

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA

IN RE: APPEAL OF SHERIFF'S :
REVOCATION OF LICENSE TO :
CARRY FIREARMS, : No. MD 59-2024
LIBBY WILLIAMS, :
Appellant. :

OPINION AND ORDER

AND NOW, this 17th day of June, 2024, upon consideration of the Appeal from Sheriff's Revocation of License to Carry Firearms filed by Appellant Libby Williams on February 21, 2024 (the "Appeal"),¹ and the respective testimony, evidence and arguments of the parties,² it is hereby ORDERED and DIRECTED that the appeal is GRANTED, for reasons explained at length below.

I. BACKGROUND.

On January 19, 2024, Lycoming County Sheriff R. Mark Lusk issued a letter to Appellant Libby Williams advising her that he was revoking Appellant's license to carry a firearm effective that date because his office was in receipt of information from Magisterial District Judge Christian Frey that Appellant had an outstanding warrant.³ The letter further advised Appellant that she must surrender her license to the Sheriff within five days or face potential criminal charges.⁴ Appellant thereafter appealed to this Court on February 14, 2024.⁵ Appellant contends that her Appeal

¹ Appeal of Libby Williams from Sheriff's Revocation of License to Carry Firearms, filed on February 14, 2024.

² The Court held a hearing and heard argument on the appeal on March 11, 2024 (the "Hearing"). Scheduling Order, dated February 20, 2024 and entered February 21, 2024; Transcript of Proceedings held March 11, 2024 in this matter (the "Transcript").

³ Sheriff's letter of revocation dated January 19, 2024, Hearing Exh. 27A. See *also* 18 Pa. C.S. § 6109(i) (pertaining to revocation of a license to carry firearms).

⁴ *Id.*

⁵ Appeal, *supra*. Pursuant to 42 Pa. C.S. § 5571(b), Appellant was required to file her appeal within thirty (30) days after entry of the order from which the appeal was taken. The Sheriff's Order was entered on or after January 19, 2024. See 42 Pa. C.S. § 5572 (providing that "[t]he date of service of

should be granted because, contrary to the Sheriff's assertion, she did not have an active warrant.⁶

The Court held a hearing on the Appeal on March 11, 2024,⁷ at which the respective parties gave testimony, presented evidence and made argument concerning their respective positions on the appeal. Although not raised in the Sheriff's letter of revocation, at the time for argument the Sheriff also asserted that revocation was justified (i) due to Appellant's lengthy history of warrants, and (ii) due to several law enforcement encounters with the Appellant that did not result in Appellant being charged but that did result in the arrest of others in her home, including the Appellant's son. The record being closed, this Appeal is now ripe for resolution.

II. LAW AND ANALYSIS.

Licenses to carry firearms are within the purview of the County Sheriff⁸ under Pennsylvania's Uniform Firearms Act ("UFA").⁹ 18 Pa. C.S. Section 6109(i) authorizes or requires the Sheriff to revoke a license to carry firearms under certain circumstances:

A license to carry firearms may be revoked by the issuing authority for good cause. A license to carry firearms shall be revoked by the issuing authority for any reason stated in subsection (e)(1) which

an order of a government unit, which shall be the date of mailing if service is by mail, shall be deemed to be the date of entry of the order" for present purposes). While the date of mailing of the Sheriff's letter is not in the record, the Court presumes, absent evidence to the contrary, that it was mailed within a few days after the date on the letter, which is January 19, 2024. Appellant filed her appeal on February 14, 2024, which is within thirty days after entry of the Sheriff's Order. Therefore, the Appeal was filed timely.

⁶ Appeal, *supra*.

⁷ Scheduling Order, dated February 20, 2024 and entered February 21, 2024. Appellant personally appeared, gave testimony, and made argument *pro se*. The Lycoming County Sheriff also appeared, gave testimony, and made argument through his solicitor, attorney Bret J. Southard, Esq. Captain Joshua Bell, Williamsport Bureau of Police, also appeared and gave testimony on behalf of the Sheriff.

⁸ See 18 Pa. C.S. § 6109.

⁹ 18 Pa. C.S. §§ 6101-6128.

occurs during the term of the permit. Notice of revocation shall be in writing and shall state the specific reason for revocation.¹⁰

Section 6109(e)(1) contains a list of persons to whom a license to carry firearms “shall not be issued.” In other words, the Sheriff must revoke a persons’ license to carry firearms if circumstances emerge rendering that person a person to whom a license “shall not be issued,” and he may otherwise revoke a license for “good cause.” At issue here is whether the Sheriff may revoke Appellant’s license.

A. Appellant’s argument.

Appellant argues that she has had a concealed carry license for more than five years¹¹ and that it has never been suspended prior to now. She indicates that a warrant was issued for her through Magisterial District Judge Frey for failure to complete community service quickly enough. A condition she alleges was due to the fire company where she was doing her service not having enough work. As such, she decided to pay the fine instead and made an arrangement with Judge Frey’s office to do that, not knowing that a warrant had issued in the interim. In any event, prior to her receipt of the Sheriff’s letter indicating that her license was suspended, her fines were current and the warrant was withdrawn.¹²

Appellant contacted the Sheriff to see how the situation could be resolved, and he told her that she would still have to turn in her license, which would not be reissued unless she went at least one year without having a warrant.¹³ Appellant argues that her warrants for non-payment of costs and fines for traffic and summary

¹⁰ 18 Pa. C.S. § 6109(i).

¹¹ The Sheriff testified that according to his office’s records, Appellant’s license was originally issued in 2011 and thereafter renewed every five years. Transcript, at 24.

¹² *Id.*, at 4-9. The fines and community service here resulted from a citation for having an accumulation of garbage on her property, *id.*, at 10-11, and the warrant was withdrawn on February 1, 2024, when the payment of fines became current. *Id.*, at 13.

¹³ *Id.*, at 9-10.

violations and that illegal activity happening in her vicinity should not deprive her of her right to self-protection and of her right to keep and bear arms.¹⁴

B. Respondent's argument.

The Sheriff highlights Appellant's multiple bench warrants and her arrests resulting from those warrants. Appellant acknowledged that within the last few years, she has had bench warrants and has been picked up four or five times but never jailed.¹⁵ The Sheriff contends that, when Appellant had an active bench warrant, she was a fugitive from justice,¹⁶ and, therefore, that revocation of her license was mandatory because a fugitive from justice is a person prohibited from possession of firearms and a person to whom a license to carry cannot be issued.¹⁷ After the bench warrant was lifted, Appellant was no longer a prohibited person, and

¹⁴ *Id.*, at 48-49.

¹⁵ *Id.*, at 13-15. The bench warrants were issued as a result of non-payment of costs and fines relating to traffic citations or summary violations. *Id.* She highlighted during her testimony that she was not armed any time that she was picked up on a warrant. *Id.*, at 15.

¹⁶ See *Com. v. Smith*, 234 A.3d 576, 585-86 (Pa. 2019) (holding that one who has an active warrant is a "fugitive from justice" within the meaning of the Uniform Firearms Act). The Sheriff contends that *Smith* stands for the proposition that Appellant became a fugitive from justice upon issuance of the bench warrant, Transcript, at 18-20, although the Court is not convinced that *Smith* can be read quite that broadly. The Supreme Court itself emphasized that "the limited question before us is whether the evidence at trial was sufficient to sustain appellant's conviction for violation of Section 6105 of the UFA." *Smith, supra*, 234 A.3d at 584. The two dissenting opinions "express concerns about broader applications" of the Court's holding. *Id.*, 234 A.3d at 584 n.9. In response to those concerns, the majority states that "our decision is grounded on the parties' stipulation that expressly referenced the criminal docket from which the bench warrant issued; as such, our conclusion appellant was a fugitive from justice arises from a principled consideration of that stipulation rather than an "unmistakable consequence" of it.... While the point that a bench warrant may at times not be "tethered to one's commission of a criminal act" is well taken, ... it is irrelevant here where the stipulated facts indicate the bench warrant issued in a criminal case." *Id.* (citations omitted).

Here, the bench warrant issued as a result of Appellant's failure to perform community service or stay current on payment of fines relating to a citation for an accumulation of trash on her property, which is not an offense under the Crimes Code. As such, the Court is not convinced that *Smith* stands for the proposition that Appellant was a "fugitive from justice" immediately upon issuance of the bench warrant, particularly given that 18 Pa. C.S. § 6109(e)(1)(xii) expressly exempts certain summary offenses under the Vehicle Code. Ultimately, the Court need not, and will not, reach this issue. The Sheriff concedes that Appellant was not a fugitive from justice once the bench warrant was withdrawn and that the continued revocation of her license is founded on the Sheriff's discretionary authority to revoke a license for "good cause." Transcript, at 20-22. Accordingly, the Court will base this decision on whether the Sheriff had good cause to revoke Appellant's license.

¹⁷ Transcript, at 18-20. See also 18 Pa. C.S. § 6109(i).

the Sheriff exercised his discretion to continue the revocation for a period of one year pursuant to his authority to revoke a firearms license for “good cause.”¹⁸

The Sheriff contends that Appellant’s warrants and arrests constitute “good cause,”¹⁹ as is the criminal activity that has happened in her vicinity. Captain Joshua Bell of the Williamsport Police Department testified that he was at Appellant’s former residence a number of times for disturbances relating to narcotics and firearms. Appellant was not arrested on any of these occasions, the bulk of which occurred from 2017-21 and involved criminal acts by juveniles, including Appellant’s son, and others. He was also aware of a 2023 high-risk arrest warrant for a person who was staying at Appellant’s house in 2023.²⁰

C. Analysis.

When addressing questions related to carrying firearms, one must begin by considering that the right to bear arms is guaranteed under the Second Amendment to the United States Constitution²¹ and Article I, Section 21 of the Pennsylvania Constitution.²² It is well established that this right is not unlimited, and restriction of it may be a proper exercise of police power.²³ Nevertheless, “the Second and Fourteenth Amendments protect an individual’s right to carry a handgun for self-

¹⁸ Transcript, at 21.

¹⁹ *Id.*, at 21. The Sheriff argues that mere existence of a bench warrant creates a dangerous condition for law enforcement, Appellant and the general public. *Id.*, at 19; 28-35. He testified that 7 of Appellant’s approximately 27 warrants were for non-traffic matters, while the remainder were for traffic violations; in the Sheriff’s understanding, only non-traffic warrants make a person a fugitive from justice, but that any warrant creates the same dangers for law enforcement, Appellant and the general public. *Id.*, at 33-35.

²⁰ *Id.*, at 36-47.

²¹ U.S.C.A. Const. Amend. II (“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”).

²² Pa. Const. Art. 1, § 21 (“The right of the citizens to bear arms in defence of themselves and the State shall not be questioned”).

²³ See, e.g., *Morley v. City of Phila. Licenses & Inspections Unit*, 844 A.2d 637, 641 (Pa. Commw. 2004) (“[A]lthough the right to bear arms is a constitutional right, it is not unlimited, and restrictions are a proper exercise of police power if they are intended to protect society”).

defense outside the home,”²⁴ and “individual self-defense is ‘the *central component*’ of the Second Amendment right.”²⁵ Thus,

When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation. Only then may a court conclude that the individual’s conduct falls outside the Second Amendment’s unqualified command.²⁶

Section 6109 of the UFA granted the Sheriff authority to revoke Appellant’s license to carry firearms, thus restricting her right to individual self-defense outside of the home, for good cause.²⁷ “Good cause” is not defined in the UFA, of which Section 6109 is a part. For a definition, our Superior Court has looked to *Black’s Law Dictionary*, which has defined “good cause” as a

[s]ubstantial reason, one that affords a legal excuse. Legally sufficient ground or reason. Phrase “good cause” depends upon circumstances of individual case, and finding of its existence lies largely in discretion of officer or court to which decision is committed.... “Good cause” is a relative and highly abstract term, and its meaning must be determined not only by verbal context of statute in which term is employed but also by context of action and procedures *involved in type of case presented*....²⁸

Pennsylvania’s legal regimen preventing individuals convicted of certain crimes from possessing firearms is designed to keep firearms out of the hands of convicted criminals.²⁹ Typically, however, only crimes of violence operate to prohibit a person

²⁴ *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1, 10 (2022).

