

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

BARBARA C. DOUDEL,

Plaintiff
v.

Civil No. 3:11-CV-001164 (VLB)

CITY OF NORWALK, Et Al,

Defendants

MARCH 13, 2013

SUPPLEMENTAL RULE 56(a)(2) STATEMENT OF FACTS

L. **Duane Doutel Attempts to Get Local Pistol Permit Though State Revokes His State Permit**

83. Upon information and belief, in the wake of the arrest of Duane Doutel on February 16, 2011 by members of the Norwalk Police Department on the charge of Threatening 2d, his State of Connecticut Pistol Permit was revoked by the State.

84. Attorney Rachel Baird, representing Mr. Duane Doutel in connection with the matter of State v. Doutel (No. CR10-0128328-S), was aware of Mr. Doutel's pistol revocation by the State.

85. On April 2, 2011 the Plaintiff, Barbara Doutel, purchased a Glock Model 19 9mm handgun with Serial No. PYY193

86. Attorney Baird, on behalf of Duane Doutel filed a 'Motion for Return of Seized Property' dated April 22, 2011, in connection with the matter of State v. Doutel seeking to have ALL firearms that were taken from Mr. Doutel's residence returned to him

("Conclusion:... Therefore the items seized should be immediately returned to him")(See Defendants' Exhibit "R").

87. On May 5, 2011 Barbara Doutel registered her Glock handgun with the State Police.

88. Despite knowledge that Duane Doutel's State Permit had been revoked Attorney Baird, on behalf of Mr. Doutel, sent an Application for Temporary State Permit to then Police Chief Harry Rilling along with a cover letter dated May 16, 2011 (see Defendants' Exhibit "K").

89. Commencing May 18, 2011 Sgt. Arthur Weisgerber engaged in a series of emails with Attorney Baird regarding the status of Mr. Doutel's pistol permit application (See Defendants' Exhibit "L").

90. In his email of May 18, 2011 at 2:32 pm Sgt. Weisgerber related to Attorney Baird that following Mr. Doutel's arrest on February 16, 2011 the State had revoked his pistol permit. He indicated that "(t)herefore, the Norwalk Police Department will not be issuing an Temporary State Pistol Permit to Mr. Doutel". He further instructed Attorney Baird to direct any further inquiries to the State and that Mr. Doutel should consider pursuing his right to appeal (See Defendants' Exhibit "L").

91. This led to an exchange of emails wherein Attorney Baird insisted that Sgt. Weisgerber accept the Application and forward it to the Chief of Police for a decision. Sgt. Weisgerber complied (See Defendants' Exhibit "L").

92. On or about May 19, 2011 Sgt. Weisgerber sent Mr. Doutel the denial notice regarding his Application for a Temporary State Pistol Permit. This notice indicated that the application was denied on the basis of a "suitability issue". The notice further stated as follows:

"Your background check revealed an arrest on February 16th, 2011 in which you were charged with Threatening in the Second Degree – 53a-62 of the Connecticut General Statutes and the case is currently pending in Norwalk Court. As a result of this arrest, your State of Connecticut Pistol Permit #948873 has been revoked by the Connecticut State Police Special Licensing and Firearms Unit. Therefore, Chief Harry Rilling has denied your application for a Temporary State Permit".

(See Defendants' Exhibit "M").

93. It is unknown if Mr. Doutel ever filed an appeal of this decision with the State (though mention of such an appeal is made in a later correspondence by Attorney Baird).

M. The Superior Court Issues an Order Barring Duane Doutel from 'Possessing' Any Firearms and From Applying for a Pistol Permit

94. On May 20, 2011 the Court conducted a hearing in the matter of State v. Doutel. During the course of those proceedings, the State (represented by ASA Tiffany Lockshier) made the following statement to the Court:

"Based on his arrest, Your Honor, the pistol permit for Mr. Doutel was revoked.

It came to the attention that he subsequently applied for a temporary pistol permit and that was not granted to him. In light of that, Your Honor, the State is asking that the Court enter an order as a condition of release that he possess no weapons"

(See Transcript of State v. Doutel, May 20, 2011 at p. 2; Defendants' Exhibit "N").

95. During the course of that Hearing the Court (Hudock, J.) issued an order that as a condition of release Mr. Doutel not apply for a temporary pistol permit and that he not possess any firearms (See Transcript of State v. Doutel, May 20, 2011, at p. 7; Defendants' Exhibit "N").

96. On or about May 23, 2011 Attorney Baird filed a 'Motion to Vacate Order' in the matter of State v. Doutel. This was directed at the May 20, 2011 Order of Judge Hudock that Mr. Doutel not possess and firearms and not apply for a pistol permit (See copy of Motion to Vacate; Defendants' Exhibit "O").

97. On May 23, 2011 the Office of Chief Rilling received two letters from Attorney Baird dated May 15, 2011. These letters were sent on behalf of the Plaintiff Barbara Doutel (Defendants' Exhibit "W") and Duane Doutel (Defendants' Exhibit "X"). In these letters Attorney Baird demanded that the weapons allegedly owned by Barbara and Duane Doutel be returned to them immediately.

98. These letters were received by the Chief after the Court had already ordered that Mr. Doutel not "possess" any firearm.

99. On November 28, 2011 the Court (Dennis, J) ruled on Duane Doutel's 'Motion to Vacate' denying it. In making this determination the Court found that Judge Hudock's previous order that Duane Doutel not possess a firearm and not apply for a pistol permit was reasonable. Specifically, the Court held as follows:

“Considering the weight of the evidence and the nature and totality of the circumstances in this case, the previous orders of the court, temporarily restricting the defendant’s right to bear arms to ensure the safety of any other person will not be endangered, are not unreasonable”.

(See Memorandum of Decision, November 28, 2011; Defendants’ Exhibit “P”).

N. The Plaintiff, Barbara Doutel, Fails to Make Any Attempt to Have the Superior Court Authorize the Release of Firearms Back to Her Residence (Shared with Duane Doutel)

100. On April 12, 2012 Attorney Baird took the deposition of Officer Jared Zwickler. At that deposition proceeding, the undersigned informed Attorney Baird that the Norwalk Police Department would be willing to release the Plaintiff’s firearms upon a suitable order from the Court. This repeated what had previously been conveyed to Attorney Baird. This conversation was followed up by an email from the undersigned to Attorney Baird dated April 12, 2012 sent at 1:18pm (See Email; Defendants’ Exhibit “Y”).

101. Absent any immediate application by Attorney Baird to the Court for the release of Plaintiff’s handguns to her, the undersigned actually filed a ‘Motion for Disposition of Seized Property’, dated April 17, 2012 in order to get an order from the Court regarding the appropriate disposition of the firearms (See Motion for Disposition of Seized Property’; Defendants’ Exhibit “S”).

102. Upon information and belief, this motion was to be heard by the Court sometime in September 2012 (See State v. Doutel transcript, May 7, 2012; Defendants’ Exhibit “T”).

103. Despite repeat requests to do so, at no time did Attorney Baird, on behalf of the Plaintiff Barbara Doutel, ever file a motion with the Superior Court for an order authorizing the release of firearms to her and back to the home shared by her with Duane Doutel in the face of the Court's order that he not be in 'possession' of any firearms.

THE DEFENDANTS

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CERTIFICATION

This is to certify that a copy of the foregoing was electronically filed and served on anyone unable to accept the electronic filing. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by First Class Mail to any one unable to accept electronic filing through the Court's CM/ECF System.

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