

**APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW
YORK, SECOND DEPARTMENT**

Santagata v. Currier-Woods

84 A.D.3d 821 (N.Y. App. Div. 2011) · Decided May 3, 2011

SUMMARY

The Appellate Division affirmed the denial of a petition challenging the rejection of an application for a full-carry pistol license. It held that the licensing officer had a rational basis for finding a lack of proper cause and good moral character, and rejected the petitioner's Second and Fourteenth Amendment challenge by distinguishing the home-possession rights recognized in *Heller* and *McDonald* from the requested concealed-carry permit.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Department
WRITING FOR THE COURT	Prudenti, R.J.; Angiolillo, J.; Florio, J.; Sgroi, J.
JURISDICTION	New York
DECIDED	May 3, 2011
DISPOSITION	affirmed
PROCEDURAL POSTURE	The petitioner appealed from a Supreme Court, Orange County, judgment denying an Article 78 petition on the merits and dismissing the proceeding.
STANDARD OF REVIEW	Whether the licensing determination had a rational basis and was arbitrary and capricious under Article 78 review.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Santagata v. Currier-Woods

TOPICS

judicial review of agency action administrative law second amendment rational basis review
civil procedure

PRACTICE AREAS

administrative law constitutional law firearms law civil procedure

QUESTIONS PRESENTED

1. Whether the licensing officer's denial of the full-carry pistol license had a rational basis or was arbitrary and capricious.
2. Whether Penal Law § 400.00's licensing eligibility requirements, as applied to Santagata, violated the Second and Fourteenth Amendments.

HOLDINGS

1. The denial was supported by a rational basis and was not arbitrary and capricious.
2. The statutory licensing requirements, as applied to Santagata's application for a concealed full-carry permit, did not violate the Second or Fourteenth Amendments.

KEY QUOTATIONS

“The decisions upon which the petitioner relies (see McDonald v Chicago, 561 US —, 130 S Ct 3020 [2010]; District of Columbia v Heller, 554 US 570 [2008]) are distinguishable on the ground, among others, that they involved the rights of individuals to possess handguns in their homes, whereas the permit sought by the petitioner in this case would permit him to carry a pistol “concealed [and] without regard to employment or place of possession” (Penal Law § 400.00 [2] [f]).” (822)

FACTUAL BACKGROUND

Santagata applied for a full-carry pistol license permitting him to carry a pistol concealed and without regard to employment or place of possession. The licensing officer denied the application because Santagata failed to demonstrate proper cause and lacked the requisite good moral character. The Supreme Court found a rational basis for the determination and dismissed Santagata's Article 78 proceeding.

PROCEDURAL HISTORY

A Family Court judge, acting as a pistol licensing officer, denied Santagata's application for a full-carry pistol license. Upon reargument, the licensing officer adhered to the prior determination. The Supreme Court, Orange County, denied the Article 78 petition and dismissed the proceeding, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Klenosky v. New York City Police Dept., 75 A.D.2d 793 (1980), aff'd, 53 N.Y.2d 685 (1981)
- Matter of Blank v. Adler, 74 A.D.3d 802 (2010)
- Matter of Hecht v. Bivona, 11 A.D.3d 614 (2004)
- Matter of Martinek v. Kerik, 294 A.D.2d 221 (2002)
- Matter of Theurer v. Safir, 254 A.D.2d 89 (1998)
- Matter of Velez v. DiBella, 77 A.D.3d 670 (2010)

- Matter of Kachalsky v. Cacace, 65 A.D.3d 1045 (2009)
- McDonald v. Chicago, 561 U.S. 742, 130 S. Ct. 3020 (2010)
- District of Columbia v. Heller, 554 U.S. 570 (2008)

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