²⁵ *Id.*, at 29 (quoting *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 767 (2010) (quoting *District of Columbia v. Heller*, 554 U.S. 570, 599 (2008))) (emphasis in original).

²⁶ *Id.*, at 24. In establishing this standard, the Supreme Court hoped to provide a standard that “accords with how we protect other constitutional rights.” *Id.*, at 24-25.

²⁷ See, *supra*, Part II., at 2-3.

²⁸ *Anderson v. Centennial Homes, Inc.*, 594 A.2d 737 (Pa. Super. 1991) (quoting *Black’s Law Dictionary* 623 (5th ed. 1979) (emphasis original, citations omitted)).

²⁹ See, e.g., *Com. v. Appleby*, 856 A.2d 191, 195 (Pa. Super. 2004) (“The rationale for the statutory prohibition ... [preventing certain convicted criminals from possessing firearms] is to protect the public from convicted criminals who possess firearms”).

from possessing or using firearms,³⁰ as protection of the public is a legitimate exercise of the police power.³¹

Here, the Court does not believe that the Sheriff has demonstrated that he had good cause to revoke Appellant's license to carry firearms.³² He showed a history of bench warrants being issued for Appellant, but all of those warrants were issued by Magisterial District Courts for traffic or summary violations. Importantly, none of them were demonstrated to relate to crimes of violence against the public or law enforcement. The Sheriff's argument that mere existence of a warrant creates a danger to law enforcement, the person with the warrant, and the general public is well-taken, but generalized concerns of this nature are not sufficient reason to limit Appellant's constitutional rights in the manner of the Sheriff's action here. The Sheriff's concern that Appellant is known to have been in proximity to illegal act by others also provides no basis to limit Appellant's constitutional rights.³³ The Sheriff did not present evidence that Appellant was ever charged with any crime, let alone a crime of violence, as a result of that proximity.

In short, the Sheriff has not demonstrated good cause—a "substantial reason" or a "legally sufficient ground or reason"—for revocation of Appellant's license to carry firearms. Because the Sheriff did not have good cause to revoke Appellant's license, he abused his discretion, and the Appeal must be granted.

³⁰ See, e.g., *Com. v. Hodge*, 144 A.3d 170 (Pa. Super. 2016) (holding that abuse of a corpse does not demonstrate a history of violent behavior, is not included within the definition of a crime of violence, and, therefore, does not preclude a person from possessing firearms).

³¹ See, e.g., *Morley*, *supra*, 844 A.2d at 641 ("[R]estrictions [on the Constitutional right to bear arms] are a proper exercise of police power if they are intended to protect society").

³² On appeal to this Court, the Sheriff bears the burden of proving that he had good cause for revoking Appellant's license. *Com. v. Miller*, 288 A.3d 939 (Pa. Commw. 2022).

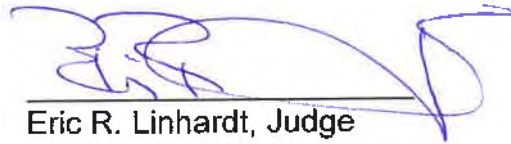
³³ Indeed, proximity to criminal activity by other persons just as easily might be said to support one's desire to take steps to ensure individual self-defense as it might be said to support another person's suspicion of one's involvement in that criminal activity.

III. CONCLUSION AND ORDER.

For the reasons explained at length above, the Appeal from Sheriff's Revocation of License to Carry Firearms filed by Appellant Libby Williams on February 21, 2024 is GRANTED. Unless Appellant shall have a specific prohibition under 18 Pa. C.S. 6109(e)(1), her license to carry shall be restored to her forthwith.

IT IS SO ORDERED.

BY THE COURT,



Eric R. Linhardt, Judge

ERL/bel

cc: Libby Williams, 317 Brandon Avenue, Williamsport, PA 17701
Bret J. Southard, Esq.
Gary L. Weber, Esq. (Lycoming Reporter)