

ORIGINAL

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
SUPREME COURT

NORMAN T. GADOMSKI, JR.

vs.

M.P. No.

SC-14-0072

JOSEPH H. TAVARES, CHIEF OF POLICE OF  
THE CITY OF EAST PROVIDENCE

14 JUN 20 PM 1:45  
SUPREME COURT  
CLERK'S OFFICE

PETITION FOR WRIT OF CERTIORARI

I. INTRODUCTION

Petitioner, Norman T. Gadomski, Jr. ("Gadomski"), respectfully requests that this Court issue a writ of certiorari to review East Providence Police Chief Joseph H. Tavares' ("Tavares") denial of his application for a license to carry a concealed weapon pursuant to R.I.G.L. §11-47-11(a). Specifically, Petitioner requests review of the four sentence denial letter which states in its entirety:

This letter will serve as official noticed (sic) that your application for license to carry a concealable weapon has been denied. Your disqualification was based upon the fact that you failed to show good reason to fear an injury to yourself or property. You failed to show a proper reason for carrying a pistol or revolver that would allow me to issue you a license to carry a concealable firearm.

*Based upon the above mentioned reasons, coupled with the fact that you have previously engaged in criminal behavior that resulted in your arrest, I do not find you, at this time, a suitable person to be issued a license to carry a concealable weapon.*

Exhibit A (italics and underline added).



This simplistic, grossly erroneous decision violates this Court's prior directive to licensing authorities concerning their review of concealed weapon permit applications. Moreover, the decision's *sole* finding of fact is erroneously based on two decades old *arrests* that Gadomski "engaged in criminal behavior." Accordingly, this Court should grant certiorari and quash and reverse Tavares' denial of Gadomski's application.

## II. STATEMENT OF THE CASE

The facts and procedural history of this case are fairly simple and are not in dispute:

1. Gadomski is a resident of East Providence. *He has no criminal record.* In 1986 while a minor, he was arrested and charged with being a minor in possession of alcohol in Massachusetts. That charge was dismissed. Exhibit B (*see* Massachusetts CORI report). In 1989 he was arrested for destruction of property and that charge too was dismissed. Exhibit B (*see* Massachusetts CORI report).

2. Gadomski is a long time shooter, firearm enthusiastic, and gun collector. He has used and had familiarity with guns for decades. Exhibit B. He is a Certified Instructor having obtained this certification from the National Rifle Association and is authorized to teach courses in Home Firearm Safety, Pistol Shooting, Personal Protection in the Home, Personal Protection Outside of the Home (Exhibit G) and holds licenses to carry concealed weapons issued by the State of New Hampshire and the State of Utah. Exhibits D and H. He works as an on-site diesel mechanic repairing boat engines at marinas and other locations. Frequently he works alone while carrying a large inventory of expensive tools and test equipment. Sometimes he is paid in cash for his work. As a gun collector he frequently purchases firearms for his collection at gun shows. When attending guns shows he carries cash to make purchases. Gadomski is an avid outdoorsman and frequently camps outdoors, hikes and takes long bike rides alone. Exhibit B.



3. In February 2012, Gadomski filed an application for a license to carry a concealed weapon pursuant to R.I.G.L. §11-47-11(a) with Tavares, East Providence's designated "licensing authority" under R.I.G.L. §11-47-2 (5). Exhibit B.

4. The East Providence application was accompanied by a Pistol Permit Policy (the "Policy") which provides that applications will be denied unless an applicant "demonstrate[s] a proper showing of need." Exhibit K. Extensive language in the Policy is directly copied from the Attorney General's policy statement which implements the licensing provision in R.I.G.L. §11-47-18 and not R.I.G.L. §11-47-11(a). Exhibit L. The Policy and the Attorney General's policy contain identical accompanying introduction letters and a list of "factors [used] in accessing an applicants' proper showing of need" Exhibits K and L.

5. On March 20, 2012, Tavares conducted an informal interview with Gadomski with respect to his application. Gadomski appeared without counsel and the interview was not recorded.

6. In April 2012, Gadomski noticed that East Providence had not cashed his application fee check. Accordingly, on April 27, 2012, Gadomski's counsel wrote to Tavares requesting a ruling on the application and asking why his application fee check had not been processed. Exhibit C. *Tavares did not respond to this letter.*

7. On July 9, 2012, Gadomski's counsel wrote again to Tavares and supplemented his February 2012 application by providing additional documentation of Gadomski's training and suitability such as his recently issued license to carry a concealed weapon from the State of Utah and a Federal Firearms License for Curio and Relics (FFL/03), a federal license permitting dealers to sell certain types of firearms. Gadomski's counsel also demanded that Tavares issue the permit. Exhibit D. *Tavares did not respond to this letter.*

8. Having received no response from Tavares to his April or July letters, on August 21,



2012 Gadomski's counsel wrote to Tavares for the *third* time, this time seeking a records request pursuant to R.I.G.L. §38-2-2. Exhibit E.

9. On September 11, 2012, Gadomski's counsel wrote to Tavares for the third time demanding issuance of the application or the basis for his refusal to do so. Exhibit F. *Tavares did not respond to this letter.*

10. Having received no response to the three written inquiries, on October 5, 2012, Gadomski filed a Petition for Writ of Mandamus in the Providence Superior Court seeking an order requiring Tavares to rule on his application. *Gadomski v. Tavares*, PC 12-5162.

11. On December 21, 2012 Gadomski provided Tavares (through counsel) his certifications as an N.R.A. Range Safety Officer, Certified Home Firearm and Certified Pistol and Certified Instructor. Exhibit G. Also on December 14, 2012 Gadomski obtained a New Hampshire Pistol/Revolver License. Exhibit H.

12. On January 16, 2013, thirty-nine hours prior to the Superior Court hearing on Gadomski's Petition for Writ of Mandamus, an East Providence police officer hand delivered Tavares' denial letter dated January 15, 2013. Exhibit A.

13. On January 18, 2013, Judge Procaccini denied Gadomski's petition for mandamus on the basis of mootness.

14. On February 15, 2013, Gadomski filed a new action seeking review of the denial of his application pursuant to the Administrative Procedures Act, R.I.G.L. Ch. 42-35. *Gadomski v. Tavares*, PC 13-0798. This action was later amended to include a request for mandamus relief.

15. On October 9, 2013, Judge Matos dismissed the second case, finding that pursuant *Mosby v. Devine*, 851 A.2d 1031 (R.I. 2004) review of Gadomski's application may be had only by petition for writ of certiorari to this Court. Exhibits I and J.



### III. JURISDICTIONAL STATEMENT

The relief Gadomski requests is not available in any other court or legal forum and he invokes this Court's authority under R.I.G.L. § 8-1-2 and Supreme Court Rule 13(a). Under the Rhode Island Firearms Act, R.I.G.L. Ch. 11-47, there is no right to appeal a municipal licensing authority's denial of an application for a license to carry a concealed weapon under R.I.G.L. §11-47-11(a). However, review of a denial of an application may be had by petition for certiorari to this Court,

Moreover, if a license is refused on the ground that a person is not suitable, this determination is subject to review by this Court on certiorari. *See Krivitsky v. Town of Westerly*, 823 A.2d 1144, 1144 (R.I.2003) ("unless 'a right of appeal is specifically provided by statute,' " the proper procedure for denial by a town council of a license application is by writ of certiorari to the Supreme Court). Because anyone who meets the conditions of § 11-47-11 is entitled to a gun permit, this mandatory requirement supplies the necessary safeguards to the right to bear arms in this state and vindicates the rights set forth in art. 1, sec. 22, of the Rhode Island Constitution.

