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SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-2464-20

IN THE MATTER OF THE  
APPEAL FROM THE DENIAL  
OF A FIREARMS  
IDENTIFICATION CARD AND  
HANDGUN PERMIT  
TO PETER GOLDRING.

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Submitted April 6, 2022 – Decided May 4, 2022

Before Judges Whipple and Susswein.

On appeal from the Superior Court of New Jersey,  
Law Division, Monmouth County, Docket No.  
GPA-003-2020.

Nicholas A. Moschella, Jr., attorney for appellant  
Peter Goldring.

Lori Linskey, Acting Monmouth County Prosecutor,  
attorney for respondent State of New Jersey (Monica  
do Outeiro, Special Deputy Attorney General/Acting  
Assistant Prosecutor, of counsel and on the brief).

PER CURIAM

Petitioner Peter Goldring applied for a Firearms Purchaser Identification  
Card (FPIC) and Permit to Purchase a Handgun (permit), but the Howell

Township Police Department denied the applications because of petitioner's misdemeanor conviction in New York. Petitioner next sought relief from the Law Division pursuant to N.J.S.A. 2C:58-3(d); however, the trial court agreed with the Howell Township Police Department because the conviction precluded granting the application and New York's Certificate of Relief from Disabilities (Certificate of Relief) does not eliminate this preclusion. We affirm for substantially the same reasons as the trial judge in this case and the court in In re Winston. 438 N.J. Super. 1 (App. Div. 2014).

No facts are in dispute. In April 2015, in Nassau County, New York, petitioner pleaded guilty to petit larceny, a Class A misdemeanor with maximum possible incarceration of 364 days under New York Penal Law 155.25, for charges brought in August 2012.<sup>1</sup> He was sentenced to non-custodial probation for three years, community service, and to pay restitution. New York City's Department of Probation granted petitioner a discharge after eighteen months. On March 1, 2017, New York granted his Certificate of Relief, which removed "all legal bars and disabilities to employment, license

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<sup>1</sup> In March 2014 in New York, petitioner also pleaded guilty to a disorderly persons offense, but the record is unclear whether this is related to the larceny. The record is clear, however, that the State solely relied on the larceny conviction in its denial and arguments.

and privilege except . . . enumerated sections related to weapons imposed under . . . [the] Penal Law."

On May 6, 2020, when petitioner applied to the Howell Township Police Department for the above-referenced FPIC and permit, he disclosed the larceny conviction. In the June 8 letter denying his application, the Chief of Police based the denial on that conviction but informed petitioner that he had thirty days to appeal. On June 18, petitioner submitted a letter requesting a hearing before the Law Division. The court heard testimony.

Petitioner testified about his job as a chief executive officer of a security and firearm business for high-risk institutions and high net worth families and his similar consulting practice, his related licenses, and how he would use the FPIC and permit for his business. As to his New York conviction, petitioner testified that the plea made sense given the legal costs and risk of going to a jury. Petitioner applied for and was granted the Certificate of Relief in March 2017, believing it was essentially akin to an expungement under New York law. He testified he specifically asked about a firearm license and was told by the New York court and Nassau County police that he could get his pistol license back in Nassau County. On cross-examination, petitioner explained those inquiries happened during the original plea process and acknowledged

that he only asked about New York and never thought to ask about New Jersey.

Chief Andrew Kudrick of the Howell Police Department testified petitioner's criminal record was the sole reason for the denial. Kudrick saw the Certificate of Relief petitioner submitted and contacted the New Jersey State Police to see if that letter would apply to New Jersey. He was advised New Jersey would not recognize an out of state expungement or this type of letter.

The State argued the proof of the Class A conviction in New York statutorily barred petitioner under N.J.S.A. 2C:58-3(c)(1) because it was equivalent to a maximum penalty of more than six months. The State asserted that the Certificate of Relief in New York is not tantamount to an expungement and does not eliminate the statutory bar.

The trial court reviewed the submissions, testimony, procedural history, and standards at the police and court level, before summarizing the reasons for denial under the statutes and Winston.

In the present case it is undisputed that [petitioner] was convicted of petit larceny in violation of New York Penal Law 155.25 . . . . Penal Law 155.25 . . . is a Class A misdemeanor. . . . Evidence of such conviction has been established through the testimony of the [petitioner] in the submission of the New York certificate of disposition indictment. . . . Further this [c]ourt is satisfied that a Class A

misdemeanor has a sentencing range up to 364 days and therefore qualifies as a crime.

