

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. DEBRA A. JAMES PART IAS MOTION 59EFM

Justice

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INDEX NO. 151928/2020

In the Matter of the Application of

MOTION DATE 09/15/2020

PASQUALE COPPOLECCHIA,

MOTION SEQ. NO. 001

Petitioner,

For an Order and Judgment pursuant to Article 78
Of the Civil Practice Law and Rules,

- v -

DECISION + ORDER ON MOTION

JAMES O'NEILL, in his official capacity as Police
Commissioner, and all successors therein, JONATHAN
DAVID, in his official capacity as Director, NYPD License
Division, and MICHAEL BARRETO, in his official capacity as
Commanding Officer of the License Division,

Respondents.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 25, 31, 32, 33, 34,
35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER)

ORDER

Upon the foregoing documents, it is

ADJUDGED that the petition is denied and the proceeding is
dismissed, with costs and disbursements to respondents; and it is
further

ADJUDGED that respondents, having an address at
, do recover from petitioner, having an
address at , costs and disbursements in the
amount of \$, as taxed by the Clerk, and that
respondents have execution therefor.

DECISION

Affirming the trial court's denial of respondent bank president's petition to annul the police commissioner's determination denying such banker's carry pistol license application, the First Department in Martinek v Kerik, 294 AD2d 221, 221-222 (2002), stated, in pertinent part,

"The fear felt by petitioner, . . . , as a result of having to travel to and from high crime areas for the purpose of inspecting buildings and between bank branches for the purpose of transporting large sums of cash is too vague to constitute 'proper cause' within the meaning of Penal Law § 400.00(2)(f), absent documentation substantiating the cash carried or a showing of particular threats, attacks or other extraordinary danger to personal safety".

So too here, respondents' denial of petitioner's application to renew his carry pistol license was not arbitrary or capricious.

In the letter of necessity section of his renewal application, petitioner included no documentation that substantiates any cash that he carries, and in fact, petitioner admits that no such bank statements or deposit slips showing cash deposits exist, as he does not collect or accept any cash rent payments.

In such renewal application, petitioner, under oath, cites two examples of the necessity for approval of his renewal application. Petitioner describes one occasion of violent and aggressive threats directed at him, as manager of residential apartment buildings in the Bronx and Manhattan. The incident took place in the context of the prosecution of a hold-over eviction

proceeding against a squatter in a property petitioner manages. In the incident, the squatter's boyfriend trespassed on the property, and threatened petitioner and the superintendent with a knife. He states that though police responded to their 911 call, the police prepared no police report, informing them that the "suspect fled and could not be identified". Although affirming in his affidavit that the boyfriend "is a resident of a boy's home across the street", petitioner does not state that he ever provided such identifying information to the police. Petitioner also cites as a general proposition that, as he is perceived as carrying cash even though he carries none, he is stalked. It was rational for the respondents to find that neither of the circumstances described in such letter of necessity establishes "extraordinary danger to [his] personal safety".

Debra A. James

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<u>5/6/2021</u> DATE		<u>DEBRA A. JAMES, J.S.C.</u>
CHECK ONE:	<input checked="" type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> NON-FINAL DISPOSITION
	<input type="checkbox"/> GRANTED	<input checked="" type="checkbox"/> DENIED
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> SUBMIT ORDER
		<input type="checkbox"/> FIDUCIARY APPOINTMENT
		<input type="checkbox"/> OTHER
		<input type="checkbox"/> REFERENCE