

RECORD IMPOUNDED

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5268-15T3

IN THE MATTER OF THE
SEIZURE OF WEAPONS
BELONGING TO G.P.

Submitted December 7, 2017 – Decided December 20, 2017

Before Judges Haas and Rothstadt.

On appeal from Superior Court of New Jersey,
Chancery Division, Family Part, Bergen County,
Docket No. FO-02-0290-16.

Walsh & Walsh, attorneys for appellant G.P.
(John K. Walsh, Jr., of counsel and on the
brief).

Gurbir S. Grewal, Bergen County Prosecutor,
attorney for respondent State of New Jersey
(Meredith A. Kunz, Assistant Prosecutor, of
counsel and on the brief).

PER CURIAM

Appellant G.P.¹ appeals from the July 6, 2016 Family Part
order requiring him to forfeit his weapons and Firearms Purchaser
Identification Card (FPIC). We affirm.

¹ We refer to the participants in this case by initials to protect
their privacy.

On September 3, 2015, G.P.'s girlfriend, C.B., sought protection from him, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 to -35, by filing a complaint and obtaining a temporary restraining order (TRO), which called in part for the removal of G.P.'s firearms from C.B.'s home² and the surrender of his FPIC. On October 21, 2015, C.B. voluntarily dismissed the TRO.

The State moved for forfeiture of G.P.'s weapons and the revocation of his FPIC, asserting that N.J.S.A. 2C:25-21(d)(3) and N.J.S.A. 2C:58-3(c)(5) disqualified G.P. from firearm ownership. Judge Lisa A. Firko thereafter conducted a five-day evidentiary hearing at which six witnesses testified.

As detailed in Judge Firko's thorough written opinion, C.B. suffered a ruptured brain aneurism in July 2015, which required hospitalization and a subsequent stay in a rehabilitation facility. According to C.B.'s family members, G.P.'s behavior toward C.B. "changed dramatically" while C.B. was in the hospital. On at least two occasions, C.B.'s family saw G.P. shaking C.B. to the point where the drainage tubes in her head "were coming out of her brain." G.P. also "pulled on" C.B.'s arthritic shoulder.

² G.P. was eighty-one years old at the time of the incidents involved in this case. G.P. and C.B. had a dating relationship for approximately seventeen years prior to the issuance of the TRO and lived in a house that was solely owned by C.B.

One day, C.B.'s son, B.B., and his wife went to C.B.'s home to pick up some of her personal items. B.B. attempted to contact G.P. by telephone to let him know, but was unsuccessful. Upon entering the home, B.B. found that G.P. had wedged a chair up against the front door of the house and another chair against the door leading to the deck. Later that day, G.P. called B.B. and told him that he had "rigged a shotgun to the front door and set it to go off, and [B.B.] was lucky he didn't get his head blown off[.]"

When C.B.'s family confronted G.P. at the hospital, he admitted to setting a booby-trap and asserted he was "trying to protect the house."³ C.B.'s son-in-law took photographs of the interior of C.B.'s home, several of which "depict[ed] evidence of a rifle or shotgun being pushed into the couch[.]" Judge Firko found that the testimony of each of C.B.'s family members was credible.

After C.B.'s family brought their concerns to the attention of the local police department, a police officer contacted G.P.'s daughter, S.R., and advised her "that it would be in G.P.'s best interest if we removed the guns from his home." S.R. accompanied the officer to the home for "a welfare check" on G.P. The officer

³ The family recorded G.P.'s admissions on a tape recorder that Judge Firko found G.P. knew was on C.B.'s bed.

testified he found "nothing out of the ordinary" at the home, and that he observed G.P. giving his weapons to a friend for safe-keeping. However, the officer did not inventory the weapons or even record the identity of the third-party who took possession of G.P.'s guns. Judge Firko found that the officer's "demeanor . . . was flippant, and [he] did not take the concerns of [C.B.'s] family seriously."⁴

G.P. testified on his own behalf. He admitted wedging chairs against the doors because he "was afraid of intruders"; however, he denied rigging a gun to go off if someone opened the front door. G.P. claimed he was not aware he was being recorded when he told C.B.'s family that he "disabled the shotgun rigged to the door." G.P. also asserted that C.B.'s son-in-law "forced these words into his mouth." After observing G.P.'s testimony, Judge Firko found that his "responses on the witness stand were evasive, irrational, and illogical."

⁴ G.P. also presented letters from the chief of police of one town and a police lieutenant from another, "stating that there was no objection to the return of weapons or related" FPICs to G.P. Judge Firko ruled that this correspondence was "not persuasive evidence" because neither police official ever interviewed G.P. or any of the witnesses, and did not even listen to the tape recording of G.P. admitting he set a booby trap. Because the officials did not testify at the hearing, the judge further found that the letters were "nothing more than net opinions presented in a hearsay manner" and had "no indicia of reliability[.]"

At the conclusion of the hearing, Judge Firko disqualified G.P. from firearm ownership for the reasons expressed in her comprehensive written opinion, which incorporated her credibility findings to which we must defer. In re Return of Weapons to J.W.D., 149 N.J. 108, 116-17 (1997). The judge observed that defendant's behavior after C.B. became disabled was "clearly indicative of irrational, unpredictable, and unexplainable impulses" and that he "present[ed] a danger to the public safety." This appeal followed.

On appeal, G.P. raises the following contentions:

POINT I

THE TRIAL COURT FAILED TO PROPERLY APPLY THE STATUTORY PRESUMPTION REQUIRING THE RETURN OF THE [FPIC] AND FIREARMS.

POINT II

THE TRIAL COURT IMPROPERLY EXCLUDED THE CONSENTS TO RETURN THE FIREARMS OF TWO MUNICIPAL POLICE DEPARTMENTS.

POINT III

DESPITE FINDING [THAT C.B.'S SON-IN-LAW WAS] NOT AN EXPERT, THE TRIAL COURT ADMITTED EXPERT OPINION.

POINT IV

THE TRIAL COURT'S DETERMINATION THAT [G.P.] POSES A THREAT TO THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC AT LARGE IS AGAINST THE WEIGHT OF THE EVIDENCE.


We find insufficient merit in these arguments to warrant further discussion, and we affirm substantially for the reasons set forth by Judge Firko in her cogent written opinion. R. 2:11-3(e)(1)(E).

A trial court must grant the State's forfeiture motion if it establishes, by a preponderance of the evidence, that the return of the weapons seized "would not be 'in the interest of the public health, safety or welfare.'" In re Forfeiture of Pers. Weapons & Firearms Identification Card belonging to F.M., 225 N.J. 487, 513 (2016) (quoting N.J.S.A. 2C:58-3(c)(5)). In matters involving firearm permits and the forfeiture of weapons, we may only "set aside a trial court's forfeiture ruling when it is not supported by sufficient credible evidence." State v. Cordoma, 372 N.J. Super. 524, 535 (App. Div. 2004).

Applying these standards to the circumstances of this case, we have no reason to disturb Judge Firko's reasoned determination that G.P.'s continued possession of his weapons and FPIC would not be in the interest of the public health, safety or welfare.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION