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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 EDWARD PERUTA, MICHELLE
LAXSON, JAMES DODD, DR. LESLIE
12 BUNCHER, MARK CLEARY and
CALIFORNIA RIFLE AND PISTOL
13 ASSOCIATION FOUNDATION,

14 Plaintiffs,

15 v.

16 COUNTY OF SAN DIEGO, WILLIAM D.
GORE, INDIVIDUALLY AND IN HIS
17 CAPACITY AS SHERIFF,

18 Defendants.

USSD No. **09-CV-2371 IEG (BLM)**
DEFENDANT WILLIAM D. GORE'S
SEPARATE STATEMENT OF
UNDISPUTED MATERIAL FACTS
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT

Date: November 1, 2010
Time: 10:30 a.m.
Courtroom: 1
Honorable Irma E. Gonzalez

19 Defendant submits this separate statement of undisputed material facts and
20 supporting evidence in support of his motion for summary judgment.

21 **Undisputed Facts**

Supporting Evidence

22 1. Sheriff William Gore is responsible for
23 administering the program for the licensing
24 of persons to carry concealed weapons in
San Diego County. ("CCW license")

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26 2. State law sets forth the general criteria
27 that applicants for concealed weapon
licenses must meet. This requires that
28 applicants be of good moral character, a

1. Penal Code section 12050; Declaration
of Blanca Pelowitz ("Pelowitz Decl") ¶¶ 1-
2.

2. Penal Code section 12050; Pelowitz
Decl. ¶ 6.

1 resident of the County they apply in,
2 demonstrate good cause and take a firearms
3 course.

4 3. Blanca Pelowitz has been the licensing
5 manager since 2002, has been delegated the
6 responsibility for CCW licensing by the
7 Sheriff and makes all determinations on
initial applications for CCW licenses

3. Pelowitz Decl. ¶¶ 1, 2, 4, 11.

8 4. The “residency” requirement is
9 generally defined by this County to be
10 any person who maintains a permanent
11 residence or spends more than six months
12 of the taxable year within the County if
13 the applicant claims dual residency. San
14 Diego County uses the term “resident” as
15 outlined in Penal Code section 12050(D),
16 and not “domicile.” Part-time residents
who spend less than six months in the
County are considered on a case-by-case
basis, and CCW licenses have been issued
in such circumstances.

4. Pelowitz Decl. ¶ 8.

17 5. The “good cause” requirement is
18 defined by this County to be a set of
19 circumstances that distinguish the applicant
20 from the mainstream and causes him or her
21 to be placed in harm’s way. Simply fearing
22 for one’s personal safety alone without
documentation of a specific threat is not
considered good cause.

5. Pelowitz Decl. ¶ 7.

23 6. There is no special treatment for
24 members of the Honorary Deputy Sheriffs
25 Association or for Sheriff’s campaign
donors

6. Pelowitz Decl. ¶ 22; see also
Defendant’s exhibits 2-18.

26 7. In 2006, as a courtesy for applicants,
27 the Department initiated an interview
28 process to assist both applicants and line
staff in determining pre-eligibility.

7. Pelowitz Decl. ¶ 11.

1 During this phase applicants will discuss
2 reasons and situations with line staff and
3 staff is trained to make notes of all
4 comments made by the applicant during
5 the interview. Staff assists in determining
6 what documentation may be required of
7 the applicant. If the clerk is able to
8 determine that good cause is questionable,
9 clerks are able to give an educated guess
10 based on the scenarios described by
11 applicants. The next phase involves
12 applicants gathering their documentation,
13 attending the 8-hour firearms course and
14 returning to submit the written
15 application, fees, and documentation.
16 During this process applicants will be
17 fingerprinted, photographed, signatures
18 will be obtained and applicants are
19 instructed to go to Sheriff's Range for a
20 weapons safety checked and to complete
21 a final qualify-shoot. Once this phase is
22 complete, the file and all documents are
23 forwarded to the Background Unit for the
24 comprehensive background and
25 verification process. The investigator will
26 provide a recommendation and forward to
27 the Manager who will make the decision
28 to issue or deny and will include any
reasonable restrictions and/or instructions
to staff.

8. CCW license holders can renew
licenses up to 30 days prior to the
expiration date. All renewals must
complete a firearms course, a qualify-
shoot and firearm safety inspection.
Renewals are issued on the spot if absent
any negative law enforcement contacts,
crime cases, arrests and there no changes
from the initial application as to the
reasons. No review by supervisor or

8. Pelowitz Decl. ¶ 12.

1 managers is needed for the renewal
2 process unless there have been changes to
3 the reason. Applicants still need to
4 provide some form of documentation to
5 support his or her continued need but not
6 to the extent of the initial application.
7 Applicants sign under penalty of perjury
8 that all prior conditions exist.

9 9. There is an administrative
10 reconsideration process for CCW
11 applicants. When taking administrative
12 action to deny, suspend or revoke a CCW
13 license, an upper command concurrence
14 through the Law Enforcement Service
15 Bureau is required before taking action.
16 All actions require the Manager to
17 prepare a brief synopsis of the proposed
18 action and recommendation. Command
19 will either concur or request additional
20 information. If concurrence is provided,
21 the denial, suspension or revocation letter
22 is mailed out. The individual is given the
23 opportunity to request an appeal of the
24 decision by writing to the Assistant
25 Sheriff of the Law Enforcement Service
26 Bureau. The appeal is heard by the
27 Assistant Sheriff of the Bureau who will
28 make the determination to overturn or
uphold decision.

9. Pelowitz Decl. ¶ 14.

10. Edward Peruta was denied a license to
carry a concealed weapon because he failed
to provide any documentation establishing
good cause. Residency was not a factor in
his denial which was based solely on the
lack of good cause.

10, Pelowitz Decl. ¶ 17.

11. Michelle Laxson did not apply for a
CCW license. She was interviewed by staff
but declined to complete and application
and did not return .

11. Pelowitz Decl. ¶ 18.

1 12. James Dodd has submitted an
2 application which is still pending at this
3 time.

12. Pelowitz Decl. ¶ 19.

4 13. Mark Cleary's renewal application was
5 denied based on lack of supporting
6 documentation relating to his employment
7 in March of 2010. Cleary requested a
8 reconsideration appeal and the decision to
9 deny the license was overturned by
10 Command after information about his
11 employment was confirmed. He was
12 issued a CCW license for a new term in
13 June of 2010.

13. Pelowitz Decl. ¶ 20; Plaintiffs' Exhibit
"F."

14. Leslie Buncher was a physician who
12 held a valid CCW license during the period
13 of 1971 to 2003. In 2008 Dr. Buncher
14 reapplied for a license. It was denied
15 because he was no longer a practicing
16 physician and the reasons he listed related
17 to his former medical practice. Dr.
18 Buncher declined to go through the
19 reconsideration appeal process.

14, Pelowitz Decl. ¶ 21.

20 DATED: October 4, 2010

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