

NO:	:	SUPERIOR COURT
	:	
EDWARD PERUTA and AMERICAN	:	
NEWS and INFORMATIONAL SERVICES	:	
	:	JUDICIAL DISTRICT OF
	:	
V.	:	NEW BRITAIN
	:	
FREEDOM OF INFORMATION COMMISSION,	:	
ET AL.	:	DECEMBER 21, 2012

**APPEAL OF FOIC FINAL DECISION**

Edward A. Peruta and American News and Information Services Inc (“Mr. Peruta”), hereby appeals the Freedom of Information Commission of the State of Connecticut final decision in FIC-2012-032.

The Freedom of Information Commission (“FOIC”) concluded that Connecticut law provides an exemption to the disclosure of names and addresses of individuals who have applied for a Permit to Carry Pistols and Revolvers. Therefore, the FOIC final decision permits the Connecticut Department of Emergency Services And Public Protection (“DPS”) to redact information to which by law is not addressed in Connecticut General Statute § 29-28(d)<sup>1</sup>. Pursuant to C.G.S § 4-183 Mr. Peruta submits this timely appeal and states as follows.

---

<sup>1</sup> (d) Notwithstanding the provisions of sections 1-210 and 1-211, the name and address of a person **issued** a permit to sell at retail pistols and revolvers pursuant to subsection (a) of this

**I. BACKGROUND**

The initial Complaint was filed by Mr. Peruta on January 20, 2012, alleging that the Respondents violated the Freedom of Information Act (“FOI”) by failing to provide the

---

section or a state or a temporary state permit to carry a pistol or revolver pursuant to subsection (b) of this section, or a local permit to carry pistols and revolvers issued by local authorities prior to October 1, 2001, shall be confidential and shall not be disclosed, except (1) such information may be disclosed to law enforcement officials acting in the performance of their duties, (2) the issuing authority may disclose such information to the extent necessary to comply with a request made pursuant to section 29-33 for verification that such state or temporary state permit is still valid and has not been suspended or revoked, and the local authority may disclose such information to the extent necessary to comply with a request made pursuant to section 29-33 for verification that a local permit is still valid and has not been suspended or revoked, and (3) such information may be disclosed to the Commissioner of Mental Health and Addiction Services to carry out the provisions of subsection (c) of section 17a-500.

requested names of approximately 1,080 pistol permit applicants, who had each paid the \$50.00 fee demanded for the State Criminal History Record Check as part of the process to obtain a Permit to Carry Pistols and Revolvers. The request for information was based exclusively on the premise that the approximate 1,080 individuals who had paid the \$50.00 fee did not receive the results of their criminal history record check.

The matter was heard on June 21, 2012 at which time the Complainant (Mr. Peruta) and the Respondents (DPS) appeared, presented testimony, exhibits and argument on the Complaint. In the FOIC hearing officer's proposed final decision dated October 11, 2012, the hearing officer held in accordance with previous FOIC decisions, that the disclosure of the names and addresses of individuals whose applications are in pending status are exempt from mandatory disclosure. The Commission cited Connecticut General Statute § 29-28(d) and MariAnn Gail Brown and the Connecticut Post v. Chief, Police Department, City of Bridgeport (March 26, 2008) as controlling authority. However, Connecticut General Statute § 29-28(d) clearly provides an exemption to the names and addresses of individuals after a valid permit is issued not prior to.

Mr. Peruta appeared and offered oral argument on November 14, 2012 before the full commission and now hereby submits this timely appeal to the Connecticut Superior Court.

## II. LEGAL ARGUMENT

This case is matter of statutory interpretation as it relates to Section 29-28(d) and whether the statute allows for the mandatory exemption and redaction of the names and addresses of applicants who filed for a pistol permit application.

In the decision of Connecticut Department of Emergency Services and Public Protection v. Freedom of Information Commission, CV-11-6012370-S dated August 10, 2012, Judge Cohn sets forth the applicable law and procedure in deciding a statutory matter that is clearly a question of law. The court affords deference to the construction of a statute applied by the administrative agency empowered by law to carry out the statute's purposes. Commissioner of Public Safety v. Freedom of Information Commission, 137 Conn. App. 307, 311-12. An agency's factual and discretionary findings are to be accorded considerable weight by the courts. Id. However, questions that present pure questions of law, invoke a broader standard of review than is ordinarily involved in deciding whether, in light of the evidence, the agency has acted unreasonable, arbitrarily, illegally or in abuse of discretion. Id. When a state agency's determination of a question of law has not previously been subject to judicial scrutiny, the agency is not entitled to special deference. Id. It is for the courts, and not the administrative agency, to expound and apply governing principles of law. Id.

Statutory interpretation is a question of law and when construing a statute our fundamental objective is to ascertain and give effect to the apparent intent of the legislature. C.G.S. § 1-2z In seeking to determine that meaning, Connecticut General Statute § 1-2z directs the court to first consider the text of the statute itself and its relationship to other statutes. If the language is not plain and unambiguous then the court will look to the legislative history. Id.

In the instant matter, section 29-28(d) does not state that the names and addresses of applicants should be exempt from publication. The statute specifically states circumstances when an individuals name and address should be exempt. If the legislature had so desired to include this class of individuals as being exempt, it is reasonable to believe that they would have listed them in the statute as they did other classes of individuals whose information should not be published to the public. DPS has been placed on notice of this issue for well over ten years and has still neglected to go to the legislature to clarify the law. DPS has relied on past FOIC decisions that interpreted the law to their favor, to which no court of law has rendered a decision. As controlling law in Connecticut states, it is the job of the courts not the agency to interpret statutes when there is a question of law. DPS' recourse is to go to the legislature and lobby for ratification of this statute. DPS and its members have failed to do so. As it stands, this is a question for the court to decided. The plain language of the above-referenced statute clearly shows the intent not to include the class of individuals who have not yet received a permit.

This is clear as evidenced in other areas of the law. For example, in a criminal case an individual is arrested and his/her information and charges are made available to the public. However, it is not until the case is dismissed that the information is no longer available to the public. The same proves true with prosecutors and judges. An attorney's name and address is made available for the public's knowledge, however, when they are asked or elected to serve as a judge or prosecutor their personal identification is suppressed. It is clear that § 29-28 was drafted with the intent of not exempting those individuals' names and addresses that have not yet completed or obtained a pistol permit. As case law supports and the law agrees, an individuals personal information will not be redacted until it is reached its conclusive objective. Holding otherwise would open many avenues for abuse of the pistol permit process to allow individuals to hide personal information and then subsequently withdraw their application when they deemed appropriate.

Respectfully, Mr. Peruta seeks to have this court overrule the FOIC decision as it is clear from the plain meaning of the statute that the individual's names and addresses that were the subject of an FOI request were not part of a protected class.

### **III. CONCLUSION**

Mr. Peruta respectfully requests that the Court reject the FOIC final decision in FIC 2012-032 and order immediate compliance with the original January 20, 2012 request.

RESPECTFULLY,

EDWARD PERUTA AND  
AMERICAN NEWS

---

38 Parish Road  
Rocky Hill CT 06067  
*PRO SE*

---

STAND BY COUNSEL  
Rachel M. Baird (CT Juris #407222)  
Law Office of Rachel M. Baird  
379 Prospect Street  
Torrington CT 06790-5238  
Tel: (860) 626-9991  
Fax: (860) 626-9992

**CERTIFICATION**

Pursuant to Connecticut General Statutes 4-180, I hereby certify that a copy of the foregoing Appeal was mailed, first-class, United States mail, postage paid on December 21, 2012, to counsel of record as follows next:

Stephen R. Sarnoski, Esq.  
Assistant Attorney General  
State of Connecticut  
Office of the Attorney General  
110 Sherman Street  
Hartford, CT 06105

Freedom of Information Commission  
Cynthia A. Cannata  
Clerk of the Commission  
18-20 Trinity Street  
Hartford, Ct 06105

---

Edward A. Peruta, Pro Se