*Mosby v. Devine*, 851 A.2d 1031, 1048 (R.I. 2004). This Court further indicated,

Having provided adequate guidance to the licensing bodies, it is within the province of the courts to review the licensing decision here to ensure that the General Assembly's intent is being effectuated. The opportunity for judicial review of a licensing body's decision under the Firearms Act is especially important when considering the nature of the right sought to be vindicated through the application process. As a matter of policy, this Court will not countenance any system of permitting under the Firearms Act that would be committed to the unfettered discretion of an executive agency. Although the court's authority to review the decision is limited, it is not nonexistent. One does not need to be an expert in American history to understand the fault inherent in a gun-permitting system that would allow a licensing body carte blanche authority to decide who is worthy of carrying a concealed weapon. The constitutional right to bear arms would be illusory, of course, if it could be abrogated entirely on the basis of an unreviewable unrestricted licensing scheme. *Such review is available through a common-law writ of certiorari.*

*Id.* at 1050-1051 (emphasis added).

In October 2013, Judge Matos dismissed Gadomski's second Superior Court action ruling that under *Mosby*, his only remedy is to petition this Court. Exhibits I and J. Having



twice diligently and timely sought redress in Superior Court, Gadomski's only available mechanism to overturn Tavares's due process violations are by petition for certiorari to this Court.

Recently this Court granted certiorari in a very similar case. When Bristol's police chief, its licensing authority under R.I.G.L. §11-47-2(5), denied an application for a license to carry a concealed weapon but did not "discuss" the statutory "criteria, nor did he make the necessary findings to support his determination that petitioner failed to meet them," this Court granted the applicant's request for review, quashed the decision denying the application, and ordered the police chief to "issue a new decision" containing "findings and conclusions upon which the decision is based." *Gendreau v. Canario*, 2013 WL 6230071 (R.I. 2013).

#### **IV. ISSUES PRESENTED TO THIS COURT**

East Providence's troubling and grossly erroneous handling and denial of Gadomski's application presents several issues which demand redress. As this case is far more egregious than *Gendreau*, Gadomski requests certiorari to review and ultimately reverse Tavares' denial of his application. Unlike *Gendreau*, remand back to Tavares would be inappropriate and only compound the constitutional deprivations and harm caused to Gadomski. Accordingly, he requests that this Court order Tavares to issue a license to carry a concealed weapon to him as a function of this Court's "inherent supervisory powers to fashion remedies." *Cardinale v. Cardinale*, 889 A.2d 210, 223 (R.I. 2006).

Specifically, Petitioner takes issue with the following:

1. Tavares abused his authority by utilizing the wrong statutory standard in reviewing Gadomski's application. East Providence's Pistol Permit Policy repeatedly references the *discretionary* standard for granting licenses under



R.I.G.L. §11-47-18 and not the *mandatory* standard of §11-47-11(a). Exhibit K.

2. The decision does not contain findings of fact, conclusions of law or any discussions of the criteria in R.I.G.L. §11-47-11(a). Tavares' simplistic, four sentence, boiler plate decision "renders the[e] task" of review by this Court "impossible." *Gendreau v. Canario*, 2013 WL 6230071 (R.I. 2013), *Pastore v. Samson*, 900 A.2d 1067 (R.I. 2006). Accordingly, Tavares violated this Court's directives in *Mosby v. Devine*, 851 A.2d 1031 (R.I. 2004) and *Gendreau v. Canario*, 2013 WL 6230071 (R.I. 2013). Exhibit A.
3. The decision is based on a gross error of law – the unsupported and scandalous conclusion "that you have previously engaged in criminal behavior that resulted in your arrest." Exhibit A.

## V. COPY OF THE DECISION

A copy of Tavares' January 15, 2013 decision denying Gadomski's application for a license to carry a concealed weapon is attached hereto as Exhibit A.

## VI. CONCLUSION

WHEREFORE, Petitioner, Norman T. Gadomski, Jr., requests that his Honorable Court grant his Petition and issue a Writ of Certiorari to review Tavares' January 15, 2013 decision denying his application for a license to carry a concealed weapon pursuant to R.I.G.L. §11-47-11(a). This petition is supported by the attached exhibits and supporting memorandum of law.



Norman T. Gadomski, Jr.  
by his attorneys,



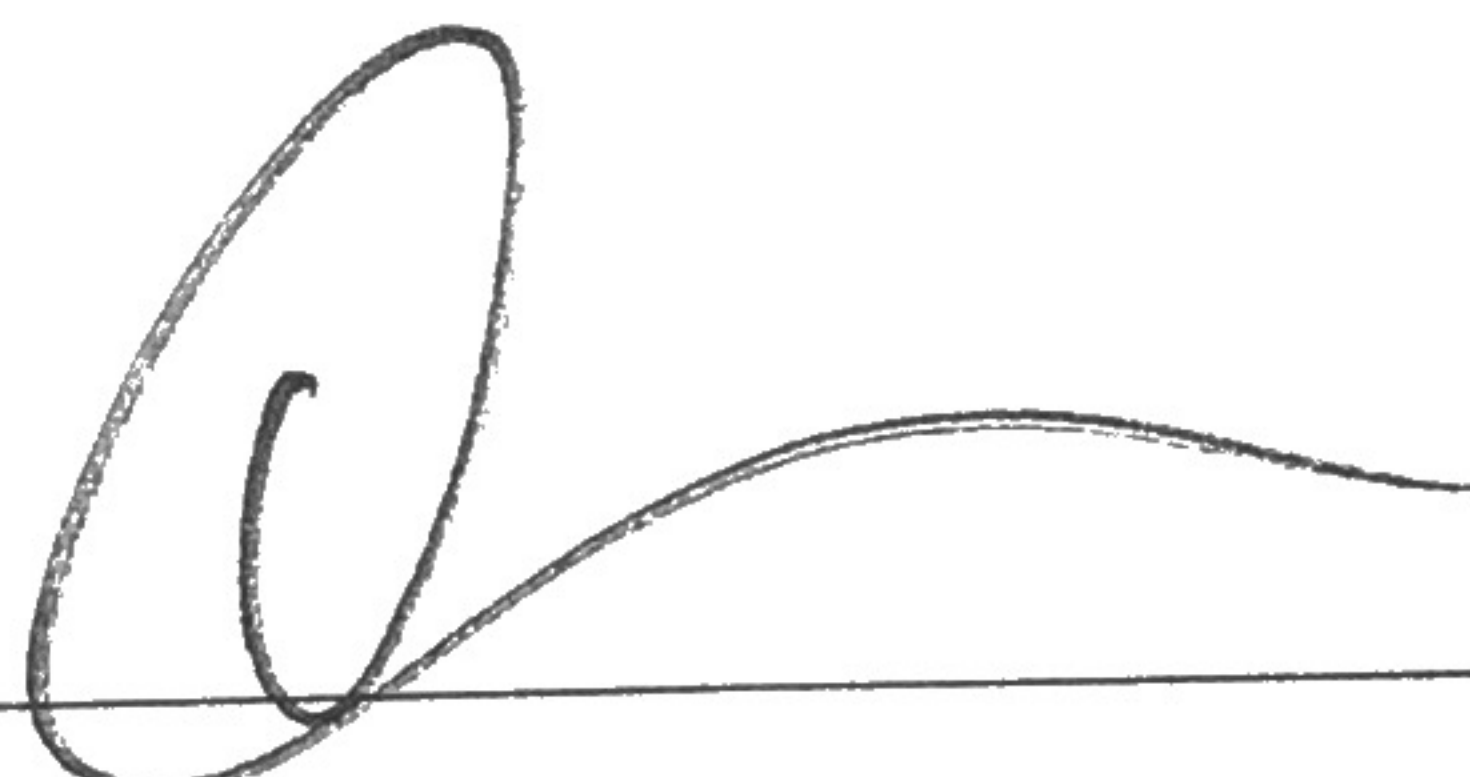
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**CERTIFICATION**

I hereby certify that on February 16, 2014, I mailed a true copy of the within to:

Timothy Chapman City Solicitor  
Robert Craven, Esq.  
City of East Providence  
City Hall  
145 Taunton Avenue  
East Providence, RI 02914



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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPREME COURT  
DOCKET EVENT LISTING

CASE INFORMATION

Case Title: NORMAN GADOMSKI V JOSEPH TAVARES Case ID No: SU-14-0072  
 Appeal Date: 20-FEB-2014  
 Appeal Type: CERTIORARI Next Scheduled:  
 Current Status: BEFORE ARGUMENT Event Type:  
 Lower Court No: PC-2013-0798 Related Cases:

PARTY INFORMATION

GADOMSKI, NORMAN PET STRACHMAN, DAVID AOR  
 TAVARES CHIEF OF POLICE OF THE CITY OIRES CRAVEN, ROBERT AOR

DOCKET INFORMATION

Date	Description	Text
20-FEB-2014	PETITION FOR CERTIORARI FILED Affiliated Party: GADOMSKI, NORMAN T	
20-FEB-2014	MEMORANDUM FILED Affiliated Party: GADOMSKI, NORMAN T	MEMORANDUM IN SUPPORT OF NORMAN T. GADOMSKI, JR.'S PETITION FOR WRIT OF CERTIORARI.
20-FEB-2014	Payment Applied	A Payment of -\$150.00 was made on receipt SUP56107.
10-MAR-2014	MEMORANDUM FILED Affiliated Party: TAVARES CHIEF OF POLICE OF THE CITY OF EAST PROVIDENCE, JOSEPH	RESPONDENT'S MEMORANDUM IN OPPOSITION OF PETITIONER'S PETITION FOR A WRIT OF CERTIORARI.
10-MAR-2014	ENTRY OF APPEARANCE Affiliated Party: STRACHMAN, DAVID J	ENTERS APPEARANCE ON BEHALF OF THE PLAINTIFF, NORMAN T. GADOMSKI, JR.
19-MAR-2014	REPLY MEMORANDUM FILED. Affiliated Party: GADOMSKI, NORMAN T	REPLY TO EAST PROVIDENCE'S MEMORANDUM IN OPPOSITON TO HIS PETITION FOR WRIT OF CERTIORARI.
28-MAY-2014	ORDER PETITION FOR CERTIORARI.	
28-MAY-2014	GRANTED	
30-MAY-2014	WRIT ISSUED RETURNABLE ON	JUNE 19, 2014
12-JUN-2014	WRIT ISSUED RETURNABLE ON	7/2/14 ORIGINAL WRIT ISSUED PREV WAS ADDRESSED INCORRECTLY.
02-JUL-2014	PAPERS ONLY FILED	IN RESPONSE TO THE SUPREME COURT'S WRIT RELATIVE TO THE ABOVE-ENCAPTIONED CASE, FIND THE FOLLOWING EXHIBITS BY ASSISTANT CITY SOLICITOR CITY OF EAST PROVIDENCE ROBERT E. CRAVEN, ESQ.
02-JUL-2014	RULE 12 PRE BRIEF NOTICE SENT	
18-JUL-2014	ENTRY OF APPEARANCE Affiliated Party: STRACHMAN, DAVID J	ENTERS HIS APPEARANCE FOR APPELLANT NORMAN T. GADOMSKI, JR.
18-JUL-2014	APPELLANT PRE BRIEF FILED Affiliated Party: GADOMSKI, NORMAN T	



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Case Title: NORMAN GADOMSKI V JOSEPH TAVARES

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DOCKET INFORMATION

01-AUG-2014	APPELLEE PRE BRIEF FILED Affiliated Party: TAVARES CHIEF OF POLICE OF THE CITY OF EAST PROVIDENCE, JOSEPH	
01-AUG-2014	ENTRY OF APPEARANCE Affiliated Party: CRAVEN, ROBERT E.	ENTER APPEARANCE ON BEHALF OF THE APPELLEE, JOSEPH TAVARES, CHIEF OF POLICE OF THE CITY OF EAST PROVIDENCE.
22-OCT-2014	CASE OUT IN PART OR WHOLE	LOWER CT FILE 1 ENVELOPE OF LABELED PAPERS 4 EXHIBITS, SUPREME CT FILE, 1 SET OF 12A'S
15-DEC-2014	PRE BRIEFING CONF HELD	
16-DEC-2014	CASE RETURNED IN PART OR WHOLE	LOWER CT FILE ( 1 ENVELOPE OF LABELED PAPERS & EXHIBITS, 1 SET OF 12A'S
04-FEB-2015	ORDER TO SHOW CAUSE ENTERED	SUPP MEMS DUE 20/10