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8 IN THE UNITED STATES DISTRICT COURT
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10 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

11 EDWARD PERUTA,) Case No.:
12 Plaintiff,) COMPLAINT FOR DAMAGES
13 vs.) 42 U.S.C. §§ 1983, 1988
14 William Gore, and County of San Diego,)
15 Defendants)

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17 COME NOW the Plaintiff Edward Peruta, by and through undersigned counsel, and
18 complaint of Defendants as follows:

19 **THE PARTIES**

- 20 1. Petitioner Edward Peruta (hereinafter referred to as “Plaintiff/Petitioner”) is a natural
21 person and a citizen of the United States and of the State of California, residing in San
22 Diego County, California.
- 23 2. Defendant San Diego County is a municipal entity organized under the Constitution and
24 laws of the State of California.
- 25 3. Defendant William Gore is the Sheriff of San Diego County, and as such, he is
26 responsible for formulating, executing and administering the challenged laws, customs
27 and practices against plaintiffs, and is in fact presently enforcing the challenged laws,
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1 customs, and practices against plaintiff. Defendant Gore is sued in both his individual
2 and official capacities.

3 **JURISDICTION AND VENUE**

- 4 4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331,
5 1343, 2201, 2202, and 42 U.S.C. § 1983
6 5. Venue lies in this court pursuant to 28 U.S.C. § 1391.

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8 **STATEMENT OF FACTS**

9 *Background*

- 10 6. The Second Amendment to the United States Constitution provides: “A well regulated
11 Militia being necessary to the security of a free State, the right of the people to keep and
12 bear Arms shall not be infringed.”
13 7. The Second Amendment, by way of the Fourteenth Amendment of the United States
14 Constitution, prohibits states from depriving law-abiding individuals of their right to keep
15 and bear arms.
16 8. The Second Amendment guarantees the right to carry handguns for self-defense.
17 9. States are allowed to regulate the carrying of handguns, such that states can prohibit the
18 possession of firearms by felons and the mentally ill, or prohibit the carrying of firearms
19 in sensitive places such as schools and government buildings.
20 10. States are not allowed to completely ban the carrying of handguns for self-defense, or
21 impose regulations on the right to carry handguns that are inconsistent with the Second
22 Amendment.
23 11. With few exceptions, California has banned the carrying of concealed weapons,
24 (California Penal Code § 12025), and public carrying of loaded handguns, (California
25 Penal Code § 12031).
26 12. California does allow for the issuance of a permit to carry a concealed loaded handgun in
27 public, for self defense, and in small population counties, an individual may obtain a
28 license to carry a loaded and exposed handgun. California Penal Code § 12050(a).

1 13. To obtain a permit to carry a handgun, applicants must pass a criminal background check,
2 as required by California Penal Code §12052, and successfully complete a handgun
3 training course, as required by California Penal Code §12050(a)(1)(E). An applicant
4 must submit an application for a permit to carry a handgun to the county sheriff in which
5 the applicant resides or spends a substantial amount of time in regard to the applicant's
6 principal place of employment or business being located in that county. Before the
7 county sheriff issues a license to carry a concealed weapon, the county sheriff makes a
8 determination as to whether the applicant is of good moral character and has good cause
9 for a license to carry a concealed weapon.

10 14. Even if an applicant successfully completes a background check and the handgun training
11 course, the permit will only be issued if in the discretion of the county sheriff, it is found
12 that the applicant is of good moral character and has shown that there is a good cause for
13 the permit. California Penal Code §§ 12050(a)(1)(A), (B). Because county sheriffs have
14 discretion in determining whether an applicant is of good moral character, and whether an
15 applicant has good cause for a permit, there is no continuity in the issuance of handgun
16 carrying permits. In some counties, applicants are rarely issued a handgun carrying
17 permit, but in other counties, handgun carrying permits are issued to the most law-
18 abiding applicants.

19 *Violations of Plaintiff's Right to Bear Arms*

20 15. Plaintiff Edward Peruta maintains several residences across the United States, including
21 but not limited to a residence in San Diego County. Plaintiff maintains a permanent
22 mailing address in San Diego, California, where he and his wife have a room in which
23 they keep a wardrobe and other personal items.

24 16. Plaintiff and his wife have made their motor home their permanent residence, and stay in
25 San Diego for extended period of times. Plaintiff reserved space at Campland on the
26 Bay, in San Diego, California, from November 15, 2008 through April 15, 2009. He had
27 also reserved space at the same place from February, 2007 through April, 2007.
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- 1 17. Plaintiff is the founder, and sole stockholder of American News and Information
2 Services, Inc., a news and information company that operates throughout the United
3 States, and which gathers and provides raw, breaking news video, photographs, and news
4 tips to various mainstream media outlets.
- 5 18. As part of Plaintiff's media duties, he often enters high crime areas, which puts him at
6 risk of criminal assaults and in need of the ability to defend himself against the real
7 possibility of being the target of violent crimes.
- 8 19. Plaintiff Peruta and his wife travel extensively throughout the United States in their
9 motor home, carrying large sums of cash, valuables and equipment, which makes them a
10 target for violent crimes.
- 11 20. As part of Plaintiff's travels, he and his wife often find it necessary to stay in extremely
12 remote rural areas of the United States, including California, which makes them
13 vulnerable physical attacks, due to the fact that they are often limited in their ability to
14 receive immediate assistance from law enforcement or other public safety personnel.
- 15 21. Plaintiff is a certified National Rifles Association, (N.R.A.), instructor with the authority
16 to train and certify individuals in the N.R.A. Basic Pistol Safety Course.
- 17 22. Plaintiff has a valid pistol permit issued by the State of Connecticut, and is recognized by
18 the Department of Public Safety to teach the pistol course required to obtain a
19 Connecticut Pistol Permit.
- 20 23. Plaintiff was assigned as a marine small arms instructor, (rifle and pistol), at the United
21 States Naval Academy, in 1969.
- 22 24. Plaintiff successfully completed the Connecticut Municipal Training Course, in 1970.
- 23 25. Plaintiff is a former law enforcement officer from the state of Connecticut. Plaintiff was
24 a law enforcement officer from 1969 to 1971.
- 25 26. Plaintiff obtained, and provided to the San Diego County Sheriff, the required 8 Hour
26 Firearms Safety and Proficiency Certificate, in accordance with California Penal Code §
27 12050(E)(i).

- 1 27. The Firearms Licensing and Permits Unit of the State of California Department of Justice
2 found Plaintiff eligible to possess firearms.
- 3 28. The Second Amendment right to bear arms, and the inherent right of self-defense and
4 self-preservation it advances, are not considered by Defendant San Diego County to
5 constitute “good cause” for the issuance of a permit to carry a concealed weapon.
- 6 29. Defendant Sheriff William Gore is continuing San Diego County’s “good cause” policy
7 for denying permits to carry a concealed weapon.
- 8 30. Pursuant to Defendant San Diego County’s “good cause” policy, Plaintiff was denied a
9 permit to carry a concealed weapon by Defendant Sheriff William Gore’s predecessor,
10 and it is obvious that re-submission of the same application to Defendant Sheriff Gore
11 would be futile.
- 12 31. But for the lack of a permit to carry a concealed weapon, Plaintiff would carry a
13 concealed weapon for self-defense.
- 14 32. On November 17, 2008, Plaintiff requested a license to carry a concealed weapon from
15 the San Diego County Sheriff’s License Division, at which time he was interviewed by a
16 licensing supervisor to determine whether he satisfied the licensing criteria.
- 17 33. On February 3, 2009, Plaintiff submitted an application for a license to carry a concealed
18 weapon.
- 19 34. Plaintiff was denied a license to carry a concealed weapon, because the San Diego
20 County Sheriff’s licensing division made a finding that Plaintiff did not have good cause,
21 and was not a resident of San Diego County. It was deemed that Plaintiff did not have
22 good cause, because Plaintiff could not document any specific threat of harm, and
23 primary reasons for desiring a license to carry a concealed weapon were due to the fact
24 that he often carried large amounts of cash, valuables and equipment in his motor home,
25 and also because his duties as a news investigator placed him in high crime areas.
- 26 35. Defendants have deprived Plaintiff of his right to carry a handgun for self-defense
27 purposes, which is guaranteed by the Second Amendment, because there is a general ban
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1 on the exposed carrying of loaded handguns, and because of subjective “good cause”
2 policy.

3 **FIRST CLAIM FOR RELIEF**
4 **U.S. CONST., AMEND. II, 42 U.S.C. § 1983**
5 **AGAINST ALL DEFENDANTS**

6 36. Plaintiff/Petitioner hereby realleges and incorporates by reference the allegations set forth
7 in Paragraphs 1 through 35 above as set forth herein in full.

8 37. Plaintiff is a law abiding individual, competent in the safe handling and operation of
9 handguns, and in need of the ability to defend himself and his wife against violent
10 attacks. Accordingly, there exists no reason to deny Plaintiff a permit to carry a
11 concealed weapon under California Penal Code § 12050.

12 38. By maintaining and enforcing a set of customs, practices, and policies depriving Plaintiff
13 of a permit to carry a concealed weapon, including but limited to requiring subjective
14 “good cause” beyond the interest in self-defense and conditioning the consideration of an
15 application for a permit to carry a concealed weapon on a durational residency
16 requirement, Defendants are propagating customs, policies, and practices that violate the
17 Second and Fourteenth Amendments to the United States Constitution, damaging
18 Plaintiffs in violation of 42 U.S.C. § 1983. Plaintiffs are therefore entitled to permanent
19 injunctive relief against such customs, policies, and practices.

20 **SECOND CLAIM FOR RELIEF**
21 **U.S. CONST., AMEND. XIV-EQUAL PROTECTION, 42 U.S.C. § 1983**
22 **AGAINST ALL DEFENDANTS**

23 39. Paragraphs 1 through 38 are incorporated as though fully stated in herein.

24 40. By maintaining and enforcing a set of customs, practices, and policies arbitrarily denying
25 Plaintiff of a permit to carry handguns based on a subjective determination of their
26 “good cause” for the permit and their length of residence in the county, Defendants are
27 propagating customs, policies, and practices that violate Plaintiff’s rights to equal
28 protection of the laws under the Fourteenth Amendment to the United States

1 Constitution, damaging Plaintiff in violation of 42 U.S.C. § 1983. Plaintiff is therefore
2 entitled to permanent injunctive relief against such customs, policies, and practices.

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4 **THIRD CLAIM FOR RELIEF**
5 **U.S. CONST., AMEND. XIV-RIGHT TO TRAVEL, 42 U.S.C. § 1983**
6 **AGAINST ALL DEFENDANTS**

7 41. Paragraphs 1 through 40 are incorporated as though fully stated herein.

8 42. The Fourteenth Amendment guarantees individuals the right to interstate and intrastate
9 travel.

10 43. By demanding that individuals reside fulltime in San Diego County before allowing them
11 to apply for a permit to carry a concealed weapon, Defendants Gore and San Diego
12 County are propagating customs, policies, and practices that violate Plaintiff's right to
13 travel under the Fourteenth Amendment to the United States Constitution, damaging
14 Plaintiff's in violation of 42 U.S.C. § 1983. Plaintiff is therefore entitled to permanent
15 injunctive relief against such customs, policies and practices.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff requests that judgment be entered in his favor and against
18 Defendants as follows:

- 19 1. An order permanently enjoining Defendants, their officers, agents, servants,
20 employees, and all persons in active concert or participation with them who receive
21 actual notice of the injunction, from enforcing the "good moral character" and "good
22 cause" requirements of California Penal Code §12050 against applicants applying for
23 carrying concealed weapons permits who seek the permit for self-defense and are
24 otherwise qualified to obtain a handgun carrying permit under that section;
- 25 2. An order permanently enjoining Defendants, their officers, agents, servants,
26 employees, and all persons in active concert or participation with them who receive
27 actual notice of the injunction, from requiring any duration of local residence prior to
28 accepting an application under California Penal Code § 12050;

