

1 C.D. Michel – SBN 144257
Clint B. Monfort – SBN 255609
2 Sean A. Brady – SBN 262007
cmichel@michellawyers.com
3 MICHEL & ASSOCIATES, P.C.
180 E. Ocean Blvd., Suite 200
4 Long Beach, CA 90802
Telephone: (562) 216-4444
5 Facsimile: (562) 216-4445
Attorneys for Plaintiffs / Petitioners

6 Paul Neuharth, Jr. – SBN 147073
pneuharth@sbcglobal.net
7 PAUL NEUHARTH, JR., APC
1140 Union Street, Suite 102
8 San Diego, CA 92101
Telephone: (619) 231-0401
9 Facsimile: (619) 231-8759
10 Attorney for Plaintiffs / Petitioners

11
12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**
14

15 EDWARD PERUTA, MICHELLE
LAXSON, JAMES DODD, DR.
16 LESLIE BUNCHER, MARK
CLEARY, and CALIFORNIA RIFLE
17 AND PISTOL ASSOCIATION
FOUNDATION

18 Plaintiffs,

19 v.

20 COUNTY OF SAN DIEGO,
21 WILLIAM D. GORE,
INDIVIDUALLY AND IN HIS
22 CAPACITY AS SHERIFF,

23 Defendants.
24
25
26
27
28

CASE NO: 09-CV-2371 IEG (BGS)

**DECLARATION OF EDWARD
PERUTA IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: November 1, 2010
Time: 10:30 a.m.
Location: Courtroom 1
Judge: Hon. Irma E. Gonzalez
Date Action Filed: October 23, 2009

DECLARATION OF EDWARD PERUTA

I, Edward Peruta, declare as follows:

1. I am a resident of San Diego County and a United States Citizen over 21 years of age.

2. I am not prohibited under federal or California law from purchasing or possessing firearms.

3. I would carry a handgun in public for self-defense on occasions I deemed appropriate, but do not do so because I fear prosecution, as I do not possess a valid license to carry a concealed firearm pursuant to California Penal Code section 12050.

4. On or about November 17, 2008, I attended the initial interview portion of the San Diego County Sheriff's application process for a permit to carry a concealed handgun with the Licensing Department. I attended the interview with the intention of obtaining a permit to carry a concealed handgun.

5. During the November 17, 2008 interview I was asked questions about my reasons for wanting a permit to carry a concealed handgun. The cause I related to the interviewer for desiring a permit to carry a concealed handgun was general self-protection for my wife and me when we are staying in or operating our motor-home, and when I am gathering breaking news or conducting legal investigations per my profession.

6. After I explained to the interviewer, Donna Burns, at the November 17, 2008 interview that I wanted a permit to carry a concealed handgun for "self-protection," she responded to me "really and truly we have no basis for the self-protection, you have not been a threat of any specific target of violence. You have no restraining orders, no police reports, nothing to that effect. Self-protection is a tough one." Ms. Burns continued "we ask you to document why you are at more of a threat than anyone else in your position; what makes you a specific target." At one point during the interview, Ms. Burns asked me why I am different from all the

1 others who reside in motor-homes as far as my need for a permit to carry a
2 concealed handgun, to which I replied "I am not." I then went on in an attempt to
3 explain to her "but the *Heller* decision" at which point she interrupted me and
4 stated "I don't want to get into that."

5 7. I am not aware of any other legal means by which I may generally carry a
6 functional firearm while I am operating my motor-home or gathering breaking
7 news on scene besides being issued a permit from the San Diego County Sheriff's
8 Department pursuant to California Penal Code section 12050. Based on this
9 understanding, I decided to formally apply for a permit pursuant to California Penal
10 Code section 12050, despite Ms. Burns informing me at the November 17, 2008
11 interview that San Diego Sheriff's Department would require me to provide
12 documentation of specific threats to my person, which I did not possess.

13 8. On or about February 3, 2009, I submitted a completed official
14 Department of Justice application for a permit to carry a concealed handgun to the
15 San Diego County Sheriff's License Division. Exhibit "F" is a true and accurate
16 copy of the relevant pages of the completed application.

17 9. In my application for a permit to carry a concealed handgun, I provided as
18 my "good cause" the protection of myself and my wife from criminal attack,
19 because we spend substantial amounts of time in our motor-home, often in remote
20 areas, and we often carry large sums of cash and valuables in the motor-home.
21 And, my work, gathering breaking news and conducting legal investigations, often
22 requires me to enter dangerous locations. See Exhibit "F".

23 ///

24 ///

25 ///

26

27

28

1 10. On or about March 17, 2009, I received a letter from the San Diego
2 County Sheriff's License Division, signed by Blanca Pelowitz as the Licensing
3 Manager, denying my official Department of Justice application for a permit to
4 carry a concealed handgun. That letter stated: "The reasons and documentation you
5 have provided do not substantiate that good cause exists." Exhibit "G" is a true
6 and accurate copy of that letter I received from the San Diego County Sheriff's
7 License Division.

8 11. On or about March 20, 2009, I submitted to the San Diego County
9 Sheriff's Department a Notice of Intent to Appeal its denial of my official
10 Department of Justice application for a permit to carry a concealed handgun.
11 Exhibit "H" is a true and accurate copy of the official Notice of Intent to Appeal.

12 12. On or about March 24, 2009, my counsel, Paul H. Neuharth, Jr., on my
13 behalf and at my request, submitted to Assistant Sheriff Jim Cooke a formal request
14 for review of the San Diego County Sheriff's Department's denial of my official
15 Department of Justice application for a permit to carry a concealed handgun.
16 Exhibit "I" is a true and accurate copy of my official request for review.

17 13. On or about May 5, 2009, I received a letter from the San Diego County
18 Sheriff's Department, signed by Assistant Sheriff Jim Cooke, upholding the
19 decision to deny my official Department of Justice application for a permit to carry
20 a concealed handgun. That letter stated: "This decision is final and there is no
21 further appeal." Exhibit "J" is a true and accurate copy of that letter I received
22 from Assistant Sheriff Jim Cooke.

23 ///

24 ///

25 ///

26

27

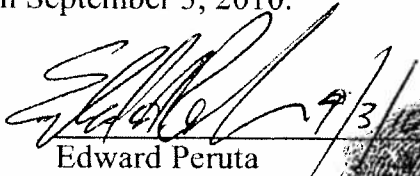
28

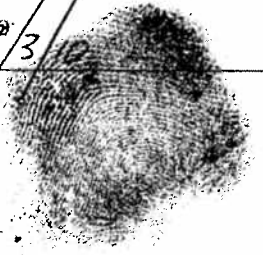
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

14. On or about October 23, 2009, I filed this lawsuit for declaratory and injunctive relief, challenging the San Diego County Sheriff's Department's denial of my official Department of Justice application for a permit to carry a concealed handgun, and its policy for determining the "good cause" of applicants for a permit to carry a concealed handgun, to be unconstitutional.

I declare under penalty of perjury, under the laws of the state of California, that the foregoing is true and correct.

Executed in the United States on September 3, 2010.


Edward Peruta



1 **IN THE UNITED STATES DISTRICT COURT**
2 **SOUTHERN DISTRICT OF CALIFORNIA**

3 EDWARD PERUTA,
4 MICHELLE LAXSON, JAMES
5 DODD, DR. LESLIE
6 BUNCHER, MARK CLEARY,
7 and CALIFORNIA RIFLE
8 AND PISTOL ASSOCIATION
9 FOUNDATION

10 Plaintiff,

11 v.

12 COUNTY OF SAN DIEGO,
13 WILLIAM D. GORE,
14 INDIVIDUALLY AND IN HIS
15 CAPACITY AS SHERIFF,

16 Defendants.

) **CASE NO. 09-CV-2371 IEG (BGS)**

) **CERTIFICATE OF SERVICE**

17 **IT IS HEREBY CERTIFIED THAT:**

18 I, the undersigned, am a citizen of the United States and am at least eighteen
19 years of age. My business address is 180 E. Ocean Blvd., Suite 200, Long Beach,
20 California, 90802.

21 I am not a party to the above-entitled action. I have caused service of:

22 **DECLARATION OF EDWARD PERUTA IN SUPPORT OF PLAINTIFFS'**
23 **MOTION FOR PARTIAL SUMMARY JUDGMENT**

24 on the following party by electronically filing the foregoing with the Clerk of the
25 District Court using its ECF System, which electronically notifies them.

26 James M. Chapin
27 County of San Diego
28 Office of County Counsel
1600 Pacific Highway
Room 355
San Diego, CA 92101-2469
(619) 531-5244
Fax: (619-531-6005
james.chapin@sdcounty.ca.gov

Paul Neuharth, Jr. (State Bar #147073)
PAUL NEUHARTH, JR., APC
1140 Union Street, Suite 102
San Diego, CA 92101
Telephone: (619) 231-0401
Facsimile: (619) 231-8759
pneuharth@sbcglobal.net

29 I declare under penalty of perjury that the foregoing is true and correct.
30 Executed on September 3, 2010

31 /s/ C.D. Michel
32 C. D. Michel
33 Attorney for Plaintiffs