

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

MARC A. STEPHENS,

Petitioner,

v.

THE HON. EDWARD A. JEREJIAN,
CHIEF ARTHUR O'KEEFE, AND JOHN JAY HOFFMAN

Respondents.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

PETITION FOR A WRIT OF CERTIORARI

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Petitioner, pro se

QUESTIONS PRESENTED

The root of New Jersey's firearm regulations requiring such as "permits" and "licenses", are derived from slavery, only applied to Slaves, and was motivated by racism and discrimination in violation of the 2nd and 14th Amendment to the United States Constitution.

In October 1694, "An Act concerning Slaves" was enacted in New Jersey; [§1] WHEREAS complaint is made by the inhabitants of this Province, that they are greatly injured by slaves having liberty to carry guns..." **East New Jersey Laws, October 1694, ch.II, "An Act concerning Slaves, &c.," L&S 340-342.** In New Jersey, "An Act to prevent...Carrying of Guns..by Persons not qualified was enacted," ["And be it further Enacted by the Authority aforesaid, That this Act nor any part thereof, shall be construed to extend to Negro, Indian or Mullato Slaves..., without Lisence from his Master..." In 1751, in New Jersey "An Act ...to prevent Negroes and Molatto Slaves,...from meeting in large Companies,...and from hunting or carrying a Gun on the Lord's Day was enacted.

Dred Scott v. Sandford, 60 U.S. 393 (1857) stated that if African Americans were considered U.S. citizens, "It would give to persons of the negro race, who were recognized as citizens in any one State of the Union, the right...to keep and carry arms wherever they went...and endangering the peace and safety of the State" **at 417.** 11 years after Sandford ruling, the Fourteenth Amendment to the Constitution was ratified, defining blacks as citizens. ***McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3060.*** "States formally prohibited blacks from possessing firearms. Others enacted legislation prohibiting blacks from carrying firearms without a license, a restriction not imposed on whites", ***McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3082.***

New Jersey admits that they are enacting gun control laws, "Permits to carry handguns are "the most closely regulated aspect" of New Jersey's gun control laws." **In re Preis, 118 N.J. 564, 573 A.2d 148, 150 (1990).** "Individuals who wish to carry a handgun in public for self-defense must first obtain a license". N.J.S.A. § 2C:39-

5(b)", see **Drake v. Filko**, 724 F. 3d 426 - Court of Appeals, 3rd Circuit 2013 at 428-429.

"The state cannot "enact any gun control law" that they deem to be reasonable. Time and again, however, those pleas failed. **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3046**, "The State cannot interfere with the right of the citizen to keep and bear arms. The right to keep and bear arms is included in the fourteenth amendment, under `privileges and immunities.'" **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020, at 3077-3083**.

Petitioner Marc Stephens, who simply wanted to transfer his firearm from the State of California to New Jersey, was forced to take FBI fingerprinting, and file for a firearm permit and license in order to keep and bear arms in the State of New Jersey. Despite testimony from Sgt. Alston stating Petitioner was not a threat to the public, and Sgt. Pulice testimony stating the death threats against Petitioner were "serious threats", Petitioner was denied a firearm permit and license by the chief of police and Judge Jerejian for NJSA 2C:58-3(c)(5) – Public Health, Safety And Welfare. The District Court and United States Court of Appeals for the Third Circuit denied petitioners appeal erroneously holding that *Drake v. Filko*, 724 F. 3d 426 - Court of Appeals, 3rd Circuit 2013, supersedes the Opinions of the United States Supreme Court in *Heller* (2008) and *McDonald* (2010).

The questions present are:

1. Whether New Jersey's Firearm Laws requiring the people to first obtain a firearm identification card, permit, or license in order to keep and bear arms at home and in public is in violation of the second and fourteenth amendment?
2. Whether New Jersey's legislature historical background and administrative records suggests intent to deprive African Americans from the right to keep and bear arms in violation of the second and fourteenth amendment?
3. Whether New Jersey can enforce gun control laws and interfere with the citizen's right to keep and bear arms due to public safety concerns?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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JURISDICTION

The United States District Court, District of New Jersey, granted defendants motion to dismiss on August 4, 2015. On November 13, 2015, issued opinion and order denying Petitioner's first motion for reconsideration and to amend the complaint, and December 1, 2015 denying Petitioner's second motion for reconsideration and to amend the complaint.

On December 15, 2015, according to Rule 59(e), and Fed. R. App. P. 4(a)(4)(A)(iv), appellant timely filed a Notice of Appeal. The court of appeals denied the appeal entered its judgment on June 16, 2016, and denied a petition for rehearing and rehearing en banc on July 13, 2016. The petitioner filed a petition for certiorari on October 10, 2016. Plaintiff is "likely to be injured", and will "imminently" be harmed by the current unconstitutional New Jersey Firearm law. **See Flast v. Cohen, 392 U.S. 83 (1968); United States v. Students Challenging Regulatory Agency Procedures (SCRAP), 412 U.S. 669 (1973)**, "had standing and likely to be injured"; **and Sierra Club v Morton (1972)**, "had standing and likely to suffer an aesthetic injury".

This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Second Amendment to the United States Constitution provides:

"A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

The Fourteenth Amendment to the United States Constitution provides:

Section 1. "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

2C:39-5. Unlawful possession of weapons.

a. Machine guns. Any person who knowingly has in his possession a machine gun or any instrument or device adaptable for use as a machine gun, without being licensed to do so as provided in N.J.S.2C:58-5, is guilty of a crime of the second degree.

b. Handguns. Any person who knowingly has in his possession any handgun, including any antique handgun, without first having obtained a permit to carry the same as provided in N.J.S.2C:58-4, is guilty of a crime of the third degree if the handgun is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person. Otherwise it is a crime of the second degree.

c. Rifles and shotguns. (1) Any person who knowingly has in his possession any rifle or shotgun without having first obtained a firearms purchaser identification card in accordance with the provisions of N.J.S.2C:58-3, is guilty of a crime of the third degree.

New Jersey Act Concerning Slaves:

"An Act to prevent the Killing of Deer out of Season, and against Carrying of Guns and Hunting by Persons not qualified," ["And be it further Enacted by the

Authority aforesaid, That this Act nor any part thereof, shall be construed to extend to Negro, Indian or Mullato Slaves, so as to commit them to prison, during the Time in this Act limited, in case they should be Guilty of any of the Offences in this Act prohibited, but that and in such case such Indian, Negro or Mullato Slave killing and destroying any Deer as aforesaid, or carrying or Hunting with any Gun, without Lisence from his Master, shall, at the Publick Whipping post, on the bare Back, be Whipt, not exceeding twenty Lashes for every such Offence, for which Whipping the Master shall pay to the Whipper the Sum of Three Shillings..”]. **May 5, 1722, 2 Bush 293, 295; 1 Nevill [8 Geo. I] ch.XXXV, §6, p.102.**
<http://njlegallib.rutgers.edu/slavery/acts/A15.html>

Relevant New Jersey statutes and administrative code provisions are reprinted in the **APPENDIX K**.

STATEMENT OF THE CASE

Chief of Police Denial

In January 2013, Petitioner met with Sgt. Alston of the Englewood Police Department regarding multiple death threats that he was receiving via phone and email from several individuals aggressively trying to locate him. Sgt. Alston stated that if Petitioner did not obtain a firearm license and brought his firearm from California to New Jersey he would be arrested.

On January 15, 2013, Petitioner was compelled to pay a \$57.50 license fee, file an application for a firearm, and take fingerprint scans for his firearm with the Englewood Police Department. **APPENDIX I**

On June 4, 2013, Petitioner received a letter from Chief Arthur O’Keefe of the Englewood Police Department denying his firearm application. The reason for the denial was not due to criminal history, age, or mental condition, but for Public Health Safety and Welfare – NJSA 2C:58-3c(5), **APPENDIX H**

Superior court decision

On August 14, 2013, Petitioner filed a brief with the Superior Court in Hackensack, New Jersey regarding

the Chief of Police denial of his firearm permit. Petitioner argued that NJ firearm permit and licensing laws are facially unconstitutional, and requested (1) *“for an order to issue my firearms purchaser identification card and permit to purchase a handgun, with no restrictions”*. (2) *“For a permanent injunction against blocking my rights to gun ownership”*.

On November 15, 2013, Marc testified during a hearing in front of Judge Jerejian about the multiple death threats against him and his family, and that he has a constitutional right under the second and fourteenth amendment, and according to Heller and McDonald, to keep and bear arms at home and in public.

In New Jersey, a Judge will not issue a firearm permit or license if an individual does not show proof of “justifiable need”, “serious threats”, or if a person is considered disqualified pursuant to 2C:58-3c,[2],
APPENDIX K.

During the hearing, on cross-examination Sgt. George Alston testified the following:

Marc Stephens: I would like to get into the application process with your investigation. According to the way you guys approve the application did you find any convictions that would deny the application for a firearm?

Sgt. Alston: No

Marc Stephens: Where there any mental conditions?

Sgt. Alston: Nothing from the county of Bergen.

Marc Stephens: Nothing that would deny the application based on mental conditions?

Sgt. Alston: Right.

Marc Stephens: Any age restrictions?

Sgt. Alston: none

Marc Stephens: In regards to a denial of the application based on the welfare and safety of the public was there anything specific in regards to convictions, mental conditions, or age restrictions that would stop the application from being approved?

Sgt. Alston: No. Nothing on paper.

On February 14, 2014, Sgt. Fred Pulice from the Englewood Police Department testified that the ‘death threats’ against Marc Stephens are “serious threats”, (Audio Timeframe 3:07:02).

On March 6, 2014, Petitioner received an Order from Judge Jerejian which denied his application for firearm based on (1) NJSA 2C:58-3(c)(5) – public health, safety and welfare, **APPENDIX G**

On March 17, 2014, Petitioner filed a motion for reconsideration regarding the March 6, 2014 Order denying his firearm permit.

On August 7, 2014, Judge Jerejian denied the Petitioners motion for reconsideration again for Public Health, Safety and Welfare N.J.S.A 2C:58-3(c)(5). **APPENDIX F**

District court decision

On October 27, 2014, the Petitioner Marc Stephens, pro se, filed a separate and independent Civil Complaint with the District Court which facially challenged the constitutionality of the entire New Jersey Firearm Statues enacted by its Legislature.

On August 4, 2015, the court denied Petitioners civil complaint, Opinion and Order. The Court dismissed the Petitioner’s complaint with prejudice for the following two reasons:

*(1) “The Supreme Court has repeatedly rejected the claim that the Second Amendment includes an unqualified right to possess a firearm. See District of Columbia v. Heller, 554 U.S. 570, 626-27 (2008) (holding that there are longstanding and presumptively lawful qualifications and conditions on the sale and possession of firearms); see also McDonald v. City of Chicago, 561 U.S. 742, 786 (2010) (incorporating the Court’s holdings in Heller through the Fourteenth Amendment). (2) Further, the Rooker-Feldman Doctrine bars the Court’s review of Plaintiff’s “as-applied” challenge to the state court proceedings”, **APPENDIX E***

On August 8, 2015, Petitioner filed a first motion for reconsideration. Petitioner stated that according to Heller and McDonald, “The State cannot interfere with the right of the citizen to keep and bear arms”.

On November 13, 2015, the court denied Petitioners first motion for reconsideration, Opinion and Order **APPENDIX D**. The District Court **denied the first motion for reconsideration** based on the following:

“However, the Court dismissed this claim in its prior opinion, noting that the Third Circuit has upheld New Jersey’s firearm regulatory scheme as constitutional under Heller. (Docket No. 17.)”, and “Third Circuit precedent has upheld New Jersey’s “justifiable need” requirement as constitutional. See Drake v. Filko, 724 F.3d 426, 429 (3d Cir. 2013)”, see ECF no. 23, page 3. “Petitioner fails to demonstrate why this Court should reconsider its prior ruling. Consequently, Petitioner—in his only remaining argument—fails to show how this Court overlooked a clear error of law or fact”.

On November 19, 2015, Petitioner filed a second motion for reconsideration, ECF no 25. Marc Stephens second motion for reconsideration addressed with specificity the clear errors of fact, errors of law which was overlooked and not appreciated by the court, see ECF no. 25, page 2 – Clear Error of Law#2 which reads:

*“The district court argues that the Third Circuit has upheld New Jersey’s “justifiable need” requirement as constitutional **under Heller**, Citing, Drake v. Filko, 724 F.3d 426, 429 (3d Cir. 2013). McDonald v. City of Chicago (2010), which was decided **after** Heller, ruled “[T]he State cannot interfere with the right of the citizen to keep and bear arms. The right to keep and bear arms is included in the fourteenth amendment, under ‘privileges and immunities.’” Proceedings in the Ku Klux Trials at Columbia, S. C., in the United States Circuit Court, November Term, 1871, p. 147 (1872)”, McDonald v. City of Chicago, Ill., 130 S. Ct. 3020, at 3077-3083. ECF no. 22, page 3, paragraph 1. Drake v Filko ruling does not supersede the United States Supreme court opinion that states cannot enact licensing laws. In addition, New Jersey admits that they are enacting gun control laws, “Permits to carry handguns are “the most closely regulated aspect” of New Jersey’s gun control laws. In re Preis, 118 N.J. 564, 573 A.2d 148, 150 (1990). Individuals who wish to carry a handgun in public for self-defense must first obtain a license. N.J.S.A. § 2C:39-5(b)”, see Drake v. Filko, 724 F. 3d 426 - Court of Appeals, 3rd Circuit 2013 at 428-*

429. *“The state cannot “enact any gun control law” that they deem to be reasonable. Time and again, however, those pleas failed. Unless we turn back the clock or adopt a special incorporation test applicable only to the Second Amendment, municipal respondents’ argument must be rejected”, McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3046, ECF no. 22, page 4, paragraph 3.*

On December 1, 2015, the court denied Petitioners second motion for reconsideration, **APPENDIX C**

On December 15, 2015, 14 days later, according to Rule 59(e), and Fed. R. App. P. 4(a)(4)(A)(iv), appellant timely filed a Notice of Appeal. **APPENDIX B**

On January 22, 2016, Marc Stephens Motion to proceed in forma pauperis was granted Doc. #003112186355.

3rd circuit decision

On June 16, 2016, the court of appeals denied the petitioner’s Appeal, and entered its judgment. The Panel stated:

“A notice of appeal must be filed within 30 days of the order that the party seeks to appeal. Fed. R. App. P. 4(a)(1)”, Doc. #003112327937, page 3. The Panel also states, “While Stephens’s initial Rule 59(e) motion tolled the time to appeal, see Fed. R. App. P. 4(a)(4)(A)(iv), his second motion for reconsideration (which we also construe as a Rule 59(e) motion) did not, see Turner v. Evers, 726 F.2d 112, 114 (3d Cir. 1984)”, Doc. #003112327937, page 3. **APPENDIX A**

Marc Stephens’ argued that his second motion for reconsideration tolled the time to appeal:

*“There is no indication that the court meant to limit the usual rule that the district court is free to reconsider its decisions based on any reasonable ground”, cf. Rosen v. Rucker, 905 F.2d 702, 707 n. 5 (3d Cir.1990) (second motion which is first request for reconsideration of issue arising only after court's original order treated as a Rule 59(e) motion for purposes of Fed.R.App.P. 4(a)(4) when it is first opportunity to reconsider issue (in that case, delay damages)). **Bane v.***

Netlink, Inc., 925 F. 2d 637 - Court of Appeals, 3rd Circuit 1991, footnote 1. Fed. R. App. P. 4(a)(4)(A)(iv) states, “If a party timely files in the district court any of the following motions under the Federal Rules of Civil Procedure, the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion”.

Marc Stephens submitted his second motion for reconsideration in order to address, for the first time, the District Court following statement:

“Plaintiff fails to demonstrate why this Court should reconsider its prior ruling. Consequently, Plaintiff—in his only remaining argument—fails to show how this Court overlooked a clear error of law or fact”, see Martini’s Opinion, ECF no. 23, page 2. APPENDIX C

In response to Judge Martini statement that petitioner “failed to show” how the Court overlooked a clear error of law or fact, Marc Stephens proceeded to show the District Court in his ‘second motion for reconsideration’, with specificity, the clear errors of fact, error of law, (on record) and the additional information that Judge Martini did not appreciate, consider, and overlooked in order to prevent manifest injustice, ECF no. 25, page 1-5.

In the case **Han Tak Lee v. Houtzdale SCI, 798 F.3d 159, 163 (3d Cir. 2015)**, used by the Panel, the Commonwealth motion was denied because it failed to identify with specificity any legal or factual errors in the R & R”. Marc Stephens first and second motion for reconsideration identify with specificity the clear errors of facts, error of law, and that the Court obviously did not consider, or failed to appreciate the significance of probative, competent evidence, and overlooked dispositive factual or legal matters that was presented to it in order to prevent manifest injustice.

In **Turner v. Evers, 726 F. 2d 112 - Court of Appeals, 3rd Circuit 1984 at 114**, used by the Panel, “We recognize, of course, the imperfection of the "apple metaphor": it is often difficult to decide which judicial act constitutes the apple”. In addition, “If a litigant wishes to bring additional information to the Court's attention the Court should, in the interest of justice (and in the exercise

of sound discretion), consider the evidence” 1) the Court has expressed its decision based upon a palpably incorrect or irrational basis, or 2) it is obvious that the Court either did not consider, or failed to appreciate the significance of probative, competent evidence. **Cummings v. Bahr**, 295 N.J.Super. 374, 384, 685 A.2d 60 (App.Div.1996) **D’Atria v. D’Atria**, 242 N.J. Super. [392,] 401 (Ch. Div. 1990). It is necessary to correct a clear error of law or prevent manifest injustice.” **Birmingham v. Sony Corp. of Am.**, 820 F. Supp. 834, 856 (D.N.J. 1993), **Harsco Corp. v. Zlotnicki**, 779 F.2d 906, 909 (3d Cir. 1985).

“A judgment may be altered or amended if the party seeking reconsideration shows at least one of the following grounds: (1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court granted the motion for summary judgment; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice.” **Howard Hess Dental Labs. Inc. v. Dentsply Int’l, Inc.**, 602 F.3d 237, 251 (3d Cir. 2010); **Max’s Seafood Café by Lou-Ann, Inc. v. Quinteros**, 176 F.3d 669, 677 (3d Cir. 1995) (citing **North River Ins. Co. v. CIGNA Reinsurance Co.**, 52 F.3d 1194, 1218 (3d Cir. 1995)). “Manifest injustice pertains to situations where a court overlooks some dispositive factual or legal matter that was presented to it”. See **In re Rose**, No. 06-1818, 2007 WL 2533894, at *3 (D.N.J. Aug. 30, 2007).

The good reason to grant the time for appeal is because **Drake v Filko** is clearly not the controlling law over **Heller** or **McDonald**, see **Turner v. Evers**, at 114.

In addition, petitioner’s argument was never about “Justifiable Need”, it was about New Jersey’s Firearm permit and licensing scheme being passed through its legislature based on “Race Discrimination”. The District Court continued to ignore petitioner’s legal argument and position, and never addressed petitioner’s argument in its opinions.

On July 13, 2016, United States Court of Appeals for the Third Circuit denied the petition for rehearing and rehearing en banc. **APPENDIX A, 5a-6a.**

REASONS FOR GRANTING THE PETITION

I. REVIEW IS NEEDED BECAUSE THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW THAT CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT AND THE PETITION SHOULD BE GRANTED SO THE COURT CAN MAKE CLEAR THAT:

1. The Right to Keep and Bear Arms Is a Fundamental and Guaranteed Right

In *Heller* and *McDonald*, this court recognized the right to keep and bear arms to be fundamental. “The right to keep and bear arms applies to the States through the Fourteenth Amendment's Due Process Clause because it is “fundamental” to the American “scheme of ordered liberty,” and “deeply rooted in this Nation's history and tradition,”” **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3059.**

“The right to keep and bear arms is guaranteed by the Fourteenth Amendment as a privilege of American citizenship”, **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3088.**

“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.” **Miranda v. Arizona, 384 US 436 at 491.** No right granted or secured by the Constitution of the United States can be impaired or destroyed by a state enactment”. **Connolly v. Union Sewer Pipe Co., 184 US 540 at 558.**

2. The State Cannot Interfere With the Right of the Citizen to Keep and Bear Arms

New Jersey is enforcing firearm laws which interfere with the people’s right to keep and bear arms N.J.S.A. 2C:39-5; N.J.S.A. 2C:58-3, 4, 5. **APPENDIX K.** “[T]he fourteenth amendment changes all that theory, and lays the same restriction upon the States that before lay upon the Congress of the United States—that, as Congress heretofore could not interfere with the right of the citizen to keep and bear arms, now, after the adoption

of the fourteenth amendment, the State cannot interfere with the right of the citizen to keep and bear arms. The right to keep and bear arms is included in the fourteenth amendment, under `privileges and immunities.'"

McDonald v. City of Chicago, Ill., 130 S. Ct. 3020, at 3077-3083.

3. The State Cannot Enact Gun Control Laws

New Jersey admits that they are enacting gun control laws, "Permits to carry handguns are "the most closely regulated aspect" of New Jersey's gun control laws. In re **Preis, 118 N.J. 564, 573 A.2d 148, 150 (1990)**.

Individuals who wish to carry a handgun in public for self-defense must first obtain a license. N.J.S.A. § 2C:39-5(b)", see **Drake v. Filko, 724 F. 3d 426 - Court of Appeals, 3rd Circuit 2013 at 428-429**.

"The state cannot "enact any gun control law" that they deem to be reasonable. Time and again, however, those pleas failed. Unless we turn back the clock or adopt a special incorporation test applicable only to the Second Amendment, municipal respondents' argument must be rejected", **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3046**,

4. The State Cannot Ban Arms, Firearms, Ammunition, And Interfere With Citizen's Right To Keep And Bear Arms Of Any Description Due To Public Safety Concerns

The predictive judgment of New Jersey's legislators is that limiting the issuance of permits to carry a handgun in public to only those who can show a "justifiable need" will further its substantial interest in public safety. **Drake v. Filko, 724 F. 3d 426 - Court of Appeals, 3rd Circuit 2013 at 437, 438, 439, 453, 457**.

Heller states, In *Nunn v. State*, 1 Ga. 243, 251 (1846) "Its opinion perfectly captured the way in which the operative clause of the Second Amendment furthers the purpose announced in the prefatory clause, in continuity with the English right: "The right of the whole people, old and young, men, women and boys, and **not militia only**, to keep and bear arms of every description, and not such merely as are used by the militia, shall not be infringed, curtailed, or broken in

upon, **in the smallest degree**; and all this for the important end to be attained: the rearing up and qualifying a well-regulated militia, so vitally necessary to the security of a free State. Our opinion is, that **any law, State or Federal, is repugnant to the Constitution, and void**, which contravenes this right, originally belonging to our forefathers, trampled underfoot by Charles I. and his two wicked sons and successors, re-established by the revolution of 1688, conveyed to this land of liberty by the colonists, and finally incorporated conspicuously in our own Magna Charta!" **Id at 2809.**

"It may be objected that if weapons that are most useful in military service—M-16 rifles and the like—may be banned, then the Second Amendment right is completely detached from the prefatory clause. But as we have said, the conception of the militia at the time of the Second Amendment's ratification **was the body of all citizens capable of military service, who would bring the sorts of lawful weapons that they possessed at home to militia duty**. It may well be true today that a militia, to be as effective as militias in the 18th century, **would require sophisticated arms that are highly unusual in society at large**. Indeed, it may be true that no amount of small arms could be useful against modern-day bombers and tanks. But the fact that modern developments have limited the degree of fit between **the prefatory clause and the protected right** cannot change our interpretation of the **right**". **Id at 2817.** ("**A statute which, under the pretence of regulating, amounts to a destruction of the right, or which requires arms to be so borne as to render them wholly useless for the purpose of defence, would be clearly unconstitutional**", State v. Reid, 1 Ala. 612, 616-617 (1840)). **Id at 2818.**

"A right deemed **fundamental** carries with it an implicit and inherent recognition of its necessity to a free people. States have **no compelling (or even legitimate) interest in depriving people of their constitutional rights**, and the State **cannot** point to the impact of its practice – the suppression of constitutional rights – as its interest". See **Simon & Schuster, Inc. v. N.Y. State Crime Victims Bd., 502 U.S. 105, 120 (1991).**

"We expressly rejected the argument that the scope of the Second Amendment right should be determined by

judicial interest balancing”, 554 U.S., at ___ - ___, 128 S.Ct., at 2820-2821, **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3047**. No matter how laudable the end, the Supreme Court has long made clear that the **Constitution disables** the government from employing certain means to prevent, deter, or detect violent crime. See, e.g., **United States v. Jones, 132 S. Ct. 945 (2012); Kennedy v. Louisiana, 554 U.S. 407 (2008); Kyllo v. United States, 533 U.S. 27 (2001); Miranda v. Arizona, 384 U.S. 436 (1966); Mapp v. Ohio, 367 U.S. 643 (1961); see also Heller II, 670 F.3d at 1296 (Kavanaugh, J., dissenting)**.

The Court has been equally clear that Federal Judges must enforce constitutional rights even when they have “controversial public safety implications.” **McDonald, 130 S. Ct. at 3045** (controlling opinion of Alito, J.); see also **Heller, 128 S. Ct. 2783 at 2822** (“We are aware of the problem of handgun violence in this country, and we take seriously the concerns raised by the many amici who believe that prohibition of handgun ownership is a solution. . . . But the enshrinement of constitutional rights necessarily takes certain policy choices off the table.”).

“The Constitution does not permit fundamental civil rights to be abridged by public safety fears”. See, e.g., **Near v. Minnesota, 283 U.S. 697, 721-22 (1931)**.

5. The People Do Not Need to Obtain a Permit, License, Identification Cards, or to Register Firearms In order To Exercise Guaranteed and Fundamental Constitutional Rights

Marc Stephens was forced to pay a license application fee in order to keep and bear arms,

APPENDIX I

“No State may convert a Right into a Privilege and require a License of Fee for the exercise of the Right”. **Murdock v. Pennsylvania, 319 US 105**. “A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution. The power to impose a license tax on the exercise of these freedoms is indeed as potent as the power of censorship which this Court has repeatedly struck down”, **Murdock v. Pennsylvania,**

319 US 105 at 113. “A person cannot be compelled “to purchase, through a license fee or a license tax, the privilege freely granted by the constitution.” **Murdock v. Pennsylvania, 319 US 105 at 114.**

Marc Stephens was later denied his right to keep and bear arms due to what the Chief of Police and Judge Jerejian considered “public safety fears” pursuant to NJSA 2C:58-3(5), **APPENDIX H, G**

“An ordinance which, like this one, makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official—as by requiring a permit or license which may be granted or withheld in the discretion of such official—is an unconstitutional censorship or prior restraint upon the enjoyment of those freedoms.” *Staub v. Baxley*, 355 U. S. 313, 322; **Shuttlesworth v. Birmingham, 394 US 147 at 151.**

“Citizens are not required to register Firearms under the 5th Amendment of the United States Constitution”, **Haynes v. United States, 390 US 85 at 95.** “A right deemed fundamental carries with it an implicit and inherent recognition of its necessity to a free people. States have no compelling (or even legitimate) interest in depriving people of their constitutional rights, and the State cannot point to the impact of its practice – the suppression of constitutional rights – as its interest”. See **Simon & Schuster, Inc. v. N.Y. State Crime Victims Bd., 502 U.S. 105, 120 (1991).**

“The Government may not prohibit or control the conduct of a person for reasons that infringe upon constitutionally guaranteed freedoms”, **Smith v. United States, 502 F. 2d 512 - Court of Appeals, 5th Circuit 1974 at 516.**

“The State cannot choose means that unnecessarily burden or restrict constitutionally protected activity”, **Dunn v. Blumstein, 405 US 330 - Supreme Court 1972, at 343.** It is well settled that, quite apart from the guarantee of equal protection, if a law “impinges upon a fundamental right explicitly or implicitly secured by the Constitution [it] is presumptively unconstitutional.” *Mobile v. Bolden*, 446 U. S. 55, 76 (plurality opinion). **Harris v. McRae, 448 US 297 -**

Supreme Court 1980 at 312. “Laws which plainly forbid conduct which is constitutionally within the power of the State to forbid but also restrict constitutionally protected conduct may be void either on their face or merely as applied”, **Coates v. Cincinnati, 402 US 611 - Supreme Court 1971 at 617.**

6. The Individual Fundamental And Inalienable Right To Bear Arms For The Purpose Of Self-Defense Extends Beyond The Home.

The Third Circuit incorrectly stated, “*It remains unsettled whether the individual right to bear arms for the purpose of self-defense extends beyond the home*”, **Drake v. Filko, 724 F. 3d 426 - Court of Appeals, 3rd Circuit 2013 at 430.** In a line of decisions, however, the Supreme Court has recognized that a right to keep and bear arms in public does exist under the Constitution.

This Court states, “The understanding that the Second Amendment gave freed blacks the right to keep and bear arms was reflected in congressional discussion of the bill, with even an opponent of it saying that the founding generation “were for every man bearing his arms about him and keeping them in his house, his castle, for his own defense.” “ It was plainly the understanding in the post-Civil War Congress that the Second Amendment protected an individual right to use arms for self-defense”, **District of Columbia v. Heller, 128 S. Ct. 2783 - Supreme Court 2008 at 2810-2811.**

The Supreme Court in *Dred Scott v. Sandford* stated if African Americans were considered U.S. citizens, “It would give to persons of the negro race, who were recognized as citizens in any one State of the Union, the right...to keep and carry arms wherever they went...”. **Dred Scott v. Sandford, 60 US 393 - Supreme Court 1857 at 417. McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3068.**

Quoting *Heller*, “At the time of the founding, as now, to “bear” meant to “carry.” When used with “arms,” however, the term has a meaning that refers to carrying for a particular purpose—confrontation. In *Muscarello v. United States*, 524 U. S. 125 (1998) , in the course of analyzing the meaning of “carries a firearm” in a federal

criminal statute, Justice Ginsburg wrote that “[s]urely a most familiar meaning is, as the Constitution’s Second Amendment ... indicate[s]: ‘wear, bear, or carry ... upon the person or in the clothing or in a pocket, for the purpose ... of being armed and ready for offensive or defensive action in a case of conflict with another person.’ We think that Justice Ginsburg accurately captured the natural meaning of “bear arms.” **District of Columbia v. Heller, 128 S. Ct. 2783 - Supreme Court 2008 at 2793.**

This court approved the stun gun as “an arm” which can be “carried in public”. **Caetano v. Massachusetts, 577 U.S. ____ (2016).**

7. Drake v. Filko Was Incorrectly Reviewed Under Intermediate Scrutiny.

Opinion of the Third Circuit Court of Appeals states: “We conclude that even if the “justifiable need” standard did not qualify as a “presumptively lawful,” “longstanding” regulation, at step two of Marzzarella it would withstand intermediate scrutiny, providing a second, independent basis for concluding that the standard is constitutional.”. **Drake v. Filko, 724 F. 3d 426 - Court of Appeals, 3rd Circuit 2013 at 430, 435**

In **Zablocki v. Redhail, 434 U.S. 374 (1978)** the U.S. Supreme Court decision held that Wisconsin Statutes §§ 245.10 (1), (4), (5) (1973) violated the Fourteenth Amendment equal protection clause. Section 245.10 required noncustodial parents who were Wisconsin residents attempting to marry inside or outside of Wisconsin to seek a court order prior to receiving a marriage license. In order to receive such a court order, the noncustodial parent could not be in arrears on his or her child support, and the court had to believe that the child(ren) would not become dependent on the State. Marriage, just like the right to keep and bear arms, was held to be a fundamental right. On the merits, the three-judge panel analyzed the challenged statute under the Equal Protection Clause and concluded that “strict scrutiny” was required because the classification created by the statute infringed upon a fundamental right, the right to marry, **Id at 381**. “Since the means selected by the State for achieving these interests unnecessarily

impinge on the right to marry, the statute cannot be sustained”, **Id at 388**. The “right to marry” and “the right to carry” firearms are fundamental rights.

Just like Wisconsin license Statue, New Jersey Firearm Statues are forcing citizens to obtain court approval **before** obtaining a permit or license to keep and bear arms, which are facially unconstitutional. “Permits to carry handguns are "the most closely regulated aspect" of New Jersey's gun control laws. **In re Preis, 118 N.J. 564, 573 A.2d 148, 150 (1990)**. Individuals who wish to carry a handgun in public for self-defense must first obtain a license. N.J.S.A. § 2C:39-5(b)”, **see Drake v. Filko, 724 F. 3d 426 - Court of Appeals, 3rd Circuit 2013 at 428-429**.

8. NJ Permit and Licensing Laws applied only to Slaves and Cannot Survive Strict Scrutiny

In order to convince the court to apply strict scrutiny, it is necessary to show that the state's action was “motivated by a discriminatory” purpose. "Legislative history," of course, refers to the pre-enactment statements of those who drafted or voted for a law; it is considered persuasive by some, not because they reflect the general understanding of the disputed terms, but because the legislators who heard or read those statements presumably voted with that understanding.

The history of the permit and license scheme around the United States has always related to slaves and African Americans. “The Supreme Court recognizes race, national origin, religion and alienage as suspect classes; it therefore analyzes any government action that discriminates against these classes under **strict scrutiny**”. **Hirabayashi v. United States, 320 U.S. 81 [5] and Korematsu v. United States, 323 U.S. 214 (1944); Adarand Constructors v. Peña, 515 U.S. 200 (1995); see United States v. Marzzarella, 614 F.3d 85, 89 (3d Cir. 2010)**. “Strict scrutiny” was required because the classification created by the statute infringed upon a **fundamental right**, **Zablocki v. Redhail, 434 US 374 – Supreme Court 1978 at 381**.

“A Collection of All the Acts of Assembly, Now in Force, in the Colony of Virginia 596 (1733) ("Free Negros, Mulattos, or Indians, and Owners of Slaves, seated at

Frontier Plantations, may obtain Licence from a Justice of Peace, for keeping Arms, & c."), **District of Columbia v. Heller, 128 S. Ct. 2783 - Supreme Court 2008 at footnote 7.** ("the late slaveholding States" had enacted laws "depriving persons of African descent of privileges which are essential to freemen," including "prohibit[ing] any negro or mulatto from having fire-arms"... to "[m]ake a colored man a citizen of the United States" would guarantee to him, inter alia, "a defined status . . . a right to defend himself and his wife and children; a right to bear arms"). **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3075.**

When slaves became citizens all 50 states passed firearm permit and license laws on all citizens which the United States Supreme Court has rejected in McDonald. "It is the duty of the courts to be watchful for constitutional rights of the citizen, against any stealthy encroachments thereon." **Boyd v. U.S., 116 US 616, 635, (1885) at 635.**

In McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010, the City argued, "Article IV, § 2, prohibits only state discrimination with respect to those rights it covers, but does not deprive States of the power to deny those rights to all citizens equally". Id at 3075. The U. S. Supreme Court **rejected** this argument as "**implausible**", Id at 3077. "It has always been widely understood that the Second Amendment, like the First and Fourth Amendments, codified a pre-existing right. The very text of the Second Amendment implicitly recognizes the pre-existence of the right and declares only that it "shall not be infringed." **District of Columbia v. Heller, 128 S. Ct. 2783 - Supreme Court 2008 at 2797.** "Many legislatures amended their laws prohibiting slaves from carrying firearms to apply the prohibition to free blacks as well". **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3081.**

Many states such as Florida, Kentucky, Louisiana, Maryland, Mississippi, Missouri, **New Jersey**, North Carolina, South Carolina, Tennessee, Texas, and Virginia took arms and firearms away from slaves and freedmen by enforcing a "**Black Code**", (prohibiting slaves from using firearms unless they were authorized by their master to hunt within the boundaries of his plantation);

Act of Dec. 18, 1819, 1819 S.C. Acts pp. 29, 31 (same); An Act Concerning Slaves, § 6, 1840 Tex. Laws pp. 42-43 (making it unlawful for "any slave to own firearms of any description"), **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at footnote 18.** See New Jersey Act Concerning Slaves, **APPENDIX J.**

"Many early 19th-century state cases indicated that the Second Amendment right to bear arms was an individual right unconnected to militia service, though subject to certain restrictions". **District of Columbia v. Heller, 128 S. Ct. 2783 - Supreme Court 2008 at 2808.** The certain restrictions only applied to Blacks. Blacks were routinely disarmed by Southern States after the Civil War. Those who opposed these injustices frequently stated that they infringed blacks' constitutional right to keep and bear arms. **District of Columbia v. Heller, 128 S. Ct. 2783 - Supreme Court 2008 at 2810.**

"Shortly after Congress approved the Fourteenth Amendment — contained numerous examples of such abuses". **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3039.** In debating the Civil Rights Act of 1871, Congress routinely referred to the right to keep and bear arms and decried the continued disarmament of blacks, **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3042.**

As Representative Thaddeus Stevens is reported to have said, "[w]hen it was first proposed to free the slaves, and arm the blacks, did not half the nation tremble?" **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3081-3082.** Some States formally prohibited blacks from possessing firearms. Ante, at 3038-3039 (quoting 1865 Miss. Laws p. 165, § 1, reprinted in 1 Fleming 289). Others **enacted legislation** prohibiting blacks from carrying firearms without a license, a restriction not imposed on whites, **McDonald v. City of Chicago, Ill., 130 S. Ct. 3020 - Supreme Court 2010 at 3082.**

All states around the country fully understood that the second amendment was a fundamental right to keep and bear arms at home and in public **without** a need for a permit or license. "Keep arms" was simply a common way of referring to possessing arms, for militiamen and

everyone else”. **District of Columbia v. Heller, 128 S. Ct. 2783 - Supreme Court 2008 at 2792.**

In New Jersey, in October 1694, "An Act concerning Slaves" was enacted; [§1] WHEREAS **complaint** is made by the inhabitants of this Province, that they are greatly injured by **slaves having liberty to carry guns** and dogs, into the woods and plantations, under pretence of guning, do kill swine. Be it **enacted by the Governor, Council and Deputies in General Assembly** met and assembled, and by the authority of the same, that no slave or slaves within this Province after publication hereof, be permitted to carry any gun or pistol, or take any dog with him or them into the woods, or plantations, upon any pretence whatsoever; unless his or their owner or owners, or a white man, by the order of his or their owner or owners, be with the said slave or slaves; [§4] And be it further enacted by the authority aforesaid, that if any person or persons shall **lend, give or hire out** to any slave, or slaves, pistol, gun or guns, the said person or persons so lending, giving, or hiring, shall forfeit the said pistol, gun or guns, or twenty shillings to the owner of the said slave or slaves, to be recovered as an action of debt as aforesaid. **East New Jersey Laws, October 1694, ch.II, "An Act concerning Slaves, &c.," L&S 340-342.**

APPENDIX J. As mentioned in the complaint the fear of **slaves with guns** was a "**Public Safety**" Concern.

"An Act to prevent the Killing of Deer out of Season, and against Carrying of Guns and Hunting by Persons **not qualified**," ["And be it further Enacted by the Authority aforesaid, That this Act nor any part thereof, shall be construed to extend to Negro, Indian or Mullato Slaves, so as to commit them to prison, during the Time in this Act limited, in case they should be Guilty of any of the Offences in this Act prohibited, but that and in such case such Indian, Negro or Mullato Slave killing and destroying any Deer as aforesaid, or **carrying or Hunting with any Gun, without Lisence from his Master**, shall, at the Publick Whipping post, on the bare Back, be Whipt, not exceeding twenty Lashes for every such Offence, for which Whipping the Master shall pay to the Whipper the Sum of Three Shillings.."]. **May 5, 1722, 2 Bush 293, 295; 1 Nevill [8 Geo. I] ch.XXXV, §6, p.102. APPENDIX J**
<http://njlegallib.rutgers.edu/slavery/acts/A15.html>

In 1751, in New Jersey “An Act ...to prevent Negroes and Molatto Slaves,...from meeting in large Companies,...and from hunting or carrying a Gun on the Lord's Day was enacted. This act is similar to **N.J.S.A 2C:39-14b**. “[§2] AND BE IT FURTHER ENACTED, by the Authority aforesaid, that if any Negro or Molatto Slaves shall at any Time hereafter **Meet and Assemble together**, more than to the Number of Five, unless being on his, her or their Masters or Mistresses Business and Employment; the Constable or Constables on Information or Knowledge thereof, shall, and are hereby required to apprehend the Negro and Molatto Slaves that shall so meet, and carry them before the next Justice of the Peace, who is hereby required and directed to order him, her or them to be whipped on their bare Backs at his Discretion “[§3] AND BE IT FURTHER ENACTED, by the Authority aforesaid, That if any Negro or Molatto Slave or Slaves, shall be seen or found from his or their Masters House, after the Hour of Nine at Night, except on their Masters or Mistresses particular Business, or shall be seen to hunt, **or carrying a Gun** on the Lord's Day; the Constable or Constables of such Town or Precinct, on Information or Knowledge thereof, shall and are hereby required and directed, to apprehend and carry such Negro and Molatto Slaves before the next Justice of the Peace, who shall order such Negro or Molatto Slave or Slaves, if found Guilty, to be whipped as by the preceding Clause of this Act is directed”. **Oct. 25, 1751, 3 Bush 180-181; 1 Nevill [25 Geo. II] ch.CXI, p.443-444; Allinson ch. CCXLI, p.191-192. Note: Allinson gives date as Oct.23,1751. APPENDIX J**
<http://njlegallib.rutgers.edu/slavery/acts/A18.html>.

“Today, no less than 50 years ago, the solution to the problems growing out of race relations "cannot be promoted by depriving citizens of their constitutional rights and privileges," *Buchanan v. Warley*, supra, 245 U. S., at 80-81, ***Watson v. Memphis*, 373 US 526 - Supreme Court 1963 at 539.**

A claim has “facial plausibility when the Petitioner pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” ***Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Twombly*, 550 U.S. at 556).**

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully Submitted,

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201-598-6268
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Petitioner, pro se

Appendix A

Case: 15-3992 Document: 003112327937 Page: 1 Date Filed: 06/16/2016

BLD-275

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 15-3992

MARC A. STEPHENS, Appellant

v.

THE HONORABLE EDWARD A. JEREJIAN, in his Official Capacity as Judge of the
Superior Court of Bergen County; CHIEF ARTHUR OKEEFE, as an individual, and in
his Official Capacity as Chief of the Englewood, New Jersey Police Department;
ATTORNEY GENERAL OF THE STATE OF NEW JERSEY

On Appeal from the United States District Court
for the District of New Jersey
(D. N.J. No. 2-14-cv-06688)
District Judge: Honorable William J. Martini

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B)
or Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
June 3, 2016

Before: FUENTES, KRAUSE and SCIRICA, Circuit Judges

(Filed: June 16, 2016)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Pro se appellant Marc Stephens attempts to appeal from several of the District Court's orders. For the following reasons, we will dismiss the appeal insofar as Stephens challenges the District Court's orders granting the defendants' motion to dismiss and denying Stephens's first motion for reconsideration, and summarily affirm the District Court's order denying Stephens's second motion for reconsideration.

In 2013, Stephens filed an application for a firearms purchaser identification card and an application for a permit to purchase a handgun with the Englewood, New Jersey Police Department. The police chief denied the applications. Stephens appealed to the New Jersey Superior Court, which, on de novo review, also denied the applications.

Stephens then filed this action under 42 U.S.C. § 1983. He alleged that, both facially and as applied to him, New Jersey's firearms regulations violate his rights under the First, Second, Fourth, Fifth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitution. The defendants filed a motion to dismiss the complaint, and the District Court granted the motion on August 6, 2015.

Stephens filed a motion for reconsideration, reiterating arguments that he had made in his complaint and in opposition to the defendants' motion to dismiss.¹ The District Court denied the motion on November 13, 2015. Stephens then filed a second motion for reconsideration, which was very similar to the first. The District Court also

¹ Stephens also sought leave to file an amended complaint, which the District Court denied. He did not challenge that aspect of the District Court's decision in his second motion for reconsideration.

denied that motion, and on December 15, 2015, Stephens filed a notice of appeal. He has since filed a motion to expedite the appeal.

We need not engage Stephens's constitutional arguments. To the extent that Stephens challenges the District Court's order dismissing his complaint or its order denying his first motion for reconsideration (which we construe as a motion under Fed. R. Civ. P. 59(e), see Wiest v. Lynch, 710 F.3d 121, 127 (3d Cir. 2013)), we lack jurisdiction. A notice of appeal must be filed within 30 days of the order that the party seeks to appeal. Fed. R. App. P. 4(a)(1). The District Court entered its order dismissing the complaint on August 6, 2015. While Stephens's initial Rule 59(e) motion tolled the time to appeal, see Fed. R. App. P. 4(a)(4)(A)(iv), his second motion for reconsideration (which we also construe as a Rule 59(e) motion) did not, see Turner v. Evers, 726 F.2d 112, 114 (3d Cir. 1984). Stephens did not file his notice of appeal within 30 days of either the District Court's order granting the defendants' motion to dismiss or its order denying his first Rule 59(e) motion. See Ludgood v. Apex Marine Corp. Ship Mgmt., 311 F.3d 364, 367 (5th Cir. 2002) ("a notice of appeal is effective on the date it is actually filed, and is filed as of the date it is actually received by the court, not as of the date it is mailed" (internal citations omitted)); see generally Han Tak Lee v. Houtzdale SCI, 798 F.3d 159, 163 (3d Cir. 2015). Accordingly, insofar as Stephens appeals the District Court's dismissal order or its denial of the first Rule 59(e) motion, we will dismiss the appeal for lack of jurisdiction. See Bowles v. Russell, 551 U.S. 205, 214 (2007).

We review the District Court's denial of the second Rule 59(e) motion for abuse of discretion. See Max's Seafood Café ex rel Lou-Ann, Inc. v. Quinteros, 176 F.3d 669, 673 (3d Cir. 1999). Rule 59(e) motions are appropriate only to rectify plain errors of law or to offer newly discovered evidence, and they may not be used to relitigate old matters or to present evidence or arguments that could have been offered earlier. Exxon Shipping Co. v. Baker, 554 U.S. 471, 485 n.5 (2008); Max's Seafood Café, 176 F.3d at 677. Here, Stephens's second Rule 59(e) motion pressed the same arguments that he had advanced in his previous filings; "[b]ecause this is not a proper basis for reconsideration [under Rule 59(e)], the District Court appropriately denied the motion." Lazaridis v. Wehmer, 591 F.3d 666, 669 (3d Cir. 2010).

Finding no substantial question raised by this appeal, we will summarily affirm the District Court's order denying Stephens's second Rule 59(e) motion. See 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6. In all other respects, we will dismiss the appeal. Stephens's motion to expedite is denied.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 15-3992

MARC A. STEPHENS,
Appellant

v.

THE HONORABLE EDWARD A. JEREJIAN, In his Official Capacity
as Judge of the Superior Court of Bergen County;
CHIEF ARTHUR OKEEFE, As an individual, and in his Official Capacity
as Chief of the Englewood, New Jersey Police Department;
ATTORNEY GENERAL OF THE STATE OF NEW JERSEY.

(D.N.J. No. 2-14-cv-06688)

SUR PETITION FOR REHEARING

Present: McKEE, Chief Judge, AMBRO, FUENTES, SMITH, FISHER, CHAGARES,
JORDAN, HARDIMAN, GREENAWAY, JR., VANASKIE, SHWARTZ, KRAUSE,
RESTREPO, SCIRICA*, Circuit Judges

* As to panel rehearing only.

The petition for rehearing filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/Anthony J. Scirica
Circuit Judge

Dated: July 13, 2016

CJG/cc: Marc A. Stephens
Adam R. Gibbons, Esq.
Alex J. Zowin, Esq.

Appendix B

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MARC A. STEPHENS,
Plaintiff,
v.

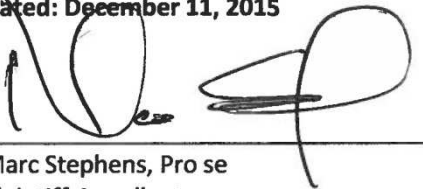
CASE NO. 2:14-cv-06688-WJM-MF

THE HON. EDWARD A. JEREJIAN, in his
Official Capacity as Judge of the Superior
Court of Bergen County;
CHIEF ARTHUR O'KEEFE, as an
individual, and in his Official Capacity as
Chief of the Englewood, New Jersey Police
Department
JOHN JAY HOFFMAN in his Official
Capacity as Attorney General of New Jersey
Defendants

**NOTICE OF APPEAL TO THE
U.S. COURT OF APPEALS FOR THE
THIRD CIRCUIT**

Notice is hereby given that, Marc Stephens, plaintiff in above named case, appeals to the United States Court of Appeals for the Third Circuit from Order of the United States District Court, District of New Jersey, entered in this action on August 4, 2015, granting defendants motion for summary judgment and entering judgment in favor of defendants, November 13, 2015, order denying plaintiff's first motion for reconsideration and to amend the complaint, and December 1, 2015 denying plaintiff's second motion for reconsideration and to amend the complaint.

Dated: December 11, 2015

A handwritten signature in black ink, appearing to read 'M. Stephens', written over a horizontal line.

Marc Stephens, Pro se
Plaintiff-Appellant
271 Rosemont Place
Englewood, NJ 07631
201-598-6268

Appendix C

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MARC A. STEPHENS,

Plaintiff,

v.

**THE HONORABLE EDWARD A.
JEREJIAN, in his Official Capacity as
Judge of the Superior Court of Bergen
County; CHIEF ARTHUR O'KEEFE, as
an individual, and in his Official Capacity
as Chief of the Englewood, New Jersey
Police Department; JOHN J. HOFFMAN,
in his Official Capacity as Attorney
General of New Jersey,**

Defendants.

Civ. No. 14-6688 (WJM)

ORDER

THIS MATTER comes before the Court on Plaintiff's *pro se* second motion requesting reconsideration of this Court's August 4, 2015, Order granting the Defendant's motion to dismiss and this Court's subsequent November 13, 2015, Order denying the Plaintiff's first motion for reconsideration; and this Court having concluded that reconsideration is not warranted; and for good cause shown;

IT IS on this 1st day of December 2015, hereby,

ORDERED that Plaintiff's motion for reconsideration is **DENIED**. Plaintiff is reminded that any future applications that are deemed to be frivolous by the Court will result in sanctions.

Appendix D

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

MARC A. STEPHENS,

Plaintiff,

v.

**THE HONORABLE EDWARD A.
JEREJIAN, in his Official Capacity as
Judge of the Superior Court of Bergen
County; CHIEF ARTHUR O’KEEFE, as
an individual, and in his Official Capacity
as Chief of the Englewood, New Jersey
Police Department; JOHN J. HOFFMAN,
in his Official Capacity as Attorney
General of New Jersey,**

Defendants.

Civ. No. 14-6688 (WJM)

OPINION

Plaintiff Marc Stephens—representing himself *pro se*—asks this Court to reconsider its dismissal of his complaint so that he may amend it for a third time. Stephens was denied a gun permit after four judicial hearings and brings this action alleging that New Jersey’s firearm regulatory scheme is unconstitutional. For the reasons set forth below, Plaintiff’s motion for reconsideration and to amend is **DENIED**.

I. BACKGROUND

Plaintiff applied for a New Jersey firearms purchaser identification card as well as permits to purchase handguns in New Jersey. His applications were denied. Stephens then appealed to the New Jersey Superior Court where, after four hearings, the Honorable Edward Jerejian ultimately upheld the denial of Stephens’ applications, citing concerns about public health, safety, and welfare pursuant to N.J.S.A. 2C:58-3(c)(5).

Plaintiff filed suit in this Court against Judge Jerejian and the other Defendants under 42 U.S.C. §1983, alleging a violation of his Second Amendment right to bear

arms, *inter alia*. Defendants moved to dismiss and this Court granted their motion on August 4, 2015. In its opinion, this Court found New Jersey’s firearm regulations to be constitutional under current Third Circuit and Supreme Court jurisprudence. (Docket No. 17.) In addition, the Court found that under the *Rooker-Feldman* doctrine, only a state appellate court or the U.S. Supreme Court could nullify the Superior Court’s decision. (*Id.*)

Subsequently, on August 18, 2015, Stephens filed the instant motion for reconsideration and to amend his complaint. The amended complaint was filed on September 21, 2015. Stephens reiterates his claim that New Jersey’s entire firearm regulatory scheme is facially unconstitutional. Stephens also argues that the *Rooker-Feldman* doctrine does not apply because he is not seeking to nullify the Superior Court’s ruling so much as he is using it as an example of how New Jersey’s firearm regulations are unconstitutional.

II. DISCUSSION

A. Motion for Reconsideration

Rule 59(e) of the Federal Rules of Civil Procedure (“FRCP”) allows a party to move a district court to reconsider its judgment. A motion for reconsideration may be granted only if: (1) there has been an intervening change in the controlling law; (2) new evidence has become available since the court granted the subject motion; or (3) it is necessary to correct a clear error of law or fact or to prevent manifest injustice. *Max’s Seafood Café by Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1995) (citing *North River Ins. Co. v. CIGNA Reinsurance Co.*, 52 F.3d 1194, 1218 (3d Cir. 1995)). Manifest injustice pertains to situations where a court overlooks some dispositive factual or legal matter that was presented to it. *See In re Rose*, No. 06-1818, 2007 WL 2533894, at *3 (D.N.J. Aug. 30, 2007). A motion for reconsideration is not an appeal, and a “party’s mere disagreement with a decision of the district court should be raised in the ordinary appellate process and is inappropriate on a motion for [reconsideration].” *Morris v. Siemens Components, Inc.*, 938 F. Supp. 277, 278 (D.N.J. 1996).

Plaintiff fails to demonstrate why this Court should reconsider its prior ruling. In his motion for reconsideration, Plaintiff does not allege an intervening change in controlling law or the availability of new evidence. Consequently, Plaintiff—in his only remaining argument—fails to show how this Court overlooked a clear error of law or fact. Plaintiff points to his fifth cause of action to argue that he was not only seeking a review of the Superior Court’s decision, but also asserting a “facial

challenge of New Jersey's entire firearm laws." (Plaintiff's Motion for Reconsideration ("Pl. Mt.") at 2, ECF No. 19.) However, the Court dismissed this claim in its prior opinion, noting that the Third Circuit has upheld New Jersey's firearm regulatory scheme as constitutional under *Heller*. (Docket No. 17.) Plaintiff thus merely re-iterates his assertions from the underlying motion to dismiss and asks this Court to "rethink what it ha[s] already thought through." *Oritani Sav. & Loan Ass'n v. Fid. & Deposit Co. of Maryland*, 744 F. Supp. 1311, 1314 (D.N.J. 1990). Since this is an improper basis for requesting a reconsideration of its decision, the Court denies Plaintiff's motion.

B. Motion to Amend

Plaintiff also moves to amend his complaint for a third time.¹ Though the FRCP states that the decision to grant or deny leave to amend is "committed to the sound discretion of the district court," a court must "freely give leave when justice so requires," Fed. R. Civ. P. 15(a)(2), unless there is "undue delay, bad faith, dilatory motive, prejudice, [or] futility," *In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1434 (3d Cir. 1997). The Third Circuit has stated that "[f]utility" means that the complaint, as amended, would fail to state a claim upon which relief could be granted." *Shane v. Fauver*, 213 F.3d 113, 115 (3d Cir. 2000). To determine whether providing leave to amend would be futile, the Third Circuit has instructed that a district court should apply the same legal standard as applied under Rule 12(b)(6). *Id.*

In his motion, Plaintiff states that he intends to amend his complaint "to remove the first, second, third, and fourth cause[s] of action[]" and "to include language . . . to re-establish standing." (Pl. Mt. at 2.) However, the mere removal of claims is insufficient to obviate the legal deficiency underlying Plaintiff's sole remaining claim from the prior complaint. Plaintiff's additional claims in the amended complaint suffer from this same deficiency, namely that binding Third Circuit precedent has upheld New Jersey's "justifiable need" requirement as constitutional. *See Drake v. Filko*, 724 F.3d 426, 429 (3d Cir. 2013); (Docket No. 17.) Consequently, the Court denies Plaintiff's motion to amend, as granting such leave would be futile.

III. CONCLUSION

¹ Plaintiff did not attach a proposed amended complaint to his motion, submitting it at a later date. (Docket No. 21.) The Court will accept this late submission in the interest of justice.

For the reasons above, Plaintiff's motion for reconsideration and to amend is **DENIED**. An appropriate order follows.

/s/ William J. Martini

WILLIAM J. MARTINI, U.S.D.J.

Date: November 13, 2015

Appendix E

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

MARC A. STEPHENS,

Plaintiff,

v.

THE HONORABLE EDWARD A. JEREJIAN, in his Official Capacity as Judge of the Superior Court of Bergen County; CHIEF ARTHUR O'KEEFE, as an individual, and in his Official capacity as Chief of the Englewood, New Jersey Police Department; JOHN J. HOFFMAN, in his Official Capacity as Attorney General of New Jersey,

Defendants.

Civ. No. 14-6688 (WJM)

OPINION

WILLIAM J. MARTINI, U.S.D.J.

Pro se Plaintiff Marc Stephens brings this action pursuant to 42 U.S.C. § 1983. He was denied a gun permit after four judicial hearings. Defendants filed a motion to dismiss. For the reasons set forth below, Defendants' motion is **GRANTED**, and this case is **DISMISSED WITH PREJUDICE**.

I. BACKGROUND

Unless otherwise noted, the following facts are alleged in Plaintiff's complaint. On January 11, 2013, Marc Stephens filed an application for a firearms purchaser identification card and two permits to purchase a handgun with the Englewood Police Department. Def. Br. at 6, E.C.F. no.13-1. These applications were made under N.J.S.A. 2C:58-3. On June 4, 2013, Stephens

received a letter from Englewood Police Department Chief Arthur O'Keefe denying his application. O'Keefe's letter cited public health, safety, and welfare as the reason for denial, pursuant to N.J.S.A. 2C:58-3(c)(5). Moreover, the letter informed Plaintiff of his right to appeal the denial, pursuant to N.J.S.A. 2C:58-4(e). Plaintiff requested a hearing before the Superior Court of New Jersey's Honorable Edward Jerejian, which was held on September 13, 2013. At the hearing, the Bergen County Prosecutor argued that Plaintiff's brother, a convicted felon, had the same address of record as Plaintiff. This hearing was adjourned, and a second hearing was held on November 15, 2013. At the second hearing, Plaintiff testified he would not be living with his brother. Moreover, Sergeant Alston of the Englewood P.D., testified that Plaintiff was not a threat to public safety. The court ordered another member of Englewood P.D. to investigate Plaintiff's request. Plaintiff received a third hearing on February 11, 2014, and on March 6, 2014, Judge Jerejian denied Plaintiff's application, again citing public health, safety, and welfare. On August 7, 2014, Plaintiff moved for reconsideration and was denied.

On October 27, 2014, Plaintiff filed this action. It was dismissed on October 31, 2014 after the Court denied Plaintiff's application for *in forma pauperis* status. Plaintiff filed his amended complaint on December 22, 2014. Though Plaintiff's rambling complaint attempts to allege violations of the First, Second, Fourth, Fifth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitution, the substance of Plaintiff's complaint is that New Jersey violated his Constitutional right to purchase a gun.

II. SUBJECT MATTER JURISDICTION

The district courts "have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. This Court has jurisdiction over this matter to the extent that it brings claims under 42 U.S.C. § 1983 for denial of Constitutional rights.

III. LEGAL STANDARD

Federal Rule of Civil Procedure 12(b)(6) provides for the dismissal of a complaint, in whole or in part, if the plaintiff fails to state a claim upon which

relief can be granted. The moving party bears the burden of showing that no claim has been stated. *Hedges v. United States*, 404 F.3d 744, 750 (3d Cir. 2005). In deciding a motion to dismiss under Rule 12(b)(6), a court must take all allegations in the complaint as true and view them in the light most favorable to the plaintiff. *See Warth v. Seldin*, 422 U.S. 490, 501 (1975); *Trump Hotels & Casino Resorts, Inc. v. Mirage Resorts Inc.*, 140 F.3d 478, 483 (3d Cir. 1998). Moreover, where the plaintiff is proceeding *pro se*, the complaint is “to be liberally construed,” and, “however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 93–94 (2007).

Although a complaint need not contain detailed factual allegations, “a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitlement to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Thus, the factual allegations must be sufficient to raise a plaintiff’s right to relief above a speculative level, such that it is “plausible on its face.” *See id.* at 570; *see also Umland v. PLANCO Fin. Serv., Inc.*, 542 F.3d 59, 64 (3d Cir. 2008). A claim has “facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Twombly*, 550 U.S. at 556). While “[t]he plausibility standard is not akin to a ‘probability requirement’ . . . it asks for more than a sheer possibility.” *Id.*

IV. DISCUSSION

The Court is powerless to grant Plaintiff the relief he seeks. New Jersey’s gun permit laws are facially constitutional. Further, the *Rooker-Feldman* Doctrine bars the Court’s review of Plaintiff’s “as-applied” challenge to the state court proceedings.

The Supreme Court has repeatedly rejected the claim that the Second Amendment includes an unqualified right to possess a firearm. *See District of Columbia v. Heller*, 554 U.S. 570, 626–27 (2008) (holding that there are long-standing and presumptively lawful qualifications and conditions on the sale and possession of firearms); *see also McDonald v. City of Chicago*, 561 U.S. 742, 786 (2010) (incorporating the Court’s holdings in *Heller* through the Fourteenth Amendment). More recently, the Third Circuit upheld the

constitutionality of New Jersey's requirement that applicants for handgun carry permits show "justifiable need" under N.J.S.A. 58-4. *Drake v. Filko*, 724 F.3d 426, 429 (3d Cir. 2013). The Third Circuit in *Drake* held that the justifiable need requirement was the kind of long-standing and presumptively lawful qualification that the Supreme Court considers constitutional, and, therefore, not burdensome to the Second Amendment. *Id.* Here, though Plaintiff applied for the proper documents to *purchase* handguns, as opposed to *carry* handguns, the Third Circuit's jurisprudence indicates that the herein challenged firearm regulations, which are central to New Jersey's aggregate firearm regulatory scheme, are constitutional under *Heller*. *See id.* Therefore, the law provides no remedy for Plaintiff, and his facial challenges are dismissed with prejudice.

The *Rooker-Feldman* Doctrine bars the federal district courts from reviewing the constitutionality of state court decisions. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). If the state-court decision was wrong, it may be declared null and void only by the appropriate state appellate court, or by the United States Supreme Court. *Id.* at 284-85. In *Exxon Mobil Corp.*, the Supreme Court clarified that the *Rooker-Feldman* Doctrine applies specifically to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Id.* at 284. To the extent Plaintiff is seeking this Court's review of the actions taken by the Superior Court of New Jersey, the complaint fits squarely into the category of cases covered by the *Rooker-Feldman* Doctrine. Therefore, Plaintiff's "as-applied" challenges to the New Jersey firearms regulation scheme are dismissed with prejudice.

V. CONCLUSION

For the foregoing reasons, the motion to dismiss is **GRANTED**. Plaintiff's complaint is **DISMISSED WITH PREJUDICE**. An appropriate order follows.

/s/ William J. Martini

WILLIAM J. MARTINI, U.S.D.J.

Appendix F

JOHN L. MOLINELLI
BERGEN COUNTY PROSECUTOR
BERGEN COUNTY JUSTICE CENTER
HACKENSACK, NJ 07601
(201/646-2300)

FILED

AUG 07 2014

EDWARD A. JEREJIAN, J.S.C

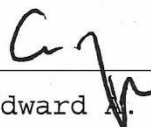
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - BERGEN COUNTY

IN THE MATTER OF THE APPEAL OF	:	
THE DENIAL OF THE APPLICATION	:	<u>CIVIL ACTION</u>
BY MARC A. STEPHENS FOR A FIREARMS	:	
PURCHASER IDENTIFICATION CARD	:	Motion for
AND PERMIT TO PURCHASE A HANDGUN	:	Reconsideration
	:	
	:	ORDER

This matter having been brought before the Court by Marc A. Stephens, with Bergen County Assistant Prosecutor Ryan Magee, on behalf of the State of New Jersey; and the Court, on de novo review, having reviewed the evidence, and considered the arguments of the parties; and for good cause shown;

IT IS on this ^{7th} day of ^{August} ~~June~~, 2014,

ORDERED that the motion for reconsideration of Marc A. Stephens is hereby DENIED.


Hon. Edward A. Jerejian, J.S.C.

Appendix G

JOHN L. MOLINELLI
BERGEN COUNTY PROSECUTOR
BERGEN COUNTY JUSTICE CENTER
HACKENSACK, NJ 07601
(201/646-2300)

FILED

MAR 06 2014

EDWARD A. JEREJIAN, J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - BERGEN COUNTY

IN THE MATTER OF THE APPEAL OF
THE DENIAL OF THE APPLICATION
BY MARC STEPHENS FOR A FIREARMS
PURCHASER IDENTIFICATION CARD
AND PERMIT TO PURCHASE A HANDGUN

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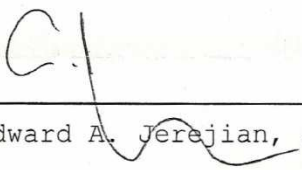
CIVIL ACTION

ORDER

This matter having been brought before the Court on February 14, 2014, by Marc Stephens; in the presence of Bergen County Assistant Prosecutor Ryan Magee, appearing on behalf of the State of New Jersey; and the Court, on *de novo* review, having heard the testimony, reviewed the evidence, and considered the oral arguments of the parties; and for good cause shown;

IT IS on this 6th day of March, 2014,

ORDERED that the application of Marc Stephens for a firearms purchaser identification card and a permit to purchase a handgun is hereby **DENIED** pursuant to the provisions of N.J.S.A. 2C:58-3(C)(5) and for the reasons set forth on the record.


Hon. Edward A. Jerejian, J.S.C.

Appendix H



Department of Police

75 South Van Brunt Street • Englewood, New Jersey 07631

RECORDS UNIT

Telephone (201) 568-2731

Fax (201) 567-3504

Dear: Applicant,

Date: June 4, 2013

This letter is to give official notice that your application for the Permit to Purchase a Handgun, has been **DENIED** by the Chief of Police. The reason for the denial was for **Public Health Safety and Welfare.**

By statute (2C:58-4e), you have thirty days to appeal this denial by writing to the Superior Court of Bergen County, requesting a hearing on your denial.

If you choose to appeal this denial to the Superior Court, you must notify the Englewood Police Department Firearms unit, in writing.

Sgt. George Alston Jr. #140

Sergeant George Alston, Jr. #140

Appendix I



www.bioapplicant.com/nj

Formerly Sagem Morpho Inc

(1) Originating Agency Number (ORI #) NJ0021500		(2) Category FIR		(3) Statute Number 2C:58-1 THRU 4.1	
(4) Reason for Fingerprinting FIREARMS LICENSING				(5) Document Type B1	(6) Payment Information 57.50
(7) Contributor's Case # (Unique Identifier) FA-04-13				(8) Miscellaneous	
(9) First Name MARC		(10) MI A	(11) Last Name STEPHENS		
(12) Daytime Phone Number (646) 841-6256		(13) Social Security Number 073-58-1135	(14) Date of Birth 8/31/73	(15) Height 6'2"	(16) Weight 250
(17) Maiden Name (if married female) N/A		(18) Place of Birth (U.S. State -for US Citizen; Country for all others) NEW YORK		(19) Country of Citizenship USA	
(20) Home Address					
Address 271 ROSEMONT PL.		City ENGLEWOOD		State NJ	Zip 07631
(21) Gender (Select one) Male <input checked="" type="checkbox"/> Female <input type="checkbox"/> Both <input type="checkbox"/>		(22) Hair Color (Indicate most predominant color, one only) BLACK		(23) Eye Color BROWN	
(24) Race (Select One) A Asian/ Pacific Islander (Includes Asian Indian) B Black W White (Includes Hispanic/ Spanish Origin) U Unknown I American Indian / Alaska Native					
(25) Occupation REAL ESTATE CONSULTING		(26) Employer (Name) MAS ACQUISITIONS Employer Address 650 PALISADE AVE, SUITE 2122 City ENGLEWOOD CLIFFS, State NJ Zip 07632			

APPLICANT INFORMATION - READ THIS FORM CAREFULLY AND FOLLOW ALL INSTRUCTIONS TO COMPLETE THE FINGERPRINT PROCESS. You **MUST** present this completed form at your appointment to be **FINGERPRINTED**. NO EXCEPTIONS ALLOWED. Applicants without forms or with incomplete forms will not be printed.

IDENTIFICATION IS REQUIRED- ACCEPTABLE ID REQUIREMENTS -ID MUST include Photo, Name, Address (Home/ Employer) and Date of Birth. Acceptable ID **MUST** be issued by a Federal, State, County or Municipal entity for identification purposes. Examples of acceptable ID are: 1) Valid Photo Drivers License or Valid Photo ID issued by any State DMV or NJ MVC, 2) Passport. Acceptable ID **MUST** meet all of the underlined requirements above and **MUST** be present on one (1) ID. Combinations of documents are **NOT** acceptable. **If acceptable ID is not presented you will not be fingerprinted.**

For applicants who are required to pay for their own fingerprinting fees, payment is required at the time of scheduling. Payment may be made with a credit card or electronic debit from a checking account. Remember your account will automatically be debited. An \$11 fee is charged to cover the cost of a scheduled appointment for applicants who do not cancel/reschedule by noon on the business day prior to your scheduled appointment (Saturday noon for Monday appointments). All appointments can be canceled/rescheduled via the web without penalty if cancellation requirements are met. The \$11 fee will also apply for applicants who are turned away from the printing sites due to the inability to present proper ID, who fail to present this completed Universal Fingerprint Form provided to you by your requesting agency or employer, or who are turned away because information on this form does not match the information provided during the scheduling process. You will be refunded State and Federal search fees only.

Appointment scheduling is available via the web at www.bioapplicant.com/nj, 24 hours per day, 7 days per week. For applicants who do not have web access, appointments can be made by contacting us toll free at (877) 503-5981 on a first call, first served basis Monday through Friday, 8:00 AM to 5:00 PM EST and Saturday, 8:00 AM to 12 noon EST. English and Spanish speaking operators are available. Hearing impaired scheduling is available at (800) 673-0353. ONLY applicants who schedule through the call center can make payment by money order at the fingerprint site. No other form of payment is accepted at the fingerprint site.

Your APPLICANT ID, Site, Date, Time of your appointment, and payment authorization will be confirmed by the call center agent or web confirmation when scheduling is complete. You must record this information in the appropriate blocks below while speaking with the operator. If you appear for fingerprinting at a site where you are not scheduled or on a different date and time, you will be turned away and not fingerprinted. If applicable, you may incur the \$11 appointment fee.

Your PCN number will be recorded when your fingerprinting has been completed. You **MUST** retain a copy of the form and a copy of the receipt provided to you by the Fingerprint Technician for your records. **NO RECEIPTS WILL BE PROVIDED AFTER THE DATE OF PRINTING.**

Applicant ID No. 31492821	Scheduled Site/ Date/ Time PARAMUS, 1/15/13, 1:55 PM	PYMT Authorization	PCN 41530490584
Agency Information #1 Englewood PD		Agency Information #2	

APPLICANTS MUST NOT ALTER, SHARE, OR REUSE THIS FORM

FORM NO. NJAPS2, Version 4.0

Appendix J

2/17/2015

A8

An Act concerning Slaves, &c.

East New Jersey Laws, October 1694, ch.II, L&S 340-342

[§1] WHEREAS complaint is made by the inhabitants of this Province, that they are greatly injured by slaves having liberty to carry guns and dogs, into the woods and plantations, under pretence of guning, do kill swine. *Be it enacted* by the Governor, Council and Deputies in General Assembly met and assembled, and by the authority of the same, that no slave or slaves within this Province after publication hereof, be permitted to carry any gun or pistol, or take any dog with him or them into the woods, or plantations, upon any pretence whatsoever; unless his or their owner or owners, or a white man, by the order of his or their owner or owners, be with the said slave or slaves, upon the penalty of twenty shillings for the first offence, and for the second offence, thirty shillings, and so for every offence after so committed ten shillings more; the one half to the informer that shall prosecute the same to effect, the other half to the use of the poor belonging to the town where the fact was committed, to be recovered as an action of debt; forty shillings or under to be tryed at the court of small causes in the town where the fact was committed, and above forty shillings to be try'd by the county court where the fact was committed ; the said action to be commenced against the owner or owners, of the aforesaid slave or slaves so offending ; and after judgment obtained against the said owner or owners, execution to be levied upon their bodies or estates, for the satisfaction of the said penalty so recovered as aforesaid with cost. [§2] *And be it further enacted* by the authority aforesaid, that no person or persons within this Province, shall suffer his or their slave or slaves, to keep any swine, but what are of their owners mark, upon the penalty of twenty shillings for every swine otherwise marked ; to be recovered of the owner or owners of the said slave or slaves as aforesaid. And whereas it is found injurious to many of this Province having slaves, that their slaves are withheld by the countenance, harbouring and entertaining of them by many of the inhabitants thereof, without their owners consent. [§3] *Be it enacted* by the authority aforesaid, that any person or persons on whom it can be proved, that they do presume to suffer any slave to be or remain in his house, not licensed by his owner as aforesaid, by the space of

<http://njlegallib.rutgers.edu/slavery/acts/A8.html>

1/2

two hours, shall forfeit the sum of five shillings, and so proportionably for a longer time, to the owner wrong'd thereby ; and that it shall be lawful for any person to apprehend and take up as a runaway, any slave that shall be found five miles from his owners habitation, or town of his abode, without a certificate for the same, and upon returning the said slave or slaves, to the said owner or owners, he or they so apprehending and returning as aforesaid, shall have paid them by the owner or owners of the said slave or slaves within ten miles distance, five shillings; if within twenty miles, and more than fifteen miles from the said owners habitation, ten shillings per head, and if further, than six-pence per mile more to be paid and recovered as aforesaid. [§4] *And be it further enacted* by the authority aforesaid, that if any person or persons shall lend, give or hire out to any slave, or slaves, pistol, gun or guns, the said person or persons so lending, giving, or hiring, shall forfeit the said pistol, gun or guns, or twenty shillings to the owner of the said slave or slaves, to be recovered as an action of debt as aforesaid.

**"An Act to prevent the Killing of Deer out of Season, and against
Carrying of Guns and Hunting by Persons not qualified,"**

May 5, 1722, [§6], 2 Bush 293, 295

[§6] *And be it further Enacted by the Authority aforesaid, That this Act nor any part thereof, shall be construed to extend to Negro, Indian or Mullato Slaves, so as to commit them to prison, during the Time in this Act limited, in case they should be Guilty of any of the Offences in this Act prohibited, but that and in such case such Indian, Negro or Mullato Slave killing and destroying any Deer as aforesaid, or carrying or Hunting with any Gun, without Lisence from his Master, shall, at the Publick Whipping post, on the bare Back, be Whipt, not exceeding twenty Lashes for every such Offence, for which Whipping the Master shall pay to the Whipper the Sum of *Three Shillings*, and pay no greater or other Cost whatsoever, any Thing in this Act to the contrary hereof in any wise notwithstanding.*

An Act to restrain Tavern-keepers and others from selling strong Liquors to Servants, Negroes and Molatto Slaves, and to prevent Negroes and Molatto Slaves, from meeting in large Companies, from running about at Nights, and from hunting or carrying a Gun on the Lord's Day.

Oct. 25, 1751, 3 Bush 180-181

[§1] BE IT ENACTED by the Governor, Council and General Assembly, and by the Authority of the same, That from and after the Publication of this Act, if any Person or Persons have Reason to suspect that any Tavern-keeper or other Person or Persons whatsoever, (by themselves or any Person for them) have sold any strong Liquors to his, her or their Servant, Negro or Molatto Slave, without leave from their Master or Mistress in Writing, that it is and shall be lawful for him, her or them to apply to any Justice of the Peace, who is hereby required and directed, to issue his Warrant for apprehending the Person or Persons so suspected, to be brought before him, or any other of his Majesty's Justices of the Peace within the Town or Precinct where the suspected Person or Persons Inhabit, who is hereby required to tender the following Oath or Affirmation to the Person or Persons suspected, viz.

I A.B. do in the presence of God, Declare and Swear, that I have not, nor any Person for me, by or with my Consent or Knowledge, sold any strong Liquors of any Kind whatsoever, to the Complainants Servant, Negro, or Molatto Slave, at any Time without his, her or their Consent in Writing for the same.

AND if the Person or Persons so suspected, shall refuse to take the above Oath or Affirmation, their Refusal shall be and is hereby made sufficient Evidence to convict him, her, or them thereof; and Subject him, her, or them, to the Pains and Penalties prescribed by an Act entitled, *An Act for Regulating Taverns, Ordinaries, Inn Keepers and Retailers of strong Liquors.*

[§2] AND BE IT FURTHER ENACTED, by the Authority aforesaid, that if any Negro or Molatto Slaves shall at any Time hereafter Meet and Assemble together, more than to the Number of

Five, unless being on his, her or their Masters or Mistresses Business and Employment; the Constable or Constables on Information or Knowledge thereof, shall, and are hereby required to apprehend the Negro and Molatto Slaves that shall so meet, and carry them before the next Justice of the Peace, who is hereby required and directed to order him, her or them to be whipped on their bare Backs at his Discretion, not exceeding *Twenty* Lashes; and the Constable, or *Whipper*, to be paid by the Master or Mistress of such Negro or Molatto Slaves, the Sum of *Three Shillings*, for apprehending and Whipping each and every Negro or Molatto Slave, that shall offend as above.

[§3] AND BE IT FURTHER ENACTED, by the Authority aforesaid, That if any Negro or Molatto Slave or Slaves, shall be seen or found from his or their Masters House, after the Hour of Nine at Night, except on their Masters or Mistresses particular Business, or shall be seen to hunt, or carrying a Gun on the Lord's Day; the Constable or Constables of such Town or Precinct, on Information or Knowledge thereof, shall and are hereby required and directed, to apprehend and carry such Negro and Molatto Slaves before the next Justice of the Peace, who shall order such Negro or Molatto Slave or Slaves, if found Guilty, to be whipped as by the preceding Clause of this Act is directed. PROVIDED ALWAYS, That nothing herein contained, shall be construed or taken, to prevent any Negro or Molatto Slave from going to Church or Meeting, and attending on Divine Service or from Burying their Dead, with their Master's or Mistresses Consent.

Appendix K

2C:39-5 Unlawful possession of weapons.

a. Machine guns. Any person who knowingly has in his possession a machine gun or any instrument or device adaptable for use as a machine gun, without being licensed to do so as provided in N.J.S.2C:58-5, is guilty of a crime of the second degree.

b. Handguns. Any person who knowingly has in his possession any handgun, including any antique handgun, without first having obtained a permit to carry the same as provided in N.J.S.2C:58-4, is guilty of a crime of the third degree if the handgun is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person. Otherwise it is a crime of the second degree.

c. Rifles and shotguns. (1) Any person who knowingly has in his possession any rifle or shotgun without having first obtained a firearms purchaser identification card in accordance with the provisions of N.J.S.2C:58-3, is guilty of a crime of the third degree.

(2) Unless otherwise permitted by law, any person who knowingly has in his possession any loaded rifle or shotgun is guilty of a crime of the third degree.

d. Other weapons. Any person who knowingly has in his possession any other weapon under circumstances not manifestly appropriate for such lawful uses as it may have is guilty of a crime of the fourth degree.

e. Firearms or other weapons in educational institutions.

(1) Any person who knowingly has in his possession any firearm in or upon any part of the buildings or grounds of any school, college, university or other educational institution, without the written authorization of the governing officer of the institution, is guilty of a crime of the third degree, irrespective of whether he possesses a valid permit to carry the firearm or a valid firearms purchaser identification card.

(2) Any person who knowingly possesses any weapon enumerated in paragraphs (3) and (4) of subsection r. of N.J.S.2C:39-1 or any components which can readily be assembled into a firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1 or any other weapon under circumstances not manifestly appropriate for such lawful use as it may have, while in or upon any part of the buildings or grounds of any school, college, university or other educational institution without the written authorization of the governing officer of the institution is guilty of a crime of the fourth degree.

that personalized handguns qualify for use by State and local law enforcement officers. In making this determination, the commission shall consider any advantages and disadvantages to using these weapons in the performance of the official duties of law enforcement officers and shall give due regard to the safety of law enforcement officers and others. The commission shall expire thereafter. The Attorney General shall be authorized to promulgate rules and regulations that apply the provisions of this section to handguns to be sold, transferred, assigned and delivered for official use to State and local law enforcement officers upon a determination by the commission that personalized handguns qualify for use by State and local law enforcement officers.

e. A person who knowingly violates the provisions of this section is guilty of a crime of the fourth degree.

2C:58-2.6 Rules, regulations.

7. The Attorney General, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act.

2C:58-3 Purchase of firearms.

2C:58-3. a. Permit to purchase a handgun. No person shall sell, give, transfer, assign or otherwise dispose of, nor receive, purchase, or otherwise acquire a handgun unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or has first secured a permit to purchase a handgun as provided by this section.

b. Firearms purchaser identification card. No person shall sell, give, transfer, assign or otherwise dispose of nor receive, purchase or otherwise acquire an antique cannon or a rifle or shotgun, other than an antique rifle or shotgun, unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or possesses a valid firearms purchaser identification card, and first exhibits said card to the seller, donor, transferor or assignor, and unless the purchaser, assignee, donee, receiver or holder signs a written certification, on a form prescribed by the superintendent, which shall indicate that he presently complies with the requirements of subsection c. of this section and shall contain his name, address and firearms purchaser identification card number or dealer's registration number. The said certification shall be retained by the seller, as provided in paragraph (4) of subsection a. of N.J.S.2C:58-2, or, in the case of a person who is not a dealer, it may be filed with the chief of police of the municipality in which he resides or with the superintendent.

c. Who may obtain. No person of good character and good repute in the

community in which he lives, and who is not subject to any of the disabilities set forth in this section or other sections of this chapter, shall be denied a permit to purchase a handgun or a firearms purchaser identification card, except as hereinafter set forth. No handgun purchase permit or firearms purchaser identification card shall be issued:

(1) To any person who has been convicted of any crime, or a disorderly persons offense involving an act of domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or not armed with or possessing a weapon at the time of such offense;

(2) To any drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), to any person who is confined for a mental disorder to a hospital, mental institution or sanitarium, or to any person who is presently an habitual drunkard;

(3) To any person who suffers from a physical defect or disease which would make it unsafe for him to handle firearms, to any person who has ever been confined for a mental disorder, or to any alcoholic unless any of the foregoing persons produces a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that he is no longer suffering from that particular disability in such a manner that would interfere with or handicap him in the handling of firearms; to any person who knowingly falsifies any information on the application form for a handgun purchase permit or firearms purchaser identification card;

(4) To any person under the age of 18 years for a firearms purchaser identification card and to any person under the age of 21 years for a permit to purchase a handgun;

(5) To any person where the issuance would not be in the interest of the public health, safety or welfare;

(6) To any person who is subject to a restraining order issued pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from possessing any firearm;

(7) To any person who as a juvenile was adjudicated delinquent for an offense which, if committed by an adult, would constitute a crime and the offense involved the unlawful use or possession of a weapon, explosive or destructive device or is enumerated in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2); or

(8) To any person whose firearm is seized pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) and whose firearm has not been returned.

d. Issuance. The chief of police of an organized full-time police department of

the municipality where the applicant resides or the superintendent, in all other cases, shall upon application, issue to any person qualified under the provisions of subsection c. of this section a permit to purchase a handgun or a firearms purchaser identification card.

Any person aggrieved by the denial of a permit or identification card may request a hearing in the Superior Court of the county in which he resides if he is a resident of New Jersey or in the Superior Court of the county in which his application was filed if he is a nonresident. The request for a hearing shall be made in writing within 30 days of the denial of the application for a permit or identification card. The applicant shall serve a copy of his request for a hearing upon the chief of police of the municipality in which he resides, if he is a resident of New Jersey, and upon the superintendent in all cases. The hearing shall be held and a record made thereof within 30 days of the receipt of the application for such hearing by the judge of the Superior Court. No formal pleading and no filing fee shall be required as a preliminary to such hearing. Appeals from the results of such hearing shall be in accordance with law.

e. Applications. Applications for permits to purchase a handgun and for firearms purchaser identification cards shall be in the form prescribed by the superintendent and shall set forth the name, residence, place of business, age, date of birth, occupation, sex and physical description, including distinguishing physical characteristics, if any, of the applicant, and shall state whether the applicant is a citizen, whether he is an alcoholic, habitual drunkard, drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), whether he has ever been confined or committed to a mental institution or hospital for treatment or observation of a mental or psychiatric condition on a temporary, interim or permanent basis, giving the name and location of the institution or hospital and the dates of such confinement or commitment, whether he has been attended, treated or observed by any doctor or psychiatrist or at any hospital or mental institution on an inpatient or outpatient basis for any mental or psychiatric condition, giving the name and location of the doctor, psychiatrist, hospital or institution and the dates of such occurrence, whether he presently or ever has been a member of any organization which advocates or approves the commission of acts of force and violence to overthrow the Government of the United States or of this State, or which seeks to deny others their rights under the Constitution of either the United States or the State of New Jersey, whether he has ever been convicted of a crime or disorderly persons offense, whether the person is subject to a restraining order issued pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from possessing any firearm, and such other information as the superintendent shall deem necessary for the proper enforcement of this chapter. For the purpose of complying with this subsection, the applicant shall waive any statutory or other right of confidentiality relating to institutional confinement. The application shall be signed by the applicant and shall contain as references the names and addresses of two reputable citizens personally acquainted with him.

Application blanks shall be obtainable from the superintendent, from any other officer authorized to grant such permit or identification card, and from licensed retail dealers.

