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CRAWFORD COUNTY, PA

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY
PENNSYLVANIA

GARY A. YOUNG
Appellant

vs.

WALTER C. HOKE,
Sheriff Of Crawford County,
Appellee

) CIVIL DIVISION
)
)

) NO. A D 2008 4 0 9
)
)

APPEAL FROM SHERIFF'S REVOCATION
OF A LICENSE TO CARRY A FIREARM

Filed of behalf of:

GARY A. YOUNG,
Appellant

Counsel of record for this party:

J. Michael McCormick, Esquire
Pa. I.D. No. 19851

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IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY
PENNSYLVANIA

GARY A. YOUNG)	CIVIL DIVISION
Appellant)	
)	
vs.)	NO. A D 2008 409
)	
WALTER C. HOKE,)	
Sheriff Of Crawford County,)	
Appellee)	

NOTICE TO DEFEND AND CLAIM RIGHTS

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE, IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Courthouse
Meadville, PA 16335
Telephone 814.333.7498

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APPEAL FROM SHERIFF'S REVOCATION
OF A LICENSE TO CARRY A FIREARM

AND NOW COMES the Appellant, Gary A. Young, by his attorney, J. Michael McCormick, Esquire, who files this Appeal From Sheriff's Revocation Of A License To Carry A Firearm, as follows:

1. This court has jurisdiction over this action pursuant to Section 6109(i) of the Pennsylvania Uniform Firearms Act (18 Pa.C.S. §6109(i)).
2. Appellant, Gary A. Young, is an adult individual who resides at 27837 Plank Road, Guys Mills, Pennsylvania, 16327.
3. Appellee is Walter C. Hoke, Sheriff of Crawford County, Pennsylvania, whose office address is Sheriff's Office, Crawford County Courthouse, 903 Diamond Park, Meadville, Pennsylvania, 16335.
4. On February 13, 2008, the Appellee, Walter C. Hoke, Sheriff of Crawford County, issued a letter directed to Appellant, Gary A. Young, entitled "Notice Of Revocation Of License To Carry Firearm" informing the Appellant that his license to carry a firearm was revoked pursuant to 18 Pa.C.S. §6109(e)(1)(i) of the Pennsylvania Uniform Firearms Act and directing the Appellant to surrender his license to the Office of Appellee within five days. (A true and correct

copy of said letter is attached hereto and marked as "Exhibit A").

5. On February 19, 2008, the Appellant, Gary A. Young, surrendered to the Sheriff's Office his license to carry a firearm for which he had paid the required license fee, which had been duly issued by the Sheriff's Office, and was then given a receipt for its surrender entitled "Receipt and Inventory of Seized Property". (A true and correct copy of said "Receipt and Inventory of Seized Property" is attached hereto and marked as "Exhibit B").

6. The above-referenced Notice Of Revocation Of License To Carry Firearm directed to the Appellant by the Appellee stated in part as follows:

"... your license to carry firearms is hereby revoked, effective immediately, for the following reason: Pursuant to Title 18 Pa. C.S.A. §6109 (e)(1)(i) the Sheriff of Crawford County Pennsylvania has determined that your character and reputation is such that you would be likely to act in a manner dangerous to the public."

7. Appellant, Gary A. Young, denies that his character and reputation are such that the Appellee could have justifiably determined that Appellant would be likely to act in a manner dangerous to the public as required by the statute to justify the revocation of Appellant's license to carry firearms.

8. Appellant's character and reputation are such that if the Appellee had conducted an investigation as required, Appellee could only have concluded that Appellant would not be likely to act in a manner dangerous to public safety.

9. Section 6109(i) of the Pennsylvania Uniform Firearms Act (18 Pa.C.S. §6109(i)) requires that the Notice of Revocation "... state the specific reason for

revocation.”

10. The above-referenced Notice Of Revocation Of License To Carry Firearm directed to the Appellant by the Appellee failed to state any specific conduct or any specific fact upon which the revocation was based and therefore failed to state the specific reason for the revocation as required by Section 6109(i) of the Pennsylvania Uniform Firearms Act (18 Pa.C.S. §6109(i)).

