

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Matter of Campisi v. Shea

2022 NY Slip Op 00938 (App. Div. 2022) · No. Appeal No. 15279; Case No. 2021-00215; Index No. 153703/20
· Decided February 10, 2022

SUMMARY

The Appellate Division, First Department, affirmed the denial of a CPLR article 78 petition challenging the denial of an application to renew a special carry handgun license. The court held that the licensing authority rationally determined that the petitioner had not established proper cause and was entitled to reassess whether proper cause continued to exist upon renewal.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Gische, J.P.; Kern, J.; Moulton, J.; Kennedy, J.; Rodriguez, J.
JURISDICTION	New York
DECIDED	February 10, 2022
DOCKET	Appeal No. 15279; Case No. 2021-00215; Index No. 153703/20
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed from a Supreme Court, New York County judgment, denominated an order, denying his CPLR article 78 petition to annul the respondent's determination denying his administrative appeal from the denial of his application to renew a special carry handgun license.
STANDARD OF REVIEW	Whether the administrative determination was arbitrary and capricious; the court upheld the determination because the respondent had a rational basis for finding that petitioner had not established proper cause.
PRECEDENTIAL VALUE	Published intermediate appellate decision
PARTIES	Joseph Campisi v. Dermont F. Shea

TOPICS

judicial review of agency action

administrative law

appellate procedure

civil procedure

standard of review

PRACTICE AREAS

administrative law

firearms licensing

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the denial of petitioner's application to renew a special carry handgun license was arbitrary and capricious because petitioner allegedly failed to establish proper cause.
2. Whether the respondent failed to follow precedent or treated petitioner inconsistently by approving other applications based on purportedly similar facts.
3. Whether a prior grant of a handgun license barred the respondent from reevaluating whether proper cause continued to exist on a renewal application.

HOLDINGS

1. The denial was not arbitrary and capricious because, absent documentation substantiating petitioner's alleged threats, the respondent rationally concluded that the application did not establish proper cause under Penal Law § 400.00.
2. Petitioner failed to establish that the respondent departed from precedent because the record did not show that the other applications were similarly situated.
3. A prior grant of a license did not prevent the respondent from reviewing the renewal application and determining whether proper cause continued to exist.

FACTUAL BACKGROUND

Joseph Campisi sought renewal of a special carry handgun license, asserting that he faced threats. The respondent denied the renewal application because petitioner submitted no documentation substantiating the alleged threats and therefore failed to establish proper cause. Although petitioner had previously been granted a license and argued that similarly situated applications had been approved, the record showed material differences between his prior application and the renewal application and did not establish that the other applications were similarly situated.

PROCEDURAL HISTORY

Supreme Court, New York County, denied the petition and dismissed the article 78 proceeding. The Appellate Division, First Department, unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- Matter of Baldea v City of New York License Div. of the NYPD, 194 AD3d 634, 634 (1st Dept 2021)
- Matter of Girandola v Shea, 193 AD3d 543, 543 (1st Dept 2021)
- Matter of Coverco, Inc. v New York State Dept. of Economic Dev., 159 AD3d 1538, 1539 (4th Dept 2018)
- O'Brien v Keegan, 87 NY2d 436, 439 (1996)

OPINION

PER CURIAM.

Matter of Campisi v Shea (2022 NY Slip Op 00938) Matter of Campisi v Shea 2022 NY Slip Op 00938 Decided on February 10, 2022 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided and Entered: February 10, 2022 Before: Gische, J.P., Kern, Moulton, Kennedy, Rodriguez, JJ. Index No. 153703/20 Appeal No. 15279 Case No. 2021-00215 [*1]In the Matter of Joseph Campisi, Petitioner-Appellant, vDermont F. Shea etc., Respondent-Respondent.

Law Offices of John D. Randazzo, White Plains (John D. Randazzo of counsel), for appellant. Georgia M. Pestana, Corporation Counsel, New York (Tahirih M. Sadrieh of counsel), for respondent. Judgment (denominated an order), Supreme Court, New York County (Carol R. Edmead, J.) entered on or about December 8, 2020, denying the petition to annul respondent's determination, dated January 13, 2020, which denied petitioner's administrative appeal of the denial of his application to renew a special carry handgun license, and dismissing the proceeding brought under CPLR article 78, unanimously affirmed, without costs.

The court properly determined that the denial of petitioner's renewal application was not arbitrary and capricious. In the absence of documentation substantiating the alleged threats to petitioner, respondent rationally concluded that petitioner's application did not establish "proper cause" within the meaning of Penal Law § 400.00, (38 RCNY 5-03; see Matter of Baldea v City of New York License Div. of the NYPD, 194 AD3d 634, 634 [1st Dept 2021]; Matter of Girandola v Shea, 193 AD3d 543, 543 [1st Dept 2021]).

Petitioner also failed to carry his burden of establishing that respondent failed to follow precedent because other applications based on essentially the same facts were approved. On the contrary, the record does not indicate that the other applications were similarly situated (see e.g. Matter of Coverco, Inc. v New York State Dept. of Economic Dev., 159 AD3d 1538, 1539 [4th Dept 2018]).

Moreover, there were material differences between petitioner's prior application and the renewal application, supporting respondent's denial of the renewal application. In any event, although petitioner was previously granted a license, respondent is authorized to review renewal applications and determine whether each renewal application establishes that "proper cause" still

exists (Penal Law § 400.00; 38 RCNY 5-03, 5-05; see O'Brien v Keegan, 87 NY2d 436, 439 [1996]; Baldea at 634; Girandola at 543).

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: February 10, 2022

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-york-supreme-court-of-the-state-of-new-york-appellate-division-first-department/2022/matter-of-campisi-v-shea-o9my93k0>