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**SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-0638-22**

**IN THE MATTER OF  
JOSEPH REINA.**

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Argued June 7, 2023 – Decided June 27, 2023

Before Judges Accurso and Vernoia.

On appeal from the Superior Court of New Jersey, Law Division, Middlesex County, Docket No. GP-0034-22.

Michael B. Roberts argued the cause for appellant Joseph Reina (Roberts & Teeter, LLC, attorneys; Michael B. Roberts, on the briefs).

Nancy A. Hulett, Assistant Prosecutor, argued the cause for respondent State of New Jersey (Yolanda Ciccone, Middlesex County Prosecutor, attorney; Joie D. Piderit, Assistant Prosecutor, of counsel and on the brief).

**PER CURIAM**

Joseph Reina appeals from a Law Division order denying his application for a permit to carry a handgun. For reasons we explain, we vacate the court's order and remand for further proceedings.

The pertinent facts may be simply stated. Reina, a Dunellen resident, submitted an application for a permit to carry a handgun to the Dunellen Police Department. After the Dunellen Police Chief approved the application, it was presented to the Law Division.

By letter dated September 15, 2022, a Law Division judge advised Reina the court scheduled a hearing on his "application for a carry permit." The judge further advised Reina to "be prepared to proceed at that time" and that a failure to appear at the hearing "may result in dismissal of [his] application."

Reina appeared at the scheduled hearing. The court began the hearing by advising Reina it "had some questions" regarding his application. The court then asked Reina questions concerning prior incidents in Reina's life, including a statement he posted on a social networking site that was reported to, and investigated by, the police. More particularly, Reina admitted posting a statement on Facebook stating, "I swear I will rip that school to its core."

He explained the post referred to an incident where another child pushed his stepson during recess at the child's elementary school. Reina told the court he posted the statement because he was dissatisfied with the school's, and its principal's, handling of the incident. Reina acknowledged the principal became "unnerved" by the post and called the police as a result.

The court questioned Reina about information, the source of which the court did not disclose, that showed the police spoke to him about the posted statement and that he told the police: "he and his family should not have posted those comments and that it was an overreaction."<sup>1</sup> Reina told the court he did not recall speaking with the police about the post. In response to questioning from the court, Reina admitted he made the post because he was "angry at the school or [its] principal" after the principal informed him nothing further would be done concerning the incident involving his young stepson.

Reina also explained the post was not meant to suggest "physical harm." He asserted he "even told a friend" he was going to "contact the news" or "anybody" that could help him "fight the . . . problem that [he] was having at that school." Reina asserted the posted statement meant only that he intended to "shake it up" by "call[ing] the news department, [or] call somebody." Reina said he deleted the posted statement and subsequently withdrew his younger stepson from the elementary school.

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<sup>1</sup> During the hearing, the court also referenced "comments" made by Reina and his family because the court said there was a separate post, attributed to Reina's then-nineteen-year-old stepson, that made apparent reference to the student who allegedly pushed Reina's younger stepson. The court paraphrased Reina's older stepson's separate post as follows: "Let me find out what this kid was. I will beat him, then I'll beat his F'ing parents for raising a piece of S."

The State suggested there were other grounds supporting a denial of Reina's application to carry a handgun. The State claimed a temporary domestic violence restraining order had been previously entered against Reina, and the State informed the court it wanted to obtain information from the municipality concerning the order.

The court determined evidence concerning the putative restraining order was unnecessary because the information, and Reina's testimony about the social media post directed against the school, alone supported a denial of Reina's application for a permit to carry a handgun. The court found the information concerning the post, Reina's admissions about the circumstances giving rise to the post, and the post's tone and language demonstrated the Dunellen Police Chief erred in failing to recognize granting a carry permit to Reina was contrary to the public health, safety, and welfare under N.J.S.A. 2C:58-3(c)(5).<sup>2</sup>

The court entered an order denying Reina's application. This appeal followed.

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<sup>2</sup> In rendering its decision, the court applied the version of N.J.S.A. 2C:58-3 in effect when the Dunellen Police Chief approved the application in July 2022 and when the court entered the October 27, 2022 order denying Reina's application. The Legislature has since amended the statute, and those amendments became effective following entry of the court's order. See L. 2022, c. 52, § 1, eff. Jan. 1, 2023; L. 2022, c. 55, § 3, eff. Jan. 1, 2023; L. 2022, c. 58, § 1, eff. July 5, 2022; L. 2022, c. 131, § 2, eff. Dec. 22, 2022.

