

IN THE CITY OF CHICAGO, ILLINOIS
DEPARTMENT OF ADMINISTRATIVE HEARINGS
MUNICIPAL HEARINGS DIVISION

In Re: Administrative Review REMAND

Proceedings Concerning
Chicago Firearm Permit

In the Matter of:

David Lawson

Applicant

v.

City of Chicago Department of
Administrative Hearings and City of
Chicago Department of Police

10 GR 000038

Administrative Review
10 M1 450625

DEPT. OF ADMIN. HEARINGS
11 AUG -5 PM 2:09

DECISION

This matter having been heard on the remand order of Judge Patrick T. Rogers, entered on June 24, 2011, in the Circuit Court of Cook County, Illinois, Municipal Department-First District. All parties having been heard by the Administrative Law Judge concerning the denial of firearms registration certifications under the Municipal Code of Chicago, Chapters 2-84, et. Seq. and 8-20, et seq.. It is the findings of this Court:

1. On June 24, 2011, Judge Patrick T. Rogers remanded this matter to the City of Chicago Department of Administrative Hearings and ordered "for both the plaintiff and the City to provide additional evidence as to whether the four firearms are prohibited under the City ordinance. The Court further orders that plaintiff be permitted to bring the four firearms to the hearing for the purpose of providing evidence".
2. On August 2, 2011, a full hearing was conducted and the City of Chicago presented testimony from Sergeant Stanley Petraitis and Police Officer Biggins from the Chicago Police Department Gun Registration Division. Applicant, David Lawson, presented evidence testimony from Andre Quecn, Fidelity Investigative Training Academy.
3. The subject rifles: SKS Rifle serial # 1703531, SKS Rifle serial # 2203167, SKS Rifle serial # 3H1539 and SKS Rifle FE1596-1958 were presented in open court and available to the parties witnesses for inspection and examination. The City

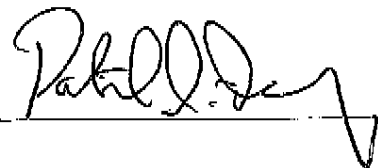
objected to the presence of the rifles and the City witnesses declined to examine the subject rifles. City's objection was overruled.

4. Sgt. Petraitis testified for the City that based upon his review of the Application for Firearm Registration filed by David Lawson on or about August 31, 2010, there was no indication that the subject rifles were modified from the fixed magazine position. David Lawson's testimony is unrebutted that the weapons, and the fixed magazine platform, are in the same condition as when he purchased the rifles, when he applied for the registration and at the time of the hearing.
5. The undisputed fact is the subject rifles are over seventy years old and there have been no alteration or modifications from the original design. David W. Lawson is licensed by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms as a Collector of Curios and Relics.
6. The City witness, Officer Biggins, contends that the subject rifles have the capability of accepting a detachable magazine with a flick of a sharp object or a bullet without structural changes to the weapon. Officer Biggins testified that "the process" does not allow him to demonstrate this potential alteration to the subject weapons.
7. Sections 8-20-190 and 8-20-205 of the Municipal Code of Chicago, provides for the procedures for denials and revocation, inter alia, "A registration certificate shall be revoked (1) when the firearm becomes an unregistrable firearm;" or "if, in the determination of the superintendent, a CFP or registration certificate should be revoked,". That is the City's recourse in the event there was a modification or alteration to the subject weapons.
8. It is the finding of this Administrative Law Judge, based upon the testimony of all the witness' and the examination of the subject rifles by the applicant, David Lawson's witness, Andre Queen, the subject rifles did not have the ability to accept a detachable magazine in the condition in which the weapons existed at the time of the application process nor at the time of this hearing.

IT IS HEREBY ORDERED:

The Denial by the Chicago Police Department of David Lawson's registration of the subject four SKS Rifles is REVERSED. The subject rifles are not prohibited under the Municipal Code of Chicago, 8-20-170, and therefore, registration certification shall issue accordingly. Pursuant to Section 2-14-102 of the Chicago Municipal Code, this decision is final and subject to review under the Illinois Administrative Review Act.

Entered: _____



Patrick D. Riley
Administrative Law Judge #64
August 5, 2011