision that is "arbitrary, capricious or unreasonable." Id. at 478. After completing the investigation, if the police chief decides to deny the application, there is "no obligation to hold a trial-type

hearing before doing so." Weston, supra, 60 N.J. at 43. If the police chief decides to deny the application, however, the applicant should be given "an opportunity . . . to discuss the matter . . ., to be informed of the reasons for the denial and to offer any pertinent explanation or information for the purpose of meeting the objections being raised." Id. at 43-44.

The police chief's decision to deny an application is subject to de novo review by the Law Division, which "in this context contemplates introduction of relevant and material testimony and the application of an independent judgment to the testimony by the reviewing court." Id. at 45. The police chief bears the burden of establishing the existence of good cause for the denial "by a fair preponderance of the evidence." Id. at 46. In evaluating the facts and the reasons given for rejection, "the court should give appropriate consideration to the [police chief's] investigative experience and to any expertise he appears to have developed in administering the statute." Ibid.

Upon review of the Law Division's decision, "an appellate court should accept a [judge's] findings of fact that are supported by substantial credible evidence." In re Return of Weapons to J.W.D., 149 N.J. 108, 116-17 (1997) (citing Boncco Petrol, Inc. v. Epstein, 115 N.J. 599, 607 (1989)). Where the evidence is mostly testimonial and involves questions of credibility,

deference to a judge's findings of fact is particularly appropriate. Id. at 117. We will not disturb a judge's findings of fact unless those findings would result in an injustice. Ibid. (citing Rova Farms Resort v. Inv'rs Ins. Co., 65 N.J. 474, 483-84 (1974)).

Here, there exists substantial credible evidence in the record to support the judge's findings. Tedesco fired a gun into a stack of magazines in his home bathroom, knowing that his family was in the residence. Tedesco then resisted exiting the bathroom when the police arrived. The judge carefully considered Tedesco's substance abuse and mental-health history, and observed Tedesco's demeanor during the hearing. Given our standard of review, we defer to the judge's findings, which we have no reason to disturb, and affirm substantially for the reasons expressed by Judge Jerejian.

Affirmed.

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

  
CLERK OF THE APPELLATE DIVISION