Reina presents the following arguments for our consideration:

I. THE APPLICANT WAS DENIED DUE PROCESS WHEN THE COURT FAILED TO PROVIDE THE APPLICANT ADVANCE NOTICE OF THE COURT'S CONCERNS, HELD A HEARING OUT-OF-TIME, AND CONSIDERED HEARSAY DOCUMENTS NOT PROVIDED TO THE APPLICANT. [Not raised below]

II. THE DECISION BELOW MUST BE REVERSED WHEN THE COURT RELIED EXCLUSIVELY UPON HEARSAY. [Not raised below]

III. IN LIGHT OF NYSRPA V. BRUEN[,] THE CONSTITUTIONALITY OF THE DANGER TO THE PUBLIC HEALTH, SAFETY, AND WELFARE DISQUALIFIER MUST BE REVISITED. [Not raised below]

IV. THE COURT'S DECISION WAS AGAINST THE WEIGHT OF THE CREDIBLE EVIDENCE.

"[A] judicial declaration that a defendant poses a threat to the public health, safety[,] or welfare involves, by necessity, a fact-intensive analysis[.]" In re Forfeiture of Pers. Weapons and Firearms Identification Card Belonging to F.M., 225 N.J. 487, 505 (2016) (quoting State v. Cordoma, 372 N.J. Super. 524, 535 (App. Div. 2004)). In our review of a judicial determination following an evidentiary hearing, we "should accept a trial court's findings of fact that are supported by substantial credible evidence" in the record. Id. at 505-06 (quoting In re Return of Weapons to J.W.D., 149 N.J. 108, 116-17 (1997)). We will

decline to "disturb the factual findings . . . of the trial judge unless . . . convinced . . . they are so manifestly unsupported by or inconsistent with the competent, relevant, and reasonably credible evidence as to offend the interests of justice[.]" Rova Farms Resort v. Inv'rs Ins. Co., 65 N.J. 474, 484 (1974) (citation omitted).

Notwithstanding our deference to its fact findings, a "trial court's interpretation of the law and the legal consequences that flow from established facts are not entitled to any special deference." Rowe v. Bell & Gossett Co., 239 N.J. 531, 552 (2019) (quoting Manalapan Realty, L.P. v. Twp. Comm. of Twp. of Manalapan, 140 N.J. 366, 378 (1995)). For that reason, "[q]uestions of law receive de novo review." Allstate Ins. Co. v. Northfield Med. Ctr., P.C., 228 N.J. 596, 619 (2017). We apply these standards here.

When Reina applied for a public-carry permit in July 2022, and through entry of the Law Division's October 27, 2022 order denying his application, N.J.S.A. 2C:58-4 required that carry permits be approved by the Superior Court. L. 2018, c. 37, § 1, eff. June 13, 2018. More particularly, under the then-extant version of N.J.S.A. 2C:58-4(d), an applicant for a permit to carry a handgun was required to "first apply 'to the chief police officer of the municipality in which the applicant resides, or to the superintendent'" of the New Jersey State Police.

In re Carlstrom, 240 N.J. 563, 569 (2020) (quoting N.J.S.A. 2C:58-4(c) (2018)). Where, as here, a chief of police of a municipality approved the application, the statute required the applicant to "forthwith present [the approved application] to the Superior Court[.]" Ibid. (quoting N.J.S.A. 2C:58-4(d) (2018)). It was then incumbent on the court to "issue the permit . . . if, but only if," the court was "satisfied that the applicant [was] a person of good character who [was] not subject to any of the disabilities set forth in [N.J.S.A. 2C:58-3]," and the applicant otherwise satisfied other statutorily prescribed standards. N.J.S.A. 2C:58-4(d) (2018).

In Carlstrom, the Court explained the procedural requirements for hearings before the Law Division following an approval of a permit to carry a handgun by the chief police officer of a municipality or the superintendent of the New Jersey State Police under N.J.S.A. 2C:58-4(c). 240 N.J. at 571-72. The Court noted that Administrative Office of the Courts Administrative Directive #06-19: Criminal – Procedures for Processing Gun Permits (May 20, 2019) (the 2019 Directive) established the procedure for the processing of applications for permits to carry a handgun. Carlstrom, 240 N.J. at 567. The Court observed the 2019 Directive required a trial court to hold a hearing if it "has any questions

regarding the applicant or" the pending application. Id. at 568 (quoting the 2019 Directive, at 3).

The Court further interpreted the 2019 Directive to mandate a hearing "whenever the court contemplate[d] denying a handgun carry-permit that has been approved by the police chief or superintendent." Id. at 572. The Court also explained that in accordance with the 2019 Directive, "the Law Division judge shall issue a notice scheduling a hearing with an accompanying statement of reasons for its intent to deny the application[.]" and, "[a]t the hearing, the applicant should be afforded the opportunity to proffer reasons why [the applicant] satisfies the standard and respond to any questions from the judge."<sup>3</sup> Ibid.

Reina argues the court erred and violated his procedural due process rights by failing to comply with the 2019 Directive and the Court's decision in Carlstrom. He contends the court failed to include in its letter notice of the hearing a statement of reasons the intended to deny his application, and, as a result, he appeared at the hearing without counsel and otherwise unprepared to

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<sup>3</sup> Additionally, the Court explained other specified evidence and testimony may be presented at the hearing. See generally id. at 572-73.

address the court's concerns, respond to the court's questions, and present evidence in support of his application.

The State does not dispute the court failed to provide Reina with notice of the reasons the court intended to deny Reina's application, but the State claims the lack of notice did not deprive Reina of his procedural due process rights. Nonetheless, the State conceded at oral argument Reina was entitled to such notice under the Court's decision in Carlstrom and the State does not oppose a vacatur of the order denying Reina's application and a remand for reconsideration of the application on that basis.

We need not determine whether the court's failure to provide the reasons supporting its intent to deny Reina's application in the court's notice of the hearing violated Reina's procedural due process rights. The court's failure to abide by the notice requirement explained by the Court in Carlstrom, and the State's concession at oral argument, provides a sufficient basis to vacate the court's order denying Reina's application and remand the matter to the trial court.

We recognize that, following the court's denial of Reina's application, the Legislature amended N.J.S.A. 2C:58-4(d). L. 2022, c. 131, § 3, eff. Dec. 22, 2022. As a result, under the statutory scheme following the December 22, 2022 amendments, "determinations on applications for permits to carry a handgun

will no longer be made by the court," Admin. Off. of the Cts., Administrative Directive #14-22: Criminal – Gun Permit Procedures (Dec. 22, 2022) (the 2022 Directive), and instead will be made by the chief police officer of a municipality or the superintendent of the State Police, N.J.S.A. 2C:58-4(c). The December 22, 2022 amendments also modified the "disqualifying criteria set forth in" N.J.S.A. 2C:58-3(c)(5) that must be considered in determining whether an applicant is entitled to a permit to carry a handgun under N.J.S.A. 2C:58-4(c). See generally Matter of M.U.'s Application for a Handgun Purchase Permit, 475 N.J. Super. 148, 194-96 (App. Div. 2023) (explaining the December 22, 2022 amendments to N.J.S.A. 2C:58-3 and -3(c) and finding those amendments applicable to applications submitted on or after the amendments' December 22, 2022 effective date).

We offer no opinion on the application of the December 22, 2022 amendments to the circumstances presented here. On remand, the parties shall be permitted to make any and all arguments pertaining to: the 2022 amendments' effect, if any, on the manner in which Reina's application should be processed and decided; whether the trial court or the Dunellen Police Chief has the authority to decide Reina's application; whether the application should be processed and decided by the trial court or should be further remanded to the

Dunellen Police Chief for a final decision; any other issues concerning the impact, if any, of the 2022 amendments on Reina's application; and, of course, the merits of application. Reina is not precluded from raising before the remand court any of the arguments he acknowledges in his merits brief he raised for the first time on appeal.

We opt not to offer our opinion on those issues without first providing the parties an opportunity to fully present their arguments to the trial court and the trial court the opportunity to address them on a full record in the first instance. The remand court shall consider the arguments presented on remand, decide the issues based on the record presented, and make the requisite findings of fact and conclusions of law supporting its decision. R. 1:7-4. Of course, if the court determines to conduct a hearing on the substantive merits of Reina's application, it shall comply with the notice requirements the Court imposed in Carlstrom. Nothing in this opinion shall be interpreted as expressing an opinion on any of the issues that may be presented by the parties on remand.

Because the judge who entered the October 27, 2022 order expressed opinions, weighed evidence, "and may have a commitment to his findings," the matter shall be assigned to a different judge on remand. Carmichael v. Bryan, 310 N.J. Super. 34, 49 (App. Div. 1998).

Vacated and remanded for further proceedings not inconsistent 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