

**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)

OPINION

PER CURIAM.

In a proceeding pursuant to CFLR article 78 to review a determination of Lori Currier-Woods, a Judge of the Family Court, Orange County, dated November 5, 2008, which, in effect, upon reargument, adhered to a prior determination dated September 29, 2008, denying the petitioner's application for a pistol license, the petitioner appeals from a judgment of the Supreme Court, *822Orange County (Owen, J.), dated August 4, 2009, which, upon a decision of the same court dated April 29, 2009, denied the petition and dismissed the proceeding on the merits.

Ordered that the judgment is affirmed, with costs. A pistol licensing officer (hereinafter the respondent) denied the petitioner's application for a "full carry" pistol license on the grounds that the petitioner failed to demonstrate proper cause for the issuance of such a license (see Penal Law § 400.00 [2] [f]; Matter of Klenosky v New York City Police Dept., 75 AD2d 793 [1980], affd 53 NY2d 685 [1981]; see also Matter of Blank v Adler, 74 AD3d 802 [2010]; Matter of Hecht v Bivona, 11 AD3d 614 [2004]; Matter of Martinek v Kerik, 294 AD2d 221 [2002]; Matter of Theurer v Safir, 254 AD2d 89 [1998]) and that good cause existed for the denial of the license because the petitioner lacked the requisite good moral character (see Penal Law § 400.00 [1] [b], [g]; Matter of Velez v DiBella, 77 AD3d 670 [2010]).

As the Supreme Court correctly determined, there was a rational basis for the respondent's determination, and that determination was not arbitrary and capricious (see Matter of Velez v DiBella, 77 AD3d 670 [2010]; Matter of Blank v Adler, 74 AD3d 802 [2010]; Matter of Kachalsky v Cacace, 65 AD3d 1045 [2009]).

The petitioner contends, in effect, that the licensing eligibility requirements of Penal Law § 400.00 (1), as applied to him in this case, infringe upon his right to keep and bear arms, guaranteed by the Second and Fourteenth Amendments to the United States Constitution and, thus, the respondent's determination was affected by an error of law. This contention is without merit.

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]).

Accordingly, the Supreme Court properly denied the petition and dismissed the proceeding on the merits. Prudenti, RJ., Angiolillo, Florio and Sgroi, JJ., concur.

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