11. Section 6109(i) of the Pennsylvania Uniform Firearms Act (18 Pa.C.S. §6109(i)) provides in part as follows: “A license to carry firearms may be revoked by the issuing authority for good cause.”

12. The above-referenced Notice Of Revocation Of License To Carry Firearm directed to the Appellant by the Appellee failed to state facts that would fulfill the statutory requirement of its stating the “good cause” for the revocation of a license.

13. For reasons stated in paragraphs nos. 9 and 11, above, the Pennsylvania Uniform Firearms Act does not provide for the taking of one’s duly issued license upon the mere opinion of the Sheriff that one’s “... character and reputation is such that you would be likely to act in a manner dangerous to the public.

14. The standard utilized by the Sheriff in this case is arbitrary and capricious in that it allows the mere opinion of the Sheriff to take away the property rights of the Appellant has in the license to carry a firearm that was issued to him, without allowing Appellant any hearing as to the specific reasons for the revocation before, or after, the revocation of his license.

15. Section 6109(i) of the Pennsylvania Uniform Firearms Act (18 Pa.C.S.

§6109(i)) fails to provide for a hearing prior to the revocation of a license to carry a firearm.

16. In a case, such as this, where a license to carry a firearm is revoked pursuant to Section 6109 (e)(1)(i) of the Pennsylvania Uniform Firearms Act, the licensee is not provide with the opportunity for a hearing prior to the revocation of a license to carry a firearm and thus the statute provides for the taking of a persons property without due process of law.

17. In a case where a license to carry a firearm is revoked pursuant to Section 6109(i) of the Pennsylvania Uniform Firearms Act the licensee's only remedy is an appeal to the Court of Common Pleas.

18. In a case such as Appellant's where a county sheriff bases a revocation on the provisions of 18 Pa.C.S. 6109 (e)(1)(i), the licensee is neither provided with a hearing prior to revocation nor does the Uniform Firearms Act provide for a hearing at the time of the appeal to the Court of Common Pleas.

19. On appeal, since 6109(i) of the Pennsylvania Uniform Firearms Act does not provide for a hearing on appeal, the Court of Common Pleas is not provided with the opportunity to examine evidence or take testimony and make a determination based upon the facts of the case.

20. In this case there is no record to justify the action of the Sheriff of Crawford County except for the Sheriff's own conclusionary letter based upon nothing that the court can consider except that it is one man's opinion.

21. In a case such as Appellant's where a county sheriff bases a revocation on the provisions of 18 Pa.C.S. 6109 (e)(1)(i) relating to the applicant's "character and

reputation", there is no remedy to the purchaser of a valid license to carry a firearm to rectify arbitrary and capricious and unsupported action by the sheriff .

22. The revocation of the appellant's license to carry a firearm should be reversed do to the revocation not having been based upon any hearing or reason, other than mere unsupported opinion of the sheriff.

23. The provisions of Section 6109 (e)(1)(i) of the Firearms Act are overly broad and vague and as such allow for arbitrary and capricious action on the part of county sheriffs, leaving it up to each individual sheriff to determine what the criteria are for approval or denial based upon the section and allow individual sheriffs to form their own opinion about a licensee or applicant that may be based not on relevant facts or evidence but perhaps only on rumor and innuendo. As such the provisions of Section 6109 (e)(1)(i) of the Pennsylvania Uniform Firearms Act are in violation of the provisions of the Constitution of Pennsylvania and the United States Constitution with respect to due process of law.

24. Appellant, Gary A. Young, believes that the revocation of his license to carry a firearm was without due process of law and without a lawful basis in fact and that his license should be reinstated.

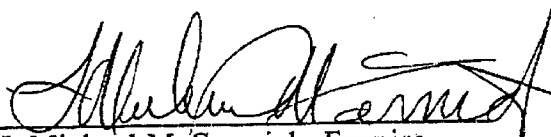
WHEREFORE, Appellant, Gary A. Young, respectfully prays that:

A. This Court declare that inasmuch as Walter C. Hoke, Sheriff of Crawford County, failed to meet the statutory requirements of setting forth the specific acts that Appellant did or did not do to justify the conclusion set forth in his Notice Of Revocation Of License To Carry Firearm, the revocation and the taking of Appellant's License To Carry Firearm was unlawful; and,

B. This Court hold that Section 6109 (e)(1)(i) of the Pennsylvania Uniform Firearms Act is in violation of the provisions of the Pennsylvania Constitution and the United States Constitution with respect to its denial of due process of law; and,

C. This Court direct Walter C. Hoke, Sheriff of Crawford County, reinstate the license to carry a firearm of Appellant, Gary A. Young, immediately.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. Michael McCormick", written over a horizontal line.

J. Michael McCormick, Esquire
Counsel for Appellant, Gary A. Young

VERIFICATION

I, Gary A. Young, verify that the statements made in the foregoing Appeal From Sheriff's Revocation Of A License To Carry A Firearm are true and correct to the best of my knowledge and belief. I understand that the statements herein made are subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 3/6, 2008

SIGNED:

Gary A. Young
Gary A. Young



Sheriff's Office

WALTER C. HOKE, SHERIFF
CRAWFORD COUNTY COURTHOUSE
MEADVILLE, PENNSYLVANIA 16335

NOTICE OF REVOCATION OF LICENSE TO CARRY FIREARM

TO: Gary Young

Method of Service: Certified Mail, Return Receipt Requested

You are hereby notified that, pursuant to the Pennsylvania Uniform Firearms Act, Title 18 Pa.C.S.A. §6109 (i), your license to carry firearms is hereby revoked, effective immediately, for the following reason:

- Pursuant to Title 18 Pa. C.S.A. §6109 (e)(1)(i) the Sheriff of Crawford County Pennsylvania has determined that your character and reputation is such that you would be likely to act in a manner dangerous to the public.

Pursuant to the above Statute, by reason of this immediate revocation, you are directed to surrender your license to carry a firearm to the Crawford County Sheriff's Office within five (5) days of the receipt of this Notice. If you fail to comply with this Notice and direction to surrender your license, your failure to do so constitutes a summary offense under the Pennsylvania Uniform Firearms Act.

You are advised that you have certain rights to appeal this Determination to the Common Pleas Court of Crawford County, Pennsylvania.

Date: February 13, 2008

Walter C. Hoke, Sheriff
Crawford County, Pennsylvania

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY
PENNSYLVANIA

GARY A. YOUNG)	CIVIL DIVISION
Petitioner)	
)	
vs.)	NO. A D 2008 409
)	
WALTER C. HOKE,)	
Sheriff Of Crawford County,)	
Respondent)	

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2008,
upon consideration of the Appeal From Sheriff's Revocation Of A License To Carry A
Firearm it is hereby Ordered, Adjudged and Decreed that:

A. Walter C. Hoke, Sheriff of Crawford County, failed to meet the statutory requirements of setting forth the specific acts that Appellant did or did not do to justify the conclusion set forth in his Notice Of Revocation Of License To Carry Firearm, therefore the revocation and the taking of Appellant's License To Carry Firearm were unlawful.

B. Section 6109 (e)(1)(i) of the Pennsylvania Uniform Firearms Act, due to its provisions being overly broad and vague, is in violation of the right to due process of law as guaranteed by the Pennsylvania Constitution and the United States Constitution.

C. Walter C. Hoke, Sheriff of Crawford County, is directed to reinstate the license to carry a firearm of Gary A. Young immediately and return possession of the license to him without delay.

BY:

_____ J.

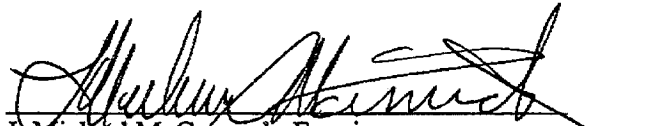
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served or caused to be served a true and correct copy of the foregoing Appeal From Sheriff's Revocation Of A License To Carry A Firearm this 3/6 day of MARCH, 2008, by United States mail, first-class, postage prepaid (unless otherwise indicated), to the following persons:

Walter C. Hoke, Crawford County Sheriff (By hand delivery)
Crawford County Courthouse
903 Diamond Park
Meadville, Pennsylvania, 16335

Pennsylvania Office of Attorney General (By certified mail return receipt requested)
16th Floor
Strawberry Square
Harrisburg, PA 17120

By:


J. Michael McCormick, Esquire
Counsel for Appellant, Gary A. Young