



LEGAL DEFENSE TRUST

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TRAINING BULLETIN



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CCW DENIED? RULING REQUIRES CITY TO PROVIDE GOOD CAUSE HEARING

*Bonome v. City of Riverside, I064925, filed March 24, 2017
Court of Appeal, Fourth Appellate District, Division Two*

Penal Code §25400 prohibits the carrying of a concealed weapon. Under §25450, that section does **not** apply to “Any peace officer ... whether active or honorably retired.” *Penal Code* §16690 states: “... ‘honorably retired’ includes any peace officer who has qualified for, and has accepted, a service or disability retirement.... ‘Honorably retired’ does not include an officer who has agreed to a service retirement in lieu of termination.”

Camillo Bonome, Jr. had been employed as a Riverside Police Officer since 1995. Bonome was terminated for failing to properly investigate and report an incident involving sexual abuse of a minor and was terminated. Bonome appealed his termination, but prior to the administrative hearing, he applied for and was granted a disability retirement by CalPERS. When his disability retirement was granted, Bonome requested the City of Riverside to provide him with a retiree identification certificate bearing a carry concealed weapon (CCW) endorsement. The City denied Bonome’s request because it did not consider him to be “honorably retired” as that term is defined in *Penal Code* §16690. Further, the City told Bonome that he was not entitled to a hearing to dispute its decision.

Bonome filed a petition for a writ of mandate, requesting the Superior Court to order the City to provide him with identification having a CCW endorsement, or provide him with a hearing where he could dispute the City’s decision not to do so. The trial court granted the writ, and ordered the City to provide Bonome with a “good cause” hearing. The trial court found the statute excluded “*only* those who accept *service* retirement in lieu of termination. The statute makes clear that those who accept disability retirement are honorably retired under any circumstances.”

The City appealed, arguing that the Legislature could not have intended this “absurd result”, as it was clear Bonome filed for a disability retirement because he was notified he was going to be terminated. The Court of Appeal, in rejecting that argument, noted Bonome was not able to “negotiate” or “choose” to take a disability retirement in order to avoid termination (as one could with a service retirement) - “he was either disabled or he was not.” Upholding the trial court’s ruling, the Court remarked, “It is up to the Legislature to change the wording of the statute.”

“Defending Those Who Protect Others”

The Court of Appeal further noted the City still had the discretion to deny Bonome his CCW endorsement upon a showing of good cause. The Court expressed “no opinion as to whether there exists such good cause” and stated, “the issue would have to be resolved at a good cause hearing.”

Penal Code §26305 states in part: “(b) A retired peace officer may have the privilege to carry a concealed and loaded firearm revoked or denied by violating any department rule, or state or federal law that, if violated by an officer on active duty, would result in that officer’s arrest, suspension, or **removal** from the agency.... (d) An identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement may be permanently revoked or denied by the issuing agency only upon showing of good cause. Good cause shall be determined at a hearing, as specified in Section 26320.”

While former Officer Bonome may have been successful in requiring the City to provide him with a “good cause” hearing, under the facts and circumstances present in this case, the City could ultimately be successful in denying him his CCW endorsement.

Take Away- the employer must provide you a good cause hearing if you are denied a retiree identification with a CCW endorsement.

Stay safe!

Robert Rabe is Stone Busailah, LLP’s writs and appeals specialist. His 40 years practicing law include 16 years as a Barrister, Supreme Court of England and Wales, practicing in London, England.