N.J.S.A. 2C:1-4 defines a crime as, "[a]n offense for which a sentence of imprisonment is in excess of six months." It is clear that [petitioner]'s conviction qualifies as a crime under our laws. Indeed the issue of whether a Class A misdemeanor in New York so qualifies has been addressed in Winston . . . . There an applicant for a gun permit was convicted of . . . a Class A misdemeanor in New York . . . . The [c]ourt found that because Winston's New York conviction carried a sentence in excess of six months it qualified as a crime in New Jersey and would disqualify him from obtaining a Firearms Purchaser Identification Card, or a permit to purchase a handgun under [N.J.S.A. 2C:58-3(c)(1)].

Winston is also dispositive as to the issue of appellant's [C]ertificate of [R]elief from civil disabilities. In Winston, as here, applicant obtained a certificate which relieved him of certain disabilities, forfeitures or bars otherwise accompanied [with] his convictions. Based on his certificate Winston applied for a firearms permit in New Jersey arguing, as [petitioner] does here, that the [C]ertificate of [R]elief from disability should be afforded in full faith and credit by this [c]ourt.

. . . .

Having engaged in this further analysis, the Winston court found that because the certificates merely remove certain disabilit[ies] and bars normally attendant to the conviction under New York law full faith and credit is not implicated. . . . And such is the case here. . . . [I]t is clear that [petitioner] does not

qualify for a Firearms Purchaser Identification Card, nor permit to purchase handguns.

. . . .

[Petitioner] is statutorily barred from possessing a gun here in New Jersey. The [C]ertificate of [R]elief from disabilities in New York does not alleviate him of any of the consequences here in New Jersey. There is unfortunately no further consideration that this [c]ourt can take.

This appeal followed. Petitioner argues:

[PETITIONER] WAS DENIED A FULL AND FAIR HEARING ON THE MERITS BASED UPON AN IMPROPER STATUTORY BAR TO HIS APPLICATION FOR A FIREARMS PURCHASER IDENTIFICATION CARD PURSUANT TO N.J.S.A. 2C:58-3(c)(1).

The right to bear arms is guaranteed by the Second Amendment of the United States Constitution, but a state's police power allows it to place "reasonable limitations" on firearms ownership. In re Forfeiture of Pers. Weapons and Firearms Identification Card belonging to F.M., 225 N.J. 487, 506 (2016). To balance those interests, our Legislature requires people to apply for a FPIC and permit. Id. at 507.

No person of good character and good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in this section or other sections of this chapter, shall be denied a permit to purchase a handgun or a firearms purchaser

identification card, except as hereinafter set forth. No handgun purchase permit or firearms purchaser identification card shall be issued:

- (1) To any person who has been convicted of any crime . . . .

[N.J.S.A. 2C:58-3(c)(1).]

The chief of police of the municipality where the applicant resides determines whether to grant or deny the FPIC or permit, N.J.S.A. 2C:58-3(d), and must grant the applications "unless good cause for the denial" exists, N.J.S.A. 2C:58-3(f). A denied applicant may request a hearing in the Law Division. In re F.M., 225 N.J. at 508 (citing N.J.S.A. 2C:58-3(d)). The Law Division conducts a de novo hearing to review the facts and independently determine whether the applicant is entitled to the FPIC or permit. In re Z.L., 440 N.J. Super. 351, 357 (App. Div. 2015). At the hearing, "the police chief has the burden of proving an applicant is not qualified to receive a handgun permit," ibid. (citing In re Osworth, 365 N.J. Super. 72, 77 (App. Div. 2003)), and must prove the disqualification by a preponderance of the evidence, id. at 358 (citing Osworth, 365 N.J. Super. at 77).

The court outlined these procedures while stating its decision on the record. Petitioner did not argue that he was not afforded these procedures and did not raise due process issues before the trial judge. Petitioner received a

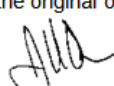
specific analysis as to his unfitness deriving from the conviction and as to how his Certificate of Relief does not change this bar. He is not entitled to an analysis of each potential disability under N.J.S.A. 2C:58-3(c) and whether the totality of circumstances make him a good applicant, because any one of the disabilities is legally sufficient to deny the issuance of a permit to own or possess a firearm. See State v. Cordoma, 372 N.J. Super. 524, 534 (App. Div. 2004).

Petitioner's substantive arguments as to why he qualifies for an exception fail because the Law Division properly applied N.J.S.A. 2C:58-3(c) and Winston and properly declined to consider alternative tests or find an exception. Petitioner's case is a straightforward application of Winston. As the judge stated, petitioner clearly committed a crime for purposes of N.J.S.A. 2C:58-3(c) and N.J.S.A. 2C:1-4 because the maximum penalty for petit larceny in New York is more than 180 days.

To the extent we have not addressed petitioner's remaining arguments, we are satisfied they are without sufficient merit to warrant further discussion in a written opinion. R. 2:11-3(e)(2).

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION