

Ninth Circuit Upholds the "Good Cause" Requirement for Concealed Firearm Permit

06.10.2016

A "good cause" requirement for issuance of a concealed firearm permit, derived from State law, does not violate the Second Amendment to the U.S. Constitution. In a closely-watched case, the U.S. Court of Appeals for the Ninth Circuit, acting en banc, has held that the Second Amendment "does not include, in any degree, the right of a member of the general public to carry concealed firearms in public." Under the requirement the Ninth Circuit upheld, concern for personal safety alone is not considered good cause. Rather, the applicant for a concealed weapons permit must demonstrate a "set of circumstances that distinguishes the applicant from the mainstream" and "causes him or her to be placed in harm's way."

In *Peruta v. County of San Diego*, the plaintiffs challenged the County's "good cause" requirement for the issuance of a permit, which was consistent with California law. A three judge panel of the Ninth Circuit held that the "good cause" requirement violated the Second Amendment. Subsequently, the Ninth Circuit voted to rehear the case en banc.

Based upon its examination of the long and consistent history of courts upholding laws prohibiting the carrying of concealed weapons, including firearms, the court reversed the decision of the three judge panel. Since it found that the Second Amendment does not protect the right to carry concealed firearms in public, the court concluded that "any prohibition or restriction a state may choose to impose on concealed carry" including a requirement of 'good cause,' however defined "is necessarily allowed by the Amendment."

This latest Peruta decision is significant in that it validates that portion of the State's concealed carry permitting scheme that requires "good cause" be shown for the issuance of a concealed carry permit. It is unknown whether or not the plaintiffs will seek U.S. Supreme Court review. However, for now, California sheriffs and police chiefs may resume requiring a showing of "good cause" as a condition of permit issuance.

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For advice concerning CCW permit policies, please contact D. Craig Fox or any member of the Firm's Police Practices Group.