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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4916-14T4

IN THE MATTER OF THE DENIAL
OF THE APPLICATION FOR THREE
PERMITS TO PURCHASE A
HANDGUN BY P.A.P.

Submitted October 26, 2016 – Decided March 1, 2018

Before Judges Fuentes and Simonelli.

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

Jef Henninger, attorney for appellant P.A.P.

Robert D. Bernardi, Burlington County
Prosecutor, attorney for respondent State of
New Jersey (Courtney J. O'Brien, Assistant
Prosecutor, of counsel and on the brief).

The opinion of the court was delivered by
FUENTES, P.J.A.D.

P.A.P. appeals from the order of the Law Division, Criminal Part, that upheld the decision of the Pemberton Township Chief of Police denying his application for three permits to purchase handguns, as required under N.J.S.A. 2C:58-3. He argues that the trial court's decision was not supported by sufficient legally competent evidence. Appellant also challenges the part of the

court's ruling that orders the forfeiture of four specifically identified firearms and directs him to surrender "any additional firearms that he owns or that are within his custody or control[.]" He argues that the forfeiture of these firearms "contradicts" an earlier decision made by the Burlington County Prosecutor's Office (BCPO) to return to him these same firearms.

We reject these arguments and affirm. We derive the following facts from the testimony of the Chief of the Pemberton Township Police Department in the evidentiary hearing conducted by the trial court, as well as the documents admitted in the course of the hearing.

I

Pursuant to N.J.S.A. 2C:58-3, on November 7, 2014, P.A.P. applied to the Chief of the Pemberton Township Police Department for the issuance of a firearms purchaser identification card to purchase three handguns. Chief David Jantas assigned Kelsey Knudson, a civilian "police aide," to investigate the application and "generate a report based on the information that she learned during her investigation." As described by Chief Jantas, the investigation followed a "checklist" provided by the New Jersey State Police (NJSP) of areas the investigator was "supposed to screen and try to obtain information about the applicant." The investigator reviewed criminal history data bases, the Family

Automated Case Tracking System (FACTS) used and maintained by the Chancery Division, Family Part, the applicant's motor vehicle records maintained by the Motor Vehicle Commission, and the New Jersey Domestic Violence Registry.¹

In the course of her investigation, Knudson discovered that several complaints had been filed against appellant alleging grounds for relief under the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 to -35. A review of these domestic violence records revealed that appellant's former wife and a woman with whom he previously had a romantic relationship, had filed

¹ Pursuant to N.J.S.A. 2C:25-34:

The Administrative Office of the Courts shall establish and maintain a central registry of all persons who have had domestic violence restraining orders entered against them, all persons who have been charged with a crime or offense involving domestic violence, and all persons who have been charged with a violation of a court order involving domestic violence. All records made pursuant to this section shall be kept confidential and shall be released only to:

. . . .

b. A police or other law enforcement agency investigating a report of domestic violence, or conducting a background investigation involving a person's application for a firearm permit or employment as a police or law enforcement officer or for any other purpose authorized by law or the Supreme Court of the State of New Jersey[.]

complaints alleging domestic violence, resulting in a total of eight domestic restraining orders between 1993 and 2011.

The trial judge found, and the record supports, that six of the eight domestic violence complaints were filed by appellant's former wife. The other two domestic violence complaints were filed by his paramour. Four of the complaints resulted in the issuance of final restraining orders, requiring the BCPO to seize appellant's firearms on each of these four separate occasions. All eight restraining orders were eventually dismissed by the Family Part upon the plaintiffs' request.

The allegations of domestic violence made by the plaintiffs in their complaints against appellant involved serious acts of physical violence and sexual assault. Specifically, a Domestic Violence Incident Report states:

Aug[ust] 2010, . . . [appellant] was sexually aggressive and forced [plaintiff] to engage in oral and anal sex. [Appellant] put [plaintiff's] head in toilet and urinated on her head. [Appellant] forced [plaintiff] to stay in bed. [Appellant] has shown up unexpectedly behind [plaintiff] at ATM machine and driven by her home. [Appellant] suffers from PTSD and refuses to get treatment.

Following these allegations, police officers contacted appellant and informed him that he needed to surrender his firearms. Appellant told the officers that his firearms were at his brother's home in Carlisle, Pennsylvania. Carlisle Police

Officers who responded to appellant's brother's residence did not find any firearms. Police eventually found and seized the firearms at the residence of a friend of appellant in Browns Mills, an unincorporated community located in Pemberton Township, Burlington County.

Appellant has also been arrested for criminal activity related to domestic violence. He was charged with criminal trespass onto the property of an alleged domestic violence victim who had an active restraining order against him at the time. He was arrested for assault with a deadly weapon in North Carolina. From 1989 to 1993, he was arrested and charged with assault and criminal contempt.

Chief Jantas denied appellant's application on January 9, 2015. The Chief found issuance of a permit to appellant to purchase a firearm "would not be in the interest of the public health, safety, and welfare." N.J.S.A. 2C:58-3(c)(5). This was the second time Chief Jantas had denied appellant's application to purchase a handgun for these same reasons. The trial judge reviewed the evidence made available to Chief Jantas de novo, and reached the same conclusion.

We are bound to uphold the Law Division's factual findings, provided they are supported by sufficient competent evidence in the record. Rova Farms Resort, Inc. v. Investors Ins. Co., 65

N.J. 474, 484 (1974). However, the trial court's conclusions of law, by contrast, are "not entitled to . . . special deference" and are thus subject to de novo review. In re Custodian of Records, Criminal Div. Manager, 214 N.J. 147, 163 (2013) (emphasis added) (quoting Manalapan Realty, L.P. v. Twp. Comm. of Twp. of Manalapan, 140 N.J. 366, 378 (1995)).

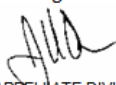
We discern no legal or factual basis to disagree with the trial court's decision. The record amply supports the court's conclusion finding appellant disqualified from obtaining a permit to purchase three handguns pursuant to the "public health, safety or welfare" disqualifier under N.J.S.A. 2C:58-3(c)(5). In re State for Forfeiture of Pers. Weapons & Firearms Identification Card belonging to F.M., 225 N.J. 487, 507-08 (2016). As our colleague Judge Kennedy noted in In re Z.L., 440 N.J. Super. 351, 357 (App. Div. 2015), "in deciding the defendant [in State v. Cordoma, 372 N.J. Super. 524, 536 (App. Div. 2004)] was disqualified under subsection (c)(5), we considered the defendant's mental condition, even though it did not rise to the level of the disabling conditions set forth in N.J.S.A. 2C:58-3(c)(2) and (3)."

Appellant's arguments based on the consideration of hearsay evidence lacks sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). It is well-established that the

usual rules barring hearsay testimony are not controlling in handgun permit proceedings. Weston v. State, 60 N.J. 36, 50 (1972). Finally, the trial court's decision to order the forfeiture of appellant's firearms was entirely proper and in keeping with the court's responsibility to protect victims of domestic violence. In re Return of Weapons to J.W.D., 149 N.J. 108, 114-16 (1997); see also N.J.S.A. 2C:25-18.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION