

IN THE COURT OF COMMON PLEAS OF THE 43rd JUDICIAL DISTRICT
MONROE COUNTY BRANCH – CIVIL DIVISION

.....
JOHN DOE 1, et al., :
Plaintiffs :
 : CIVIL ACTION – LAW
vs. :
 :
MONROE COUNTY, et al., : NO. 2015-CV-6384
Defendants :
.....

ORDER

AND NOW, this 13th day of December, 2017, upon consideration of Plaintiff's Petition for Preliminary Injunction, the responses thereto, the briefs in support thereof, hearing thereon, and this Court deferring opinion until the Pennsylvania Supreme Court issued decision John Doe v. Franklin County which mirrors the above-captioned case, **IT IS HEREBY ORDERED, ADJUDGED and DECREED** said Preliminary Injunction is **GRANTED** as follows regarding individuals making application for a Pennsylvania License to Carry Firearms:

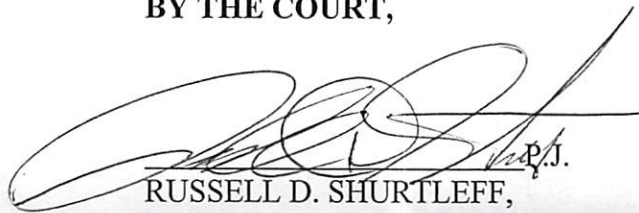
1. Monroe County Sheriff's Office is immediately enjoined from sending out postcards advising applications of their license renewal, denial or acceptance;
2. Monroe County Sheriff's Office is immediately enjoined from requiring a photocopy of the applicants Local 1% Earned income Tax Form, Federal Income Tax Return, Pa. State Tax Return or Real Estate Tax Bills;
3. Monroe County Sheriff's Office is immediately enjoined from requiring written documentation from applicant's doctor as to the specific nature of applicant's disability as well as any medications applicant may be taking due to disability;
4. Monroe County Sheriff's Office is immediately enjoined from requiring a copy of applicant's Social Security Statement;

5. Monroe County Sheriff's Office is immediately enjoined from requiring a copy of applicant's DD-214;
6. Monroe County Sheriff's Office is allowed to request two non-family references, however, Monroe County Sheriff's Office is immediately enjoined from requiring the two references be Monroe County residents; and
7. Monroe County Sheriff's Office is immediately enjoined from requiring the applicant to provide a list of medications he or she may be prescribed.

IT IS FURTHER ORDERED Plaintiffs, shall post One Dollar (\$1.00) bond as prescribed in Pa.R.C.P. No. 1531(b) with the Monroe County Prothonotary within ten (10) days from the date of this Order.

IT IS FURTHER ORDERED upon completion of Discovery, either party may petition this Court for a full hearing.

BY THE COURT,



P.J.
RUSSELL D. SHURTLEFF,
President Judge

cc:
Monroe County Court Administrator
Gerard J. Geiger, Esquire
Joshua Prince, Esquire

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Joshua Price, Esquire- Attorney for Plaintiffs
Gerald J. Geiger, Esquire- Attorney Defendants

OPINION

Shurtleff, P.J., December 13, 2017:

This Opinion is in support of this Court’s attached Order.

I. BRIEF FACTS

On or about September 8, 2015 Plaintiffs filed a class action Complaint alleging their confidential license to carry firearms applicant information was disclosed by the Defendants and that they were required to comply with policies, procedures and regulations promulgated, ratified, condoned and enforced by the Defendants. Moreover, on or about April 29, 2016 Plaintiffs filed a Motion for Preliminary Injunction stating during the application process Plaintiffs were required to have a permanent physical address, disclose a copy of his/her Local 1% Earned Income Tax Form, disclose a copy of his/her Federal Income Tax Return, Pa. State Tax Return or Real Estate Taxes, disclose if he/she is on disability and if so, submit a written documentation from his/her doctor as to the nature of any disability or medications that the applicant may be taking, disclose a copy of his/her DD-214, disclose two form of identification, provide references that must be full time county residents and restricting those references addresses to those addresses other than

the applicant's. Additionally, Defendants regular procedure was to mail out postcards to individuals, advising the individuals that their License to Carry Firearms was approved or was sent to expire. These postcards clearly noted the individuals' full name and address. Said public disclosure of not only the individuals names and addresses but also that they have a license to carry a firearm is information that is protected pursuant to 18 Pa. C.S. §6111.

Defendants filed an answer and brief and a hearing on the Preliminary Injunction was held June 10, 2016. A decision in this matter was held in abeyance pending the Pennsylvania Supreme Court decision in John Doe v. Franklin County, which involved essentially the same fact pattern.

II. DISCUSSION

The essential prerequisites to grant a preliminary injunction are as follows: the injunction is necessary to prevent immediate and irreparable harm; greater injury will result from refusing the injunction than from granting it; the injunction restores the parties to status quo; and the activity sought to be restrained is actionable and the plaintiff's right to relief is clear. Dillon v. City of Erie, 83 A.3d 467 (Pa. Cmwlth. 2014) It is important to recognize that for a preliminary injunction to be granted, all prongs must be established. If the petition fails to establish any element, there is no need to address the others. Shogan v. Com., Bureau of Commissions, Elections and Legislation, 938 A.2d 1132, 1134 (Pa. Cmwlth. 2007)

18 Pa.C.S §6109 Licenses states in pertinent part:

(c) Form of application and content.--The application for a license to carry a firearm shall be uniform throughout this Commonwealth and shall be on a form prescribed by the Pennsylvania State Police. The form may contain provisions, not exceeding one

page, to assure compliance with this section. Issuing authorities shall use only the application form prescribed by the Pennsylvania State Police...

(d) Sheriff to conduct investigation.--The sheriff to whom the application is made shall:

- (1) investigate the applicant's record of criminal conviction;
 - (2) investigate whether or not the applicant is under indictment for or has ever been convicted of a crime punishable by imprisonment exceeding one year;
 - (3) investigate whether the applicant's character and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety;
 - (4) investigate whether the applicant would be precluded from receiving a license under subsection (e)(1) or section 6105(h) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms); and
 - (5) conduct a criminal background, juvenile delinquency and mental health check following the procedures set forth in section 6111 (relating to sale or transfer of firearms), receive a unique approval number for that inquiry and record the date and number on the application...
- (emphasis added)

Plaintiffs contend that the Defendants violated §6109 thereby constituting irreparable harm for the purposes of a preliminary injunction. The Commonwealth Court in Dillon stated, “when the Legislature declares certain conduct to be unlawful it is tantamount in law to calling it injurious to the public. For one to continue such unlawful conduct constitutes irreparable injury.” 83 A.3d at 474.

Defendant argues that the UFA imposes a mandatory duty on the Sheriff within 18 Pa. C.S. §6109 to conduct an investigation of a potential applicant’s fitness to carry firearms but it provides no direction on how to comply with this mandatory duty. Therefore, the Sheriff developed the policies, procedures and regulations stated above to conduct an investigation. However, upon closer examination of the language contained in §6109 it is clear the intent of the General Assembly is for the same form for applications to be used throughout the Commonwealth and that the Sheriff is only to use said form in conducting their investigation in issuing or denying a license. Therefore, the current policies, procedures and regulations in relation to the applications for license to carry

firearms is contrary to the dictate of the General Assembly in enacting §6109, thereby establishing immediate and irreparable harm.

In order to determine whether greater harm would occur to Plaintiffs by denying the injunction than to the Defendants by granting it, a determination as to whether the grounds relied upon for the comparison of harms suffered were reasonable. Corbett v. Snyder, 977 A.2d 28, 42 (Pa. Cmwlth. 2009) Additionally, a local government's regulation of firearms shows that a greater injury will occur by refusing to grant the injunction because [the ordinance] is unenforceable. Dillon, 83 A.3d at 474.

In the case before the Court, the policies, procedures and regulations regarding an initial application are also in place for renewal applications being processed as well. By requiring the additional information not promulgated by the current application form in order to obtain a new or renewal license, can result in having Plaintiffs' privacy invaded and confidentially breached. As these additional requirements are nowhere contained in the statute, no harm is suffered by the Defendants by granting the preliminary injunction.

In determining whether the Plaintiffs have established that granting an injunction would restore the parties to the status quo, the Commonwealth Court has previously held that "the status quo is that last actual, peaceable and lawful uncontested status which preceded the pending controversy." Woods at Wayne Homeowners Ass'n v. Gambone Brothers Construction Con., Inc., 893 A.2d 196, 204 (Pa. Cmwlth. 2006) Here, Plaintiffs' have demonstrated that the last actual peaceable and lawful uncontested status was prior to Defendants enforcement of the current policies, procedures and regulations.

Finally, Plaintiffs have clearly shown the Defendants' policies, procedures and regulations regarding the application and renewal process for a license to carry,

specifically the requiring of documentation beyond the form promulgated by the Pennsylvania State Police are preempted and a possible violation of §6109.

III. CONCLUSION

Based on the above, Plaintiffs have satisfied the prerequisites for a preliminary injunction.