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**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0622-21**

**IN RE THE APPLICATION
OF JOSEPH D. DELVECCHIO
FOR A PERMIT TO CARRY
A HANDGUN**

Submitted March 29, 2022 – Decided April 12, 2022

Before Judges Fisher and Smith.

On appeal from the Superior Court of New Jersey, Law Division, Bergen County, Docket No. GP-0056-21.

Mark Musella, Bergen County Prosecutor, attorney for appellant State of New Jersey (William P. Miller, Assistant Prosecutor, of counsel and on the brief; Catherine A. Foddai, Legal Assistant, on the brief).

Joseph D. Delvecchio, respondent pro se.

PER CURIAM

In June 2021, Joseph Delvecchio applied for a permit to carry a handgun under N.J.S.A. 2C:58-4(d); the application included his employer's certification that the applicant would be engaged in security and the handgun was a necessary

aspect of the job. The police chief approved the request, but the prosecutor's office objected.

On August 24, 2021, the trial judge heard the prosecutor's argument and the applicant's testimony at a brief hearing. The prosecutor noted the lack of information from the county adjuster and that a justifiable need for the permit had not been shown. Applicant's responsive testimony revealed a lack of clarity about his need to carry a handgun:

[THE COURT]: What assets or merchandise does the security company maintain?

A. . . . I personally don't have that answer for you, Your Honor. I was told to apply for a (indiscernible) permit and I was going to get a job with USPA [Nationwide Security of NJ], you know, doing security at certain locations, that being armed guards. So I . . . obtained the armed guard SORA license . . . and . . . my direct supervisor told me that the hire would depend[] on the permit to carry.

[THE COURT]: . . . I assume (indiscernible) but the letter of need, the certificate of need, essentially sets forth that the need is for you to provide armed security for the security company to protect assets of the security company, being cash and merchandise, and it . . . doesn't elaborate on what that may be. . . . [T]he letter is very bare in its information.

A. But the – the letter of need sets (indiscernible) providing security to each outlet, which is an outside business, not for USPA [N]ationwide. . . . But I would

be employed by USPA and I would be provid[ing] security for HLA [Warehouse].

. . . .

[THE COURT]: All right. What's . . . HLA Warehouse?

A. From what I understand the, you know, my employer told me that it's HLA [G]lass (indiscernible). You know, they store – they store contents. I – I don't even know.

After the judge heard this testimony, he initially expressed his "inclin[ation] to grant this on a limited basis only within the scope of your employment within the specific hours that you work" The judge noted that the "mental health records check hasn't come back yet," which was another "problem with [the] application." And the judge expressed a need for the employer to provide a more detailed letter about the scope of employment. As a result, no decision was then made; the matter was instead adjourned for thirty days.

It appears that no further hearing occurred. Instead, on September 24, 2021, the judge entered an order that granted the application with limitations and provided a notation that its entry was based on the reasons given at the August 24, 2021 hearing.

The State appeals, arguing that the trial judge erroneously entered the order because the applicant failed to show he had a justifiable need for the permit.

We note that during the August 24, 2021 hearing, the judge suggested the application would be approved if uncertainties were cleared up. At that time, as we have already observed, there were questions about that the existence of any mental health records and the scope of applicant's employment. So, the judge's reference to the reasons he gave on August 24, 2021, in entering the September 24, 2021 order does not provide us with a sufficient understanding about why the order was entered. We note that the record on appeal contains what appears to be a certification from the county adjuster that there were no mental health records on file that concerned the applicant. But the judge's questions during the August hearing about the nature of applicant's employment appear not to have been answered. If answers were provided, they cannot be found in the record on appeal. To adequately review the proceedings and determine whether there is merit to the State's appeal, the court requires a further explanation about the nature of the applicant's employment.

The order under review is vacated and the matter is remanded to the trial court for further proceedings in conformity with this opinion. We do not retain jurisdiction.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION