

SUPREME COURT OF RHODE ISLAND

Peter Montaquila v. Peter F. Neronha, in his official capacity as
Attorney General of Rhode Island, et al.

Montaquila · No. No. 2021-146-M.P. · Decided March 2, 2023

SUMMARY

The Rhode Island Supreme Court reviewed the Attorney General’s denial of Peter Montaquila’s application to renew a concealed- or open-carry license. The Court held that the denial was not supported by legally competent evidence, including because the Attorney General relied on information concerning a dismissed and sealed arrest and on Montaquila’s omission of the word “brandished” from his account. The Court set aside the decision, quashed the denial, and directed the Attorney General to renew the permit; a dissent would have upheld the denial.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Associate Justice Melissa A. Long; Chief Justice Suttell; Justice Goldberg; Justice Robinson; Justice Lynch Prata; Justice Long
JURISDICTION	Supreme Court of Rhode Island
DECIDED	March 2, 2023
DOCKET	No. 2021-146-M.P.
DISPOSITION	quashed
PROCEDURAL POSTURE	Petition for a writ of certiorari seeking review of the Rhode Island Attorney General's denial of the petitioner's application to renew a concealed- or open-carry firearm license.
STANDARD OF REVIEW	On certiorari review of a concealed-carry licensing decision, the Supreme Court examines the record. It will affirm if legally competent evidence supports the decision unless an error of law infected the validity of the proceedings. Legally competent evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion; it is more than a scintilla but less than a preponderance.
PRECEDENTIAL VALUE	published
PARTIES	Peter Montaquila v. Peter F. Neronha, in his official capacity as Attorney General of Rhode Island, Edward Troiano, in his official

TOPICS

writ of certiorari judicial review of agency action administrative law statutory interpretation
appellate procedure

PRACTICE AREAS

administrative law firearms licensing appellate procedure statutory interpretation

QUESTIONS PRESENTED

1. Whether Rhode Island General Laws § 12-1-12 required destruction of all records related to Montaquila's dismissed arrest.
2. Whether the Attorney General's reliance on the incident report and Montaquila's omission of the firearm-brandishing allegation constituted legally competent evidence supporting denial of his license-renewal application.
3. Whether the appropriate remedy was remand for further fact-finding or setting aside the denial and directing renewal of the permit.
4. Whether Montaquila's claim that the Attorney General violated the sealing order by offering to disseminate the sealed record was waived.

HOLDINGS

1. Section 12-1-12 does not require destruction of all records; the statute's clear language does not support the petitioner's broad interpretation.
2. The Attorney General's decision was not supported by legally competent evidence because the omission of the word or fact of brandishing from Montaquila's application, without other supporting evidence or rationale, was at most mere scintilla.
3. The issue was waived because Montaquila's Rule 12A statement did not adequately analyze the asserted violation.
4. Remand for further fact-finding was unnecessary; the court set aside the decision, quashed the denial, and directed the Attorney General to renew Montaquila's concealed-carry permit.

KEY QUOTATIONS

“The clear, unambiguous language of § 12-1-12 plainly does not mandate the destruction of all records as Mr. Montaquila suggests.” (at 9)

“Without any other evidence or rationale justifying the denial, Mr. Montaquila’s omission is, at best, mere scintilla.” (at 10)

“We therefore conclude that there is no legally competent evidence to support the Attorney General’s decision.” (at 11)

“Remand is therefore unnecessary.” (at 11)

FACTUAL BACKGROUND

Providence police arrested Montaquila for misdemeanor simple assault after a confrontation at his business involving a firearm, and the Attorney General revoked his existing carry license. The criminal charge was later dismissed under Rule 48(a), and the District Court sealed the related record. Montaquila applied to renew his license and described the confrontation in an attached letter but did not mention that he had brandished his firearm. The Attorney General denied the application based on the incident report and the omission, despite the absence of other evidence indicating that Montaquila was unfit to carry a firearm.

PROCEDURAL HISTORY

The Attorney General denied Montaquila's application to renew his license after reviewing information concerning an arrest arising from a firearm-related altercation. The Attorney General upheld the denial after an administrative appeal conference. The Rhode Island Supreme Court granted Montaquila's petition for a writ of certiorari, reviewed the administrative record, set aside the Attorney General's decision, quashed the denial, and remanded with directions to renew the permit.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The case was remanded to the Attorney General with direction to renew Montaquila's concealed-carry permit.

CASES CITED

- Mosby v. Devine, 851 A.2d 1031, 1051 (R.I. 2004)
- In re McBurney Law Services, Inc., 798 A.2d 877, 881 (R.I. 2002)
- Asadoorian v. Warwick School Committee, 691 A.2d 573, 577 (R.I. 1997)
- Smithfield Voters for Responsible Development, Inc. v. LaGreca, 755 A.2d 126, 128 (R.I. 2000)
- Kent County Water Authority v. State (Department of Health), 723 A.2d 1132, 1134 (R.I. 1999)
- Beagan v. Rhode Island Department of Labor and Training, 162 A.3d 619, 626 (R.I. 2017)
- Rhode Island Temps, Inc. v. Department of Labor and Training, Board of Review, 749 A.2d 1121, 1125 (R.I. 2000)
- Waterman v. Caprio, 983 A.2d 841, 844 (R.I. 2009)
- Iselin v. Retirement Board of Employees’ Retirement System of Rhode Island, 943 A.2d 1045, 1049 (R.I. 2008)
- State v. Chase, 9 A.3d 1248, 1256 (R.I. 2010)

- *Gadomski v. Tavares*, 113 A.3d 387, 387, 389-392 (R.I. 2015)
- *Bernuth v. Zoning Board of Review of Town of New Shoreham*, 770 A.2d 396, 401 (R.I. 2001)
- *Cranston Print Works Co. v. City of Cranston*, 684 A.2d 689, 691 (R.I. 1996)
- *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111, 2161-2162 (2022)
- *State v. Storms*, 112 R.I. 121, 126, 308 A.2d 463, 466 (1973)
- *Preservation Society of Newport County v. City Council of the City of Newport*, 155 A.3d 688, 692 (R.I. 2017)
- *State v. Gillespie*, 960 A.2d 969, 980 (R.I. 2008)
- *Harodite Industries, Inc. v. Warren Electric Corporation*, 24 A.3d 514, 533 (R.I. 2011)
- *State v. Gongoleski*, 14 A.3d 218, 222 (R.I. 2011)
- *North Providence School Committee v. North Providence Federation of Teachers, Local 920, American Federation of Teachers*, 945 A.2d 339, 345 n.10 (R.I. 2008)
- *National Hockey League v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639, 642 (1976) (per curiam)
- *Martin v. Hearst Corporation*, 777 F.3d 546, 549, 551-553 (2d Cir. 2015)
- *G.D. v. Kenny*, 15 A.3d 300, 315-316 (N.J. 2011)