The chief police officer or the superintendent shall obtain the fingerprints of the applicant and shall have them compared with any and all records of fingerprints in the municipality and county in which the applicant resides and also the records of the State Bureau of Identification and the Federal Bureau of Investigation, provided that an applicant for a handgun purchase permit who possesses a valid firearms purchaser identification card, or who has previously obtained a handgun purchase permit from the same licensing authority for which he was previously fingerprinted, and who provides other reasonably satisfactory proof of his identity, need not be fingerprinted again; however, the chief police officer or the superintendent shall proceed to investigate the application to determine whether or not the applicant has become subject to any of the disabilities set forth in this chapter.

f. Granting of permit or identification card; fee; term; renewal; revocation. The application for the permit to purchase a handgun together with a fee of \$2, or the application for the firearms purchaser identification card together with a fee of \$5, shall be delivered or forwarded to the licensing authority who shall investigate the same and, unless good cause for the denial thereof appears, shall grant the permit or the identification card, or both, if application has been made therefor, within 30 days from the date of receipt of the application for residents of this State and within 45 days for nonresident applicants. A permit to purchase a handgun shall be valid for a period of 90 days from the date of issuance and may be renewed by the issuing authority for good cause for an additional 90 days. A firearms purchaser identification card shall be valid until such time as the holder becomes subject to any of the disabilities set forth in subsection c. of this section, whereupon the card shall be void and shall be returned within five days by the holder to the superintendent, who shall then advise the licensing authority. Failure of the holder to return the firearms purchaser identification card to the superintendent within the said five days shall be an offense under subsection a. of N.J.S.2C:39-10. Any firearms purchaser identification card may be revoked by the Superior Court of the county wherein the card was issued, after hearing upon notice, upon a finding that the holder thereof no longer qualifies for the issuance of such permit. The county prosecutor of any county, the chief police officer of any municipality or any citizen may apply to such court at any time for the revocation of such card.

There shall be no conditions or requirements added to the form or content of the application, or required by the licensing authority for the issuance of a permit or identification card, other than those that are specifically set forth in this chapter.

g. Disposition of fees. All fees for permits shall be paid to the State Treasury if the permit is issued by the superintendent, to the municipality if issued by the chief of police, and to the county treasurer if issued by the judge of the Superior Court.

h. Form of permit; quadruplicate; disposition of copies. The permit shall be in the form prescribed by the superintendent and shall be issued to the applicant in quadruplicate. Prior to the time he receives the handgun from the seller, the applicant shall deliver to the seller the permit in quadruplicate and the seller shall complete all of the information required on the form. Within five days of the date of the sale, the seller shall forward the original copy to the superintendent and the second copy to the chief of police of the municipality in which the purchaser resides, except that in a municipality having no chief of police, such copy shall be forwarded to the superintendent. The third copy shall then be returned to the purchaser with the pistol or revolver and the fourth copy shall be kept by the seller as a permanent record.

i. Restriction on number of firearms person may purchase. Only one handgun shall be purchased or delivered on each permit and no more than one handgun shall be purchased within any 30-day period, but this limitation shall not apply to:

(1) a federal, State or local law enforcement officer or agency purchasing handguns for use by officers in the actual performance of their law enforcement duties;

(2) a collector of handguns as curios or relics as defined in Title 18, United States Code, section 921 (a) (13) who has in his possession a valid Collector of Curios and Relics License issued by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

(3) transfers of handguns among licensed retail dealers, registered wholesale dealers and registered manufacturers

(4) transfers of handguns from any person to a licensed retail dealer or a registered wholesale dealer or registered manufacturer.

(5) any transaction where the person has purchased a handgun from a licensed retail dealer and has returned that handgun to the dealer in exchange for another handgun within 30 days of the original transaction, provided the retail dealer reports the exchange transaction to the superintendent; or

(6) any transaction where the superintendent issues an exemption from the prohibition in this subsection pursuant to the provisions of section 4 of P.L.2009, c.186 (C.2C:58-3.4).

The provisions of this subsection shall not be construed to afford or authorize any other exemption from the regulatory provisions governing firearms set forth in chapter 39 and chapter 58 of Title 2C of the New Jersey Statutes;

A person shall not be restricted as to the number of rifles or shotguns he may

2C:58-4. Permits to carry handguns

a. Scope and duration of authority. Any person who holds a valid permit to carry a handgun issued pursuant to this section shall be authorized to carry a handgun in all parts of this State, except as prohibited by section 2C:39-5e. One permit shall be sufficient for all handguns owned by the holder thereof, but the permit shall apply only to a handgun carried by the actual and legal holder of the permit.

All permits to carry handguns shall expire 2 years from the date of issuance or, in the case of an employee of an armored car company, upon termination of his employment by the company occurring prior thereto whichever is earlier in time, and they may thereafter be renewed every 2 years in the same manner and subject to the same conditions as in the case of original applications.

b. Application forms. All applications for permits to carry handguns, and all applications for renewal of such permits, shall be made on the forms prescribed by the superintendent. Each application shall set forth the full name, date of birth, sex, residence, occupation, place of business or employment, and physical description of the applicant, and such other information as the superintendent may prescribe for the determination of the applicant's eligibility for a permit and for the proper enforcement of this chapter. The application shall be signed by the applicant under oath, and shall be indorsed by three reputable persons who have known the applicant for at least 3 years preceding the date of application, and who shall certify thereon that the applicant is a person of good moral character and behavior.

c. Investigation and approval. Each application shall in the first instance be submitted to the chief police officer of the municipality in which the applicant resides, or to the superintendent, (1) if the applicant is an employee of an armored car company, or (2) if there is no chief police officer in the municipality where the applicant resides, or (3) if the applicant does not reside in this State. The chief police officer, or the superintendent, as the case may be, shall cause the fingerprints of the applicant to be taken and compared with any and all records maintained by the municipality, the county in which it is located, the State Bureau of Identification and the Federal Bureau of Identification. He shall also determine and record a complete description of each handgun the applicant intends to carry.

No application shall be approved by the chief police officer or the superintendent unless the applicant demonstrates that he is not subject to any of the disabilities set forth in 2C:58-3c., that he is thoroughly familiar with the safe handling and use of handguns, and that he has a justifiable need to carry a handgun. If the application is not approved by the chief police officer or the superintendent within 60 days of filing, it shall be deemed to have been approved, unless the applicant agrees to an extension of time in writing.

d. Issuance by Superior Court; fee. If the application has been approved by the chief police officer or the superintendent, as the case may be, the applicant shall forthwith present it to the Superior Court of the county in which the applicant resides, or to the Superior Court in any county where he intends to carry a handgun, in the case of a nonresident or employee of an armored car company. The court shall issue the permit to the applicant if, but only if, it is satisfied that the applicant is a person of good character who is not subject to any of the disabilities set forth in section 2C:58-3c., that he is thoroughly familiar with the safe handling and use of handguns, and that he has a justifiable need to carry a handgun. The court may at its discretion issue a limited-type permit which would restrict the applicant as to the types of handguns he may carry and where and for what purposes such handguns may be carried. At the time of issuance, the applicant shall pay to the county clerk of the county where the permit was issued a permit fee of \$20.00.

e. Appeals from denial of applications. Any person aggrieved by the denial by the chief police officer or the superintendent of approval for a permit to carry a handgun may request a hearing in the Superior Court of the county in which he resides or in any county in which he intends to carry a handgun, in the case of a nonresident, by filing a written request for such a hearing within 30 days of the denial. Copies of the request shall be served upon the superintendent, the county prosecutor and the chief police officer of the municipality where the applicant resides, if he is a resident of this State. The hearing shall be held within 30 days of the filing of the request, and no formal pleading or filing fee shall be required. Appeals from the determination at such a hearing shall be in accordance with law and the rules governing the courts of this State.

If the superintendent or chief police officer approves an application and the Superior Court denies the application and refuses to issue a permit, the applicant may appeal such denial in accordance with law and the rules governing the courts of this State.

f. Revocation of permits. Any permit issued under this section shall be void at such time as the holder thereof becomes subject to any of the disabilities set forth in section 2C:58-3c., and the holder of such a void permit shall immediately surrender the permit to the superintendent who shall give notice to the licensing authority.

Any permit may be revoked by the Superior Court, after hearing upon notice to the holder, if the court finds that the holder is no longer qualified for the issuance of such a permit. The county prosecutor of any county, the chief police officer of any municipality, the superintendent or any citizen may apply to the court at any time for the revocation of any permit issued pursuant to this section.

2C:58-4.1. Employee of armored car company; application; letter from chief executive officer

In addition to the requirements of N.J.S. 2C:58-4 any application to carry a handgun by an employee of an armored car company shall be accompanied by a letter from the chief executive officer of the armored car company verifying employment of the applicant; endorsing approval of the application; and agreeing to notify the superintendent forthwith upon the termination of the employee of any person to whom a permit is issued and to obtain from the employee the permit which shall thereupon be surrendered to the superintendent.

2C:58-5. Licenses to possess and carry machine guns and assault firearms

a. Any person who desires to purchase, possess and carry a machine gun or assault firearm in this State may apply for a license to do so by filing in the Superior Court in the county in which he resides, or conducts his business if a nonresident, a written application setting forth in detail his reasons for desiring such a license. The Superior Court shall refer the application to the county prosecutor for investigation and recommendation. A copy of the prosecutor's report, together with a copy of the notice of the hearing on the application, shall be served upon the superintendent and the chief police officer of every municipality in which the applicant intends to carry the machine gun or assault firearm, unless, for good cause shown, the court orders notice to be given wholly or in part by publication.

b. No license shall be issued to any person who would not qualify for a permit to carry a handgun under section 2C:58-4, and no license shall be issued unless the court finds that the public safety and welfare so require. Any person aggrieved by the decision of the court in granting or denying an application, including the applicant, the prosecutor, or any law enforcement officer entitled to notice under subsection a. who appeared in opposition to the application, may appeal said decision in accordance with law and the rules governing the courts of this State.

c. Upon the issuance of any license under this section, true copies of such license shall be filed with the superintendent and the chief police officer of the municipality where the licensee resides or has his place of business.

d. In issuing any license under this section, the court shall attach thereto such conditions and limitations as it deems to be in the public interest. Unless otherwise provided by court order at the time of issuance, each license shall expire one year from the date of issuance, and may be renewed in the same manner and under the same conditions as apply to original applications.

e. Any license may be revoked by the Superior Court, after a hearing upon notice to the holder thereof, if the court finds that the holder is no longer qualified for the issuance of such a license or that revocation is necessary for the public safety and

welfare. Any citizen may apply to the court for revocation of a license issued under this section.

f. A filing fee of \$75.00 shall be required for each application filed pursuant to the provisions of this section. Of this filing fee, \$25.00 shall be forwarded to the State Treasury for deposit in the account used by the Violent Crimes Compensation Board in satisfying claims and for related administrative costs pursuant to the provisions of the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.).

g. Any license granted pursuant to the provisions of this section shall expire two years from the date of issuance and may be renewed in the same manner and under the same conditions as apply to original applications. If the holder of a license dies, the holder's heirs or estate shall have 90 days to dispose of that firearm as provided in section 12 of P.L.1990, c.32 (C.2C:58-13).

h. If an assault firearm licensed pursuant to the provisions of this section is used in the commission of a crime, the holder of the license for that assault firearm shall be civilly liable for any damages resulting from that crime. The liability imposed by this subsection shall not apply if the assault firearm used in the commission of the crime was stolen and the license holder reported the theft of the firearm to law enforcement authorities within 24 hours of the license holder's knowledge of the theft.

i. Nothing in P.L.1990, c.32 (C.2C:58-12 et al.) shall be construed to abridge any exemptions provided under N.J.S.2C:39-6.

2C:58-6.1. Possession of firearms by minors; exceptions

14. a. No person under the age of 18 years shall purchase, barter or otherwise acquire a firearm and no person under the age of 21 years shall purchase, barter or otherwise acquire a handgun, unless the person is authorized to possess the handgun in connection with the performance of official duties under the provisions of N.J.S.2C:39-6.

b. No person under the age of 18 years shall possess, carry, fire or use a firearm except as provided under paragraphs (1), (2), (3) and (4) of this subsection; and, unless authorized in connection with the performance of official duties under the provisions of N.J.S.2C:39-6, no person under the age of 21 years shall possess, carry, fire or use a handgun except under the following circumstances:

(1) In the actual presence or under the direct supervision of his father, mother or guardian, or some other person who holds a permit to carry a handgun or a firearms purchaser identification card, as the case may be; or