

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SHAWN GOWDER,

Plaintiff,

v.

CITY OF CHICAGO, a municipal corporation,  
the CITY OF CHICAGO DEPARTMENT OF  
ADMINISTRATIVE HEARINGS, MUNICIPAL  
HEARINGS DIVISION, SCOTT V. BRUNER,  
Director of the City of Chicago Department of  
Administrative Hearings, the CITY OF CHICAGO  
DEPARTMENT OF POLICE, and JODY P. WEIS,  
Superintendent of the City of Chicago Department  
of Police,

Defendants.

No. 11 CV 1304

JUDGE DER-YEGHIAYAN

**DEFENDANT CITY OF CHICAGO DEPARTMENT OF ADMINISTRATIVE  
HEARINGS' ANSWER TO COMPLAINT FOR ADMINISTRATIVE REVIEW**

Defendant City of Chicago Department of Administrative Hearings, by and through its attorney, Mara S. Georges, Corporation Counsel of the City of Chicago, hereby submits as its Answer to Plaintiff's Complaint for Administrative Review a copy of the Record of Proceedings in the matter of *City of Chicago v. Gowder*, 10GR000041, certified on February 28, 2011, which is attached hereto as Exhibit A.

Date: April 7, 2011

Respectfully submitted,

MARA S. GEORGES  
Corporation Counsel for the City of Chicago

By: /s/ Rebecca Alfert Hirsch  
Assistant Corporation Counsel

Michael A. Forti  
Mardell Nereim  
William Macy Aguiar  
Rebecca Alfert Hirsch  
Andrew W. Worseck  
City of Chicago, Department of Law  
Constitutional and Commercial Litigation Division  
30 North LaSalle Street, Suite 1230  
Chicago, Illinois 60602  
(312) 742-0260  
Attorney No. 90909

**CERTIFICATE OF SERVICE**

The undersigned, an attorney of record for the Defendants, hereby certifies that on April 7, 2011, she served a copy of the foregoing **Defendant City of Chicago Department of Administrative Hearings' Answer to Complaint for Administrative Review** on the party listed below by electronic means pursuant to Electronic Case Filing (ECF):

Stephen Kolodziej  
Brenner Ford Monroe & Scott Ltd.  
33 N. Dearborn St., Suite 300  
Chicago, IL 60602  
Tel: (312) 781-1970  
Fax: (312) 781-9202  
Email: skolodziej@brennerlawfirm.com

/s/ Rebecca Alfert Hirsch

DOAH-Record on Appeal (A)

(5/97)

**APPEAL TO THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT**

**Shawn Gowder,**

Plaintiff(s),

v.

**CITY OF CHICAGO, a Municipal Corporation, et al.**  
Defendants.

11CH01361

**FROM THE CITY OF CHICAGO, ILLINOIS  
DEPARTMENT OF ADMINISTRATIVE HEARINGS  
MUNICIPAL HEARINGS DIVISION**

**CITY OF CHICAGO, a Municipal Corporation,**  
Department of **POLICE,**

v.

Petitioner,

**Shawn Gowder,**


Respondent.

10GR01361

**CERTIFICATION OF RECORD**

I, Lisa Adam, keeper of the records of the City of Chicago Department of Administrative Hearings, Municipal Hearings Division, do hereby certify the attached 41 pages to be a true, perfect and complete copy of the *Record* in the above captioned matter before the City of Chicago Department of Administrative Hearings, Municipal Hearings Division.

In witness whereof, I have hereto set my hand  
this 28<sup>th</sup> day of February, 2011.

  
Lisa Adam

City of Chicago, Department of Administrative Hearings  
740 N. Sedgwick St., 2nd Fl., Chicago, IL 60654  
312-742-8200

1057200004/1



FILED

2010 NOV 22 AM 10:53

Richard M. Daley  
Mayor

Department of Police • City of Chicago  
3510 S. Michigan Avenue • Chicago, Illinois 60604

Jody P. Weis  
Superintendent of Police

Mr. Shawn Gowder

November 10, 2010

Re: Notice of Denial of your Application for a Chicago Firearm Permit

Dear Mr. Gowder,

A review of your application and the records maintained by the Chicago Police Department indicates that you are ineligible to be approved for a Chicago Firearm Permit (CFP). Pursuant to Chapter 8-20-190 of the Municipal Code of Chicago, your application for a CFP is denied for the following reason:

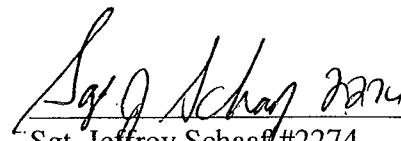
You have been convicted by a court in any jurisdiction of an unlawful use of a weapon that is a firearm. See Municipal Code of Chicago 8-20-110 (b) (3) (iii).

Pursuant to Municipal Code of Chicago 8-20-200, **within ten (10) days of this Notice of Denial, you are entitled to request a hearing, in person and in writing, at the Department of Administrative Hearings.** The Department of Administrative Hearings is located at the following address:

Department of Administrative Hearings  
Municipal Hearings Division  
740 N Sedgwick, 2<sup>nd</sup> Floor  
Chicago, IL 60610

You are entitled to appear at the hearing to testify, present documents, including affidavits, and any other evidence to contest this denial. If you fail to request a hearing within ten (10) days, you will be deemed to have conceded the validity of the reason for the denial stated above and the denial shall become final.

I hereby affirm, under penalties as provided by law, that the information contained herein is correct to the best of my knowledge, information and belief.

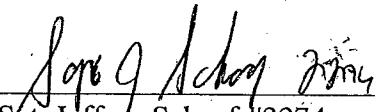
  
Sgt. Jeffrey Schaal #2274  
Gun Registration Section  
Chicago Police Department

R2

**FILED**  
2010 NOV 22 AM 10: 53  
CITY OF CHICAGO  
DEPT. OF ADMIN. HEARINGS

Certificate of Service

The undersigned, under penalties as provided by law, hereby certifies that this Notice of Denial was served upon the person to whom directed, by placing the Notice in an envelope, addressed as shown above and depositing it into the US mail located at CPD Headquarters at or before 5:00 pm on the 10<sup>th</sup> of November 2010, using prepaid certified mail postage.

  
Sgt. Jeffrey Schaaf #2274  
Gun Registration Section  
Chicago Police Department

10GR000041

22 Nov 2010

I (SHAWN GOWDER) AM REQUESTING  
A HEARING REGARDING MY  
DENIAL OF APPLICATION FOR A  
CHICAGO FIREARMS PERMIT.  
Phone #

Shawn D Gowder  
CHICAGO IL

FILED

2010 NOV 22 AM 10:53

CITY OF CHICAGO  
DEPT. OF ADMIN. HEARINGS



City of Chicago  
Richard M. Daley, Mayor

Department of  
Administrative Hearings

Scott V. Bruner  
Director

Administrative Offices  
6th Floor  
740 North Sedgwick Street  
Chicago, Illinois 60610  
(312) 742-8200  
(312) 742-8222 (FAX)  
(312) 742-8249 (TTY)  
<http://www.cityofchicago.org>

November 22, 2010

Mr. Shawn Gowder

**NOTICE OF HEARING**

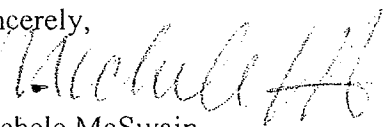
Please be advised that you have been scheduled for an administrative hearing pursuant to your request for hearing under 8-20-200 of the Municipal Code of Chicago. This hearing is based upon the denial of a Chicago Firearm Permit by City of Chicago, Department of Police. The denial of Firearm Permit specifies

1) You have been convicted by a court in any jurisdiction of an unlawful use of a weapon that is a firearm. See MCC 8-20-110 (b) (3) (iii).

**You are hereby noticed to appear for hearing on Wednesday, November 24, 2010 at 2:00 p.m., 400 W. Superior, Room 111, Chicago, Illinois.** Please take notice that at the hearing you may be represented by counsel and you may produce witnesses and evidence on your behalf. Your failure to appear may result in an order of default being entered against you.

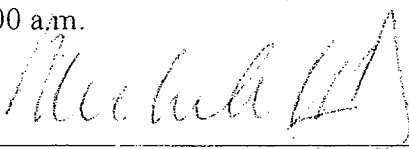
Should you have any questions, you may call me at (312) 742-8350.

Sincerely,

  
Michele McSwain  
Division Chief  
Municipal Hearings Division

**PROOF OF SERVICE BY PERSONAL SERVICE**

I, Michele McSwain, at attorney, certify that I served a copy of the above Notice of Hearing by personally serving it to Shawn Gowder at 740 N. Sedgwick, 2<sup>nd</sup> floor, Chicago, IL, 60654 on November 22, 2010 at 11:00 a.m.





R5



DOAH-Order

(1/00)

**IN THE CITY OF CHICAGO, ILLINOIS  
DEPARTMENT OF ADMINISTRATIVE HEARINGS**

CITY OF CHICAGO, a Municipal Corporation, )  
Petitioner, )  
v. )  
GOWDER )  
SHAWN )  
Respondent. )

Docket # 106R000041  
Issuing City POLICE  
Department.: POLICE

**FINDINGS, DECISIONS & ORDER**

This matter coming for Hearing, notice given and the Administrative Body advised in the premises, having considered any motions, evidence and arguments presented, IT IS ORDERED: ~~As to the count(s), this Administrative Body finds by a preponderance of the evidence and rules as follows:~~

Citation or Count(s)FindingFines, costs & other penalties

Cause for Shawn Gowder, having waived  
requirement of hearing within 72 hours in  
WICE 8-20-2010, motion for continuance  
is granted without objection

**JUDGMENT TOTAL: \$****R6**

~~Respondent is further ordered to immediately correct any and all outstanding above found violation(s).~~

- ☐ Liability was: ☐ contested or ☐ stipulated to.
- ☐ Respondent being noticed and failing to: ☐ appear at, or ☐ timely request a hearing is held in default; and has 21 days from the above stamped mailing date to vacate (void) this default for good cause.
- ☐ Petitioner is granted leave to re-inspect the premises or business as it relates to the above found violation(s).
- ☐ Respondent is ordered to comply with all requirements of City's community service program.
- ☐ Case is: ☐ dismissed with prejudice, ☐ dismissed without prejudice, or ☐ non-suited by petitioner.
- ☐ Motion to set aside prior default order(s) of \_\_\_\_\_ is ☐ granted ☐ denied.
- ☒ Case is continued to December 8, 2010 at 2:00 P.M. for: ☐ service ☒ Hearing.

Entered

Administrative Law Officer and ALO#

Date

James [Signature] #39 11-24-10

You may appeal this Order to the Circuit Court of Cook Co. (Daley Center 6th Fl.) within 35 days by filing a civil law suit against the City of Chicago and by paying the appropriate State mandated filing fees.



DOAH-Appeal (A)

IN THE CITY OF CHICAGO, ILLINOIS  
DEPARTMENT OF ADMINISTRATIVE HEARINGS

(5/05)

Municipal HEARINGS DIVISION

SECTION

CITY OF CHICAGO, a Municipal Corporation,  
(by the Department of \_\_\_\_\_)

Petitioner,

v.

Shawn Gowder

Respondent.

Doc. No. 10 GR 000091

Cit. No. \_\_\_\_\_

APPEARANCE FOR RESPONDENT

I, Stephen A. Kolodziej, do hereby enter my Appearance on behalf of the above  
(Print name)  
captioned Respondent. I do further state under oath that I am the Respondent/Owner \_\_\_\_\_, or that I am the  
Lessee \_\_\_\_\_, Attorney X, or authorized Agent/Representative \_\_\_\_\_ of the above  
captioned Respondent.

11-24-10  
(Date)

Stephen A. Kolodziej  
(Signature)

33 N. Dearborn, Ste 300  
(Address)

Chicago, IL 60602  
(City, State/Zip)

312-781-1970  
(Phone #)

38007  
(Attorney #, if applicable)

R7

DOAH-Appearance (A)

IN THE CITY OF CHICAGO, ILLINOIS  
DEPARTMENT OF ADMINISTRATIVE HEARINGS

(5/05)

Municipal HEARINGS DIVISION  
SECTIONCITY OF CHICAGO, a Municipal Corporation,  
(by the Department of Police)

Petitioner,

v.

Doc. No. 10 GR 00041

Cit. No. \_\_\_\_\_

Shawn Gouder

Respondent.

APPEARANCE FOR RESPONDENT

I, Stephen A. Kolodziej, do hereby enter my Appearance on behalf of the above  
(Print name)  
captioned Respondent. I do further state under oath that I am the Respondent/Owner \_\_\_\_\_, or that I am the  
Lessee \_\_\_\_\_, Attorney X, or authorized Agent/Representative \_\_\_\_\_ of the above  
captioned Respondent.

12-8-10  
(Date)Stephen A. Kolodziej  
(Signature)33 N. Dearborn, Ste. 300  
(Address)Chicago, IL 60602  
(City, State, Zip)312-781-1970  
(Phone #)38007  
(Attorney #, if applicable)

R8

**IN THE CITY OF CHICAGO, ILLINOIS  
DEPARTMENT OF ADMINISTRATIVE HEARINGS  
MUNICIPAL HEARINGS DIVISION**

CITY OF CHICAGO, a Municipal Corporation,	)	
	)	
Petitioner,	)	
	)	Docket No. 10 GR 000041
v.	)	
	)	
SHAWN GOWDER,	)	Issuing City Department: Police
	)	
Respondent.	)	

**APPEAL OF DENIAL OF A CHICAGO FIREARM PERMIT  
MUNICIPAL CODE OF CHICAGO § 8-20-200**

Shawn Gowder, by undersigned counsel, hereby submits the following in support of his appeal of the denial of a Chicago Firearm Permit (CFP):

**I. THE CONVICTION WAS NOT FOR “UNLAWFUL *USE* OF A WEAPON.”**

The Notice of Denial, dated Nov. 10, 2010, states: “You have been convicted by a court in any jurisdiction of an unlawful use of a weapon that is a firearm. See Municipal Code of Chicago 8-20-110(b)(3)(iii).” However, the Certified Statement of Conviction/Disposition shows a misdemeanor conviction for: “Carry/possess firearm in P.” The terms “carry/possess” do not constitute “use.”

The legal distinction between “carry or possess” and “use” is recognized in MCC 8-20-110 itself, which provides in part:

- (a) . . . it is unlawful for any person to *carry or possess* a firearm without a CFP.
- (b) No CFP application shall be approved unless the applicant: . . .
  - (3) has not been convicted by a court in any jurisdiction of: . . .
    - (iii) an unlawful *use* of a weapon that is a firearm . . . . (Emphasis added.)<sup>1</sup>

Since the above refers to having been “convicted by a court *in any jurisdiction*” of the “unlawful use” of a firearm, the term “use” refers to its ordinary meaning in the law by jurisdictions generally, not an uncommon meaning by a single jurisdiction.<sup>2</sup> No special

<sup>1</sup>See also MCC 8-20-202(a) (“It is unlawful for any person to carry or possess a handgun, except when in the person’s home.”).

<sup>2</sup>“Because it is undefined, this statutory term must be given its plain and ordinary meaning.” *Village of Northfield v. BP America, Inc.*, 403 Ill. App.3d 55, 61, 933 N.E.2d 413 (2010). See *People v. Fort*, 373 Ill. App.3d 882, 885, 311 Ill. Dec. 937, 869 N.E.2d 950, 953 (2007) (a court

definition is set forth in MCC 8-20-010, "Definitions." A reference is made there to the Illinois Firearms Owners Identification Card Act, 430 ILCS 65/1 *et seq.*, but not in connection with the issue here.

The conviction here is for a violation of 720 ILCS 5/24-1(a)(10), which has the following uncommon meaning of "use":

A person commits the offense of unlawful use of weapons when he knowingly: . . .

(10) Carries or possesses on or about his person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, . . . any pistol, revolver, stun gun or taser or other firearm . . . .

Other jurisdictions – including the United States, other States, and Illinois municipalities – do not equate the mere carrying or possession of a firearm with the "use" thereof. For instance, the federal Gun Control Act penalizes "possession" in some contexts, and "use" in others. Compare 18 U.S.C. § 922(g) ("possession" of firearm by certain persons) with § 924(c) ("use" of firearm during drug trafficking or crime of violence). *Bailey v. United States*, 516 U.S. 137, 143 (1995), held about the latter that "'use' signifies active employment of a firearm. . . . We . . . hold that § 924(c)(1) requires evidence sufficient to show an active employment of the firearm by the defendant, a use that makes the firearm an operative factor in relation to the predicate offense."<sup>3</sup> "We agree . . . that 'use' must connote more than mere possession of a firearm . . . ." *Id.* See also *id.* at 146 ("a firearm can be carried without being used").

The term "use" in MCC 8-20-110 must be given its ordinary meaning, which would be, as explained in *Bailey, id.* at 145:

The word "use" in the statute must be given its "ordinary or natural" meaning, a meaning variously defined as "[t]o convert to one's service," "to employ," "to avail oneself of," and "to carry out a purpose or action by means of." . . . (citing Webster's New International Dictionary of English Language 2806 (2d ed. 1949) and Black's Law Dictionary 1541 (6th ed. 1990)).

Unless construed with its ordinary meaning, MCC 8-20-110 would allow a person with a conviction for mere possession or carrying of a firearm in any jurisdiction in the United States to be issued a CFP. The lone exception would be a person convicted under 720 ILCS 5/24-1(a)(10)1. "Statutes must be construed to avoid absurd results." *Jones v. Nissan North America, Inc.*, 385 Ill. App.3d 740, 751, 895 N.E.2d 303 (2008). Moreover, the provision must be interpreted according to ordinary usage to avoid the constitutional issue of whether the resulting

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may "turn to a dictionary when determining the meaning of an otherwise undefined word or phrase").

<sup>3</sup>"The active-employment understanding of 'use' certainly includes brandishing, displaying, bartering, striking with, and, most obviously, firing or attempting to fire a firearm." *Id.* at 148.

ban on possession of a firearm by the applicant would violate Amends. II and XIV, U.S. Const., and Art. I, § 22, Ill. Const.<sup>4</sup>

## **II. DENIAL OF THE CFP BASED ON A MISDEMEANOR CONVICTION FOR MERE POSSESSION/CARRYING OF A FIREARM VIOLATES THE RIGHT TO KEEP AND BEAR ARMS**

Denial of the CFP infringes on the applicant's right to keep and bear arms in the meaning of Amends. II and XIV, U.S. Const., and Art. I, § 22, Ill. Const. He may lawfully possess firearms under the laws of the United States and Illinois. He has a FOID card issued pursuant to the Illinois Firearms Owners Identification Card Act, 430 ILCS 65/1 *et seq.*, and thus is not among the "persons who are not qualified to acquire or possess firearms . . . within the State of Illinois . . . ." *Id.* § 1. He is entitled to the FOID card because "[h]e . . . has not been convicted of a felony under the laws of this or any other jurisdiction . . . ." *Id.* § 4(a)(2)(ii).

The applicant's misdemeanor conviction for "carr[ying] or possess[ing] on or about his person" a firearm under 720 ILCS 5/24-1(a)(10) does not disqualify him from possessing a firearm under the laws of the United States and Illinois. That offense itself is constitutionally suspect given that he has a right to "bear arms" under both constitutional guarantees.

### **A. Violation of the Second and Fourteenth Amendments**

The Second Amendment provides in part that "the right of the people to keep and bear arms, shall not be infringed." *District of Columbia v. Heller*, 128 S.Ct. 2783 (2008), held that the Second Amendment protects the right to keep and bear arms for the purpose of self-defense, and struck down a law that banned the possession of handguns in the home. *McDonald v. City of Chicago*, 130 S.Ct. 3020 (2010), held the right to apply to the states.

A person with a misdemeanor conviction, particularly for the victimless crime of carrying or possessing a firearm, may not be deprived of the right to keep and bear arms. "We made it clear in *Heller* that our holding did not cast doubt on such longstanding regulatory measures as 'prohibitions on the possession of firearms by felons and the mentally ill,' . . . ." *McDonald*, 130 S.Ct. at 3047, citing *Heller*, 128 S.Ct. at 2816-2817. The Court conspicuously made no mention of misdeameanants, who have not forfeited the right as have felons.

The only misdemeanor that has been held to disqualify one from Second Amendment rights is the "misdemeanor crime of domestic violence" under 18 U.S.C. § 922(g)(9). "The belief underpinning § 922(g)(9) is that people who have been convicted of violence once – toward a spouse, child, or domestic partner, no less – are likely to use violence again." *United States v. Skoien*, 614 F.3d 638, 642 (7<sup>th</sup> Cir. 2010) (en banc). But the term "violent crime" does

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<sup>4</sup>See *Villegas v. Board of Fire & Police Commissioners*, 167 Ill.2d 108, 124, 212 Ill. Dec. 240, 656 N.E.2d 1074 (1995) ("where possible, courts are to interpret statutes and ordinances in such manner as to avoid raising serious constitutional questions.").

not apply to the mere unlawful possession of a firearm, *Stinson v. United States*, 508 U.S. 36, 47 (1993), or carrying a concealed weapon, *United States v. Archer*, 531 F.3d 1347, 1351 (11<sup>th</sup> Cir. 2008).

Moreover, the prohibition on “carr[ying] or possess[ing] on or about his person” a firearm under 720 ILCS 5/24-1(a)(10)1 criminalizes the exercise of a constitutional right and thus may not be the basis for denial of the same constitutional right. “At the time of the founding, as now, to ‘bear’ meant to ‘carry.’” *Heller*, 128 S.Ct. at 2793. *Heller* equated “bear arms” with “carries a firearm,” including to “wear, bear, or carry . . . upon the person or in the clothing or in a pocket, for the purpose . . . of being armed and ready for offensive or defensive action in a case of conflict with another person.” *Id.*

The Illinois statute makes it a crime to exercise the constitutional right to bear arms in any fashion. *Heller* noted the limited, traditional “prohibitions on carrying concealed weapons” and “laws forbidding the carrying of firearms in sensitive places such as schools and government buildings.” *Id.* at 2816-2817. *McDonald* made clear that the Fourteenth Amendment, in extending the Second Amendment to the states, would invalidate outright bans on the carrying of firearms in any form.<sup>5</sup>

Accordingly, MCC 8-20-110(b)(3)(iii) on its face and as applied violates the Second and Fourteenth Amendments to the U.S. Constitution, and is void.

#### B. Violation of Ill. Const., Art. I, § 22

Article I, § 22, of the Illinois Constitution provides: “Subject only to the police power, the right of the individual citizen to keep and bear arms shall not be infringed.” Unless construed not to disqualify the applicant for a CFP, MCC 8-20-110(b)(3)(iii) would infringe on his right to keep and bear arms in that it would prohibit him from possession of any firearm.

“Based on the floor debates and the official explanation, as well as on the language of the provision, it is apparent to us that section 22, as submitted to the voters, meant that a ban on all firearms that an individual citizen might use would not be permissible . . . .” *Kalodimos v. Village of Morton Grove*, 103 Ill.2d 483, 498, 470 N.E.2d 266 (1984). “We emphasize again that section 22 bestows upon individual citizens for the first time a right to possess some form of weapon suitable for self-defense or recreation . . . .” *Id.* at 499.

Accordingly, MCC 8-20-110(b)(3)(iii) on its face and as applied violates Ill. Const., Art. I, § 22, and is void.

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<sup>5</sup>These laws which the Fourteenth Amendment would invalidate typically provided that freedmen may not “keep or carry fire-arms of any kind.” 130 S.Ct. at 3038. An enactment preceding the Fourteenth Amendment and underlying its intent declared that the rights to “personal liberty” and “personal security” included “the constitutional right to bear arms” for all. *Id.* at 3040.

### CONCLUSION

The denial should be reversed and the applicant Shawn Gowder should be issued a Chicago Firearm Permit.

Respectfully submitted,

SHAWN GOWDER

By: 

Stephen A. Kolodziej  
His Attorney

Stephen A. Kolodziej  
Brenner, Ford, Monroe & Scott, Ltd.  
33 North Dearborn Street, Suite 300  
Chicago, Illinois 60602  
312-781-1970

**V.**

**Department.:**

~~Fines, costs & other penalties~~

Date \_\_\_\_\_

ALO may cross-out any non-applicable pre-printed portions.



106R000041

22 Nov 2010

I (SHAWN BOWDER) AM REQUESTING  
A HEARING REGARDING MY  
DENIAL OF APPLICATION FOR A  
CHICAGO FIREARMS PERMIT.  
Phone #

Shawn D Bowder  
-R  
Chicago IL

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Department of  
Administrative Hearings

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106K000041

November 22, 2010

Mr. Shawn Gowder

Chicago, IL

**NOTICE OF HEARING**

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1) You have been convicted by a court in any jurisdiction of an unlawful use of a weapon that is a firearm. See MCC 8-20-110 (b) (3) (iii).

You are hereby noticed to appear for hearing on Wednesday, November 24, 2010 at 2:00 p.m., 400 W. Superior, Room 111, Chicago, Illinois. Please take notice that at the hearing you may be represented by counsel and you may produce witnesses and evidence on your behalf. Your failure to appear may result in an order of default being entered against you.

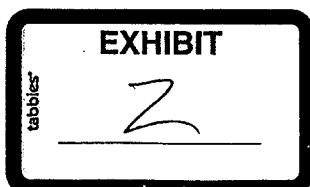
Should you have any questions, you may call me at (312) 742-8350.

Sincerely,

Michele McSwain  
Division Chief  
Municipal Hearings Division

**PROOF OF SERVICE BY PERSONAL SERVICE**

I, Michele McSwain, at attorney, certify that I served a copy of the above Notice of Hearing by personally serving it to Shawn Gowder at 740 N. Sedgwick, 2<sup>nd</sup> floor, Chicago, IL, 60654 on November 22, 2010 at 11:00 a.m.



R16

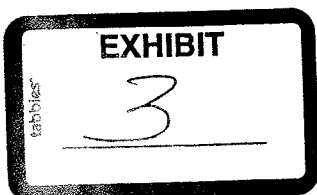


Docket # 10GR000041

Re: Shawn Gowder

I hereby affirm under penalties as provided by law that the information contained herein is correct to the best of my information and belief; was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with personal knowledge of those matters; was kept in the course of the regularly conducted activity; and was made by the regular conducted activity as a regular practice of the Chicago Police Department.

By: Sgt. Jeffrey Schaaf  
Sgt. Jeffrey Schaaf#2274  
Gun Registration Section





106200041

Richard M. Daley  
Mayor

Department of Police • City of Chicago  
3510 S. Michigan Avenue • Chicago, Illinois 60653

Jody P. Weis  
Superintendent of Police

Mr. Shawn Gowder

November 10, 2010

**DENIED**

Re: Notice of Denial of your Application for a Chicago Firearm Permit

Dear Mr. Gowder,

A review of your application and the records maintained by the Chicago Police Department indicates that you are ineligible to be approved for a Chicago Firearm Permit (CFP). Pursuant to Chapter 8-20-190 of the Municipal Code of Chicago, your application for a CFP is denied for the following reason:

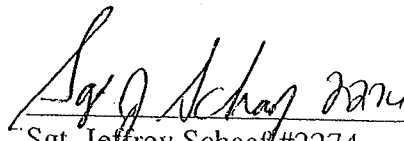
You have been convicted by a court in any jurisdiction of an unlawful use of a weapon that is a firearm. See Municipal Code of Chicago 8-20-110 (b) (3) (iii).

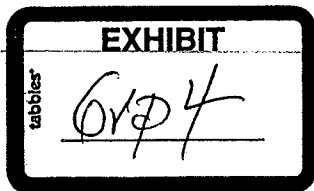
Pursuant to Municipal Code of Chicago 8-20-200, **within ten (10) days of this Notice of Denial, you are entitled to request a hearing, in person and in writing, at the Department of Administrative Hearings.** The Department of Administrative Hearings is located at the following address:

Department of Administrative Hearings  
Municipal Hearings Division  
740 N Sedgwick, 2<sup>nd</sup> Floor  
Chicago, IL 60610

You are entitled to appear at the hearing to testify, present documents, including affidavits, and any other evidence to contest this denial. If you fail to request a hearing within ten (10) days, you will be deemed to have conceded the validity of the reason for the denial stated above and the denial shall become final.

I hereby affirm, under penalties as provided by law, that the information contained herein is correct to the best of my knowledge, information and belief.

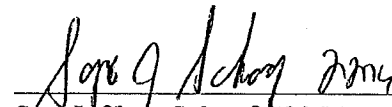
  
Sgt. Jeffrey Schaal #2274  
Gun Registration Section  
Chicago Police Department



R18

Certificate of Service

The undersigned, under penalties as provided by law, hereby certifies that this Notice of Denial was served upon the person to whom directed, by placing the Notice in an envelope, addressed as shown above and depositing it into the US mail located at CPD Headquarters at or before 5:00 pm on the 10<sup>th</sup> of November 2010, using prepaid certified mail postage.

  
Sgt. Jeffrey Schaaf #2274  
Gun Registration Section  
Chicago Police Department

**A CHICAGO FIREARMS PERMIT (CFP)**

CITY OF CHICAGO/ DEPARTMENT OF POLICE

☒ NEW ☐ DUPLICATE  
☐ AMENDMENT

NAME OF APPLICANT (LAST - FIRST - M.I.)

Gowder - Shawn - D

HOME ADDRESS (STREET)

CITY-STATE - ZIP CODE

HOME PHONE NO.

SOCIAL SECURITY NO.

DATE OF BIRTH (Day-Month-Year)

DRIVERS LICENSE NO.

STATE

Illinois

SEX

☒ MALE  
☐ FEMALE

APPLICANT'S BUSINESS ADDRESS

IL FIREARM OWNER IDENTIFICATION NO.

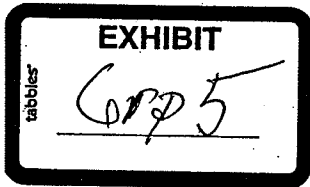
RACE CODE (CIRCLE ONE)

0 2 3 4 5 6 7  
(Describe Other Below)  
See reverse side for race codes.

DATE

Shawn D Gowder / Nov 2010

OTHER

**C CHICAGO FIREARMS PERMIT (CFP)**

CITY OF CHICAGO/ DEPARTMENT OF POLICE

☒ NEW ☐ DUPLICATE  
☐ AMENDMENT

NAME OF APPLICANT (LAST - FIRST - M.I.)

Gowder - Shawn - D

HOME ADDRESS (STREET)

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STATE

Illinois

SEX

☒ MALE  
☐ FEMALE

APPLICANT'S BUSINESS ADDRESS

IL FIREARM OWNER IDENTIFICATION NO.

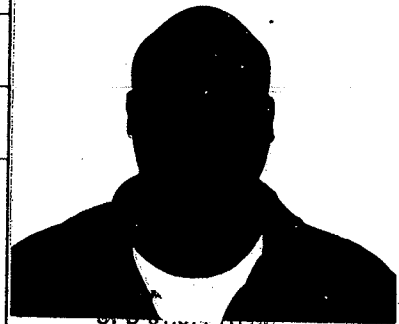
RACE CODE (CIRCLE ONE)

0 2 3 4 5 6 7  
(Describe Other Below)  
See reverse side for race codes.

DATE

Shawn D Gowder / Nov 2010

OTHER



Chicago Police Department  
Gun Registration Program, Unit 163  
3510 S. Michigan Avenue  
Room 1027 SE  
Chicago, IL 60653



To: Superintendent, Chicago Police Department

Please be advised that (Name of Applicant) Shawn Gowder

has completed a firearm safety and training course on (Date) 10-30-10

Training Entity/Facility(ies) Sporting Arms & Supply, Inc.

Address: 14216 S. Western Avenue

City, State, Zip Code: Posen, IL 60469

The firearm safety and training course consisted of a minimum of one hour of range training and four hours of classroom instruction, and included all of the following:

- (a) instruction in the dangers of and misuse of firearms, and their care, cleaning and storage and safety rules;
- (b) practice firing on a range with live ammunition;
- (c) instruction in the legal use of firearms; and,
- (d) a presentation of the ethical and moral considerations necessary for any person who possesses a firearm.

Under penalties as provided by law, I am approved as a firearm instructor by the Illinois Department of Financial & Professional Regulation. I further attest the above information is truthful, correct and complete.

X Gerald L. Vernon 10-30-10  
Firearm Instructor's Signature Date

Name: Gerald L. Vernon

Address: \_\_\_\_\_

City, State, Zip Code: Chicago, IL

Phone Number: \_\_\_\_\_

Under penalties as provided by law, as the CFP applicant, I attest that I have completed the firearm safety and training course in compliance with MCC 8-20-120(a) (7).

X \_\_\_\_\_  
Applicant's Signature Date

Name: Shawn Gowder

Address: \_\_\_\_\_

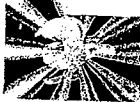
City, State, Zip Code: Chicago IL

Phone Number: \_\_\_\_\_

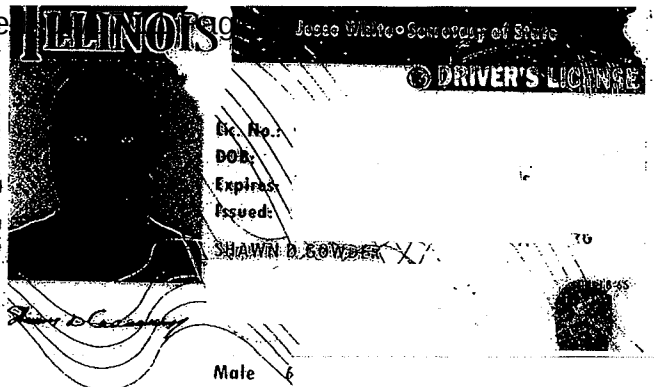
FOLD Number: \_\_\_\_\_



CAUTION: This card does not permit bearer to UNLAWFULLY carry or use firearms. This does not authorize the carrying of a concealed weapon.



ILLINOIS STATE POLICE



11 NOV 2010 14



**ILLINOIS STATE POLICE  
BUREAU OF IDENTIFICATION  
260 NORTH CHICAGO STREET  
JOLIET, ILLINOIS 60432-4075**

CHICAGO PD - GUN OWNERS  
ATTN: JOSEPH PERFETTI, UNIT 166  
3510 S MICHIGAN  
CHICAGO, IL 60653

THIS CRIMINAL HISTORY RECORD IS BEING ISSUED BY THE ILLINOIS STATE POLICE, BUREAU OF IDENTIFICATION PURSUANT TO THE FEE APPLICANT FINGERPRINT CARD SUBMITTED BY YOUR AGENCY. THIS RESPONSE IS BASED UPON FINGERPRINT IDENTIFICATION.

THE APPLICANT FINGERPRINT CARD WILL BE RETAINED IN THE FILES OF THE ILLINOIS STATE POLICE TO FACILITATE FUTURE DISSEMINATION TO YOUR AGENCY OF ANY ADDITIONAL CONVICTION INFORMATION PERTAINING TO THIS SUBJECT.

THE ILLINOIS STATE POLICE IS PERMITTED TO DISSEMINATE CRIMINAL HISTORY RECORD INFORMATION AS AUTHORIZED BY STATE LAW. ATTEMPTS ARE MADE TO MAKE RECORDS AS COMPLETE AS POSSIBLE BY OBTAINING MISSING COURT DISPOSITIONS FROM VARIOUS SOURCES. IN SOME CASES HOWEVER, DISPOSITION INFORMATION IS UNAVAILABLE.

THE SEARCH ROUTINE USED TO PROCESS YOUR SUBMISSION DID NOT INCLUDE AN INQUIRY INTO THE ILLINOIS STATE POLICE SEX OFFENDER REGISTRATION FILE. TO DETERMINE IF THE SUBJECT OF YOUR INQUIRY IS A REGISTERED SEX OFFENDER, PLEASE CHECK THE ILLINOIS STATE POLICE REGISTERED SEX OFFENDER INFORMATION WEB SITE AT "WWW.ISP.STATE.IL.US".

IF YOU HAVE ANY QUESTIONS CONCERNING THIS MATTER, PLEASE FEEL FREE TO CONTACT THE BUREAU OF IDENTIFICATION SWITCHBOARD OPERATOR AT (815) 740-5160.

---

**IDENTIFIERS**

---

DCN: J00216850	TCN: HST0104J00216850	PURPOSE: LGE
SUBMISSION TYPE: FEAPP	RESULT: HIT	SID:
Name: GOWDER, SHAWN D	Employer #: ILL14203S	SSN#:
Sex Code: M	Race Code: B	DOB:

---

**STATE USE ONLY**

WARNING: Release of this information to unauthorized individuals or agencies or misuse is prohibited by Federal Law Title 42 USC 3789g pertaining to criminal history information.

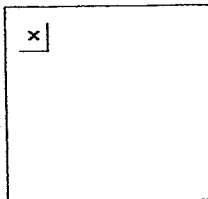
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**EXHIBIT**

tabbles

*Gnp6*

**R23**



## ILLINOIS STATE POLICE

Bureau Of Identification

260 North Chicago Street

Joliet, IL 60432-4075

Criminal History of:  
(Last Known Name)

GOWDER, SHAWN

State Identification Number:

Conviction Status:

MISDEMEANOR CONVICTIONS

Custodial Status:

NO STATUS FOUND

Custodial Status Date:

Juvenile Data:

Informal Adjustment:

0

Formal Adjustment:

0

Probation Adjustment:

0

Alias Name(s)

GOWDER, SHAWN

GOWDER, SHAWN D

Date of Birth

## SUBJECT IDENTIFICATION DATA

Sex: FEMALE / MALE

Race: BLACK

Height: 600

Date Reported:

FBI#:

794923VA3

Weight: 200

Date Reported:

Chicago IR#:

IR1067696

Eyes: BROWN

Hair: BALD / BLACK

Skin: DARK / MEDIUM

Scars/Marks/Tattoos

Place of Birth

ILLINOIS

UNITED STATES OF AMERICA

Drivers License Number

DL State

IL

Social Security Number

359644128

Miscellaneous Number

Palm Prints Available

Photo Available

CHICAGO POLICE DEPARTMENT

IDOC#

FOID#

INS#

Occupation

ELECTRICIAN

Date Reported

05/05/2004

Employer

Date Reported

R24

05/05/2004

## CRIMINAL HISTORY DATA

## Arrest

DCN: CB9915800

Date of Arrest: 01/10/1995

Name: GOWDER, SHAWN D

Date of Birth:

Residence:

Arresting Agency: CHICAGO POLICE DEPARTMENT

NCIC: ILCPD0000

Agency Case Number:

Officer Badge Number:

Photo Available:

Yes

Arrest Charges

Count	Statute Citation	Literal Description	Inchoate Code	Class
1	720 ILCS 5.0/24-1-A-10	CARRY/POSS FIREARM IN PUBLIC	O	4

Arrest Type: Date of Offense: 01/10/1995

States Attorney Section

Filing Decision: DIRECT FILED WITH COURT

Decision Date:

Count	Statute Citation	Literal Description	Inchoate Code	Class
1	720 ILCS 5.0/24-1-A-10	CARRY/POSS FIREARM IN PUBLIC	O	4

Agency Name: COOK COUNTY STATE'S ATTORNEY

NCIC: IL016013A

Court Charges/Disposition

Count	Statute Citation	Literal Description	Inchoate Code	Class
1	720 ILCS 5.0/24-1-A-10	CARRY/POSS FIREARM IN PUBLIC	O	A

Disposition: GUILTY

Disposition Date: 08/21/1995

Case Number: 95CR0257101

Agency Name: COOK COUNTY CIRCUIT COURT

NCIC: IL016025J

Status

Sentence

Fine Amount

Date

SENTENCED TO

1 YEAR(S) PROBATION

08/21/1995

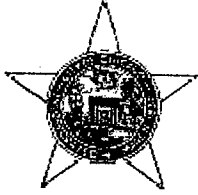
===== END OF RECORD =====

## STATE USE ONLY

WARNING: RELEASE OF THIS INFORMATION TO UNAUTHORIZED INDIVIDUALS OR AGENCIES OR MISUSE IS  
PROHIBITED BY FEDERAL LAW

TITLE 42 USC 3789G PERTAINING TO CRIMINAL HISTORY INFORMATION

R25



**CHICAGO POLICE DEPARTMENT**  
3510 South Michigan Avenue/Chicago, Illinois  
60653  
Identification Section



**CRIMINAL HISTORY REPORT**

CPD-31903C (REV. 7/04)

**GOWDER, SHAWN D**

IR # 1067696

SID #

FBI # 794923VA3

IDOC #

Current Arrest Information:

Date of Birth:

Age: 38 years

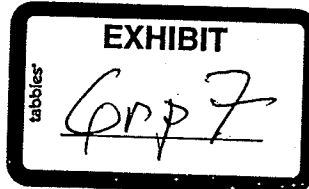
Place of Birth: ILLINOIS

SSN #:

Drivers License #:

Drivers Lic. State: ILLINOIS

Scars, Marks & Tattoos:



CPD photo

MALE

BLACK

6'00"

225 lbs

EYES : BRO

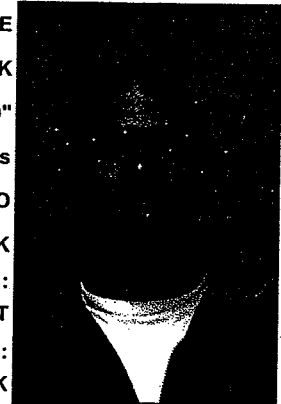
HAIR : BLK

HAIR STYLE :

SHORT

COMPLEXION :

DRK



Key Historical Identifiers:

Alias or AKA used	Date Used	Dates of Birth Used	Social Security Numbers Used
GOWDER, SHAWN	03-MAY-2004		
GOWDER, SHAWN D	10-JAN-1995		
GOWDER, SHAWN D	18-DEC-1993		

Criminal Justice Summary: Total arrests: 3 (0 Felony, 2 Misdemeanor)

Total convictions: 0

**ARREST**

Arrest Name: GOWDER, SHAWN

Date of Birth:

DCN or CB: 015809250

Officer: MINICH

Arrest Date: 03-MAY-2004

Arrest Address:

Residence:

Officer Badge#: 3732

Holding Facility: CPD - DISTRICT 008

CHICAGO, IL 60632

CHICAGO, IL 60621

Arresting Agency: CPD

Count Class Type Statute -

Arrest Charge Description

Inchoate

[1] C M 720 ILCS 5.0/12-1-A

Assault - Simple

**COURT CHARGES/DISPOSITION**

Statute

Charge

Class

Case#

720-5/12-1-A

ASSAULT - SIMPLE

1 20041227684

Disposition: STRICKEN FROM DOCKET WITH LEAVE TO REINSTATE

Disposition Date: 12-OCT-2004

Sentence: NO SENTENCE 000 YEARS 00 MONTHS 00 DAYS

Sentence Date:

R26

## ARREST

Arrest Name: **GOWDER, SHAWN D** Arrest Date: **10-JAN-1995** Holding Facility:  
 Date of Birth: Arrest Address:  
 DCN or CB: Residence: **60621-0000**  
 Officer: **MORGAN** Officer Badge#: **9939** Arresting Agency: **CPD**

Count	Class	Type	Statute	Arrest Charge Description	Inchoate
[1]	L		POSSS FIREARM/PERSON	Possession Of Firearm On Person	

## COURT CHARGES/DISPOSITION

Statute	Charge	Class	Case#
720-5/24-1(A)(10)1	CARRY/POSSES FIREARM IN P	F	95CR0257101
Disposition: PROBATION - TERMINATED - SATISFACTORY		Disposition Date: 07-AUG-1996	
Sentence: NO SENTENCE 000 YEARS 00 MONTHS 000 DAYS		Sentence Date:	
Disposition: SENTENCED/PROBATION -		Disposition Date: 21-AUG-1995	
Sentence: PROBATION 1 YEARS 0 MONTHS 0 DAYS		Sentence Date: 21-AUG-1995	

## ARREST

Arrest Name: **GOWDER, SHAWN D** Arrest Date: **18-DEC-1993** Holding Facility:  
 Date of Birth: Arrest Address:  
 DCN or CB: Residence:  
 Officer: Officer Badge#: Arresting Agency:

Count	Class	Type	Statute	Arrest Charge Description	Inchoate
[1]	A	M	RESIST	Resisting Arrest	

## COURT CHARGES/DISPOSITION

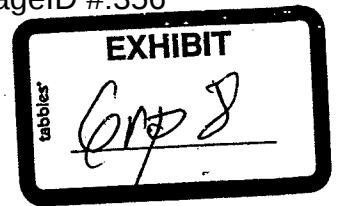
Statute	Charge	Class	Case#
38 31-3	OBSTR SERV OF PROCES	M	93140017801
Disposition: STRICKEN FROM DOCKET WITH LEAVE TO REINSTATE		Disposition Date: 11-JAN-1994	
Sentence: NO SENTENCE 000 YEARS 00 MONTHS 000 DAYS		Sentence Date:	

\*\*\*End of Report\*\*\*

This Chicago Police Department IR rap-sheet should not replace the use of the Illinois State Police statewide criminal history transcript, which may contain additional criminal history data and can be obtained by performing a CQR1 inquiry via your LEADS terminal.

22-NOV-2010 12:05

Requested by: PC09808



\* (720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

Sec. 24-1. Unlawful Use of Weapons.

(a) A person commits the offense of unlawful use of weapons when he knowingly:

(1) Sells, manufactures, purchases, possesses or

carries any bludgeon, black-jack, slung-shot, sand-club, sand-bag, metal knuckles or other knuckle weapon regardless of its composition, throwing star, or any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or a ballistic knife, which is a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material or compressed gas; or

(2) Carries or possesses with intent to use the same

unlawfully against another, a dagger, dirk, billy, dangerous knife, razor, stiletto, broken bottle or other piece of glass, stun gun or taser or any other dangerous or deadly weapon or instrument of like character; or

(3) Carries on or about his person or in any vehicle,

a tear gas gun projector or bomb or any object containing noxious liquid gas or substance, other than an object containing a non-lethal noxious liquid gas or substance designed solely for personal defense carried by a person 18 years of age or older; or

(4) Carries or possesses in any vehicle or concealed

on or about his person except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm, except that this subsection (a) (4) does not apply to or affect transportation of weapons that meet one of the following conditions:

(i) are broken down in a non-functioning state; or

(ii) are not immediately accessible; or

(iii) are unloaded and enclosed in a case,

firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card; or

(5) Sets a spring gun; or

(6) Possesses any device or attachment of any kind

designed, used or intended for use in silencing the report of any firearm; or

(7) Sells, manufactures, purchases, possesses or

carries:

(i) a machine gun, which shall be defined for the

purposes of this subsection as any weapon, which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot without manually reloading by a single function of the trigger, including the frame or receiver of any such weapon, or sells, manufactures, purchases, possesses, or carries any combination of parts designed or intended for use in converting any weapon into a machine gun, or any combination or parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person;

(ii) any rifle having one or more barrels less

than 16 inches in length or a shotgun having one or more barrels less than 18 inches in length or any weapon made from a rifle or shotgun, whether by alteration, modification, or otherwise, if such a weapon as modified has an overall length of less than 26 inches; or

(iii) any bomb, bomb-shell, grenade, bottle or

other container containing an explosive substance of over one-quarter ounce for like purposes, such as, but not limited to, black powder bombs and Molotov cocktails or artillery projectiles; or

(8) Carries or possesses any firearm, stun gun or

taser or other deadly weapon in any place which is licensed to sell intoxicating beverages, or at any public gathering held pursuant to a license issued by any governmental body or any public gathering at which an admission is charged, excluding a place where a showing, demonstration or lecture involving the exhibition of unloaded firearms is conducted.

This subsection (a) (8) does not apply to any auction

or raffle of a firearm held pursuant to a license or permit issued by a governmental body, nor does it apply to persons engaged in firearm safety training courses; or

(9) Carries or possesses in a vehicle or on or about

his person any pistol, revolver, stun gun or taser or firearm or ballistic knife, when he is hooded, robed or masked in such manner as to conceal his identity; or

\*

(10) Carries or possesses on or about his person,

upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm, except that this subsection (a) (10) does not apply to or affect transportation of weapons that meet one of the following conditions:

(i) are broken down in a non-functioning state; or

(ii) are not immediately accessible; or

(iii) are unloaded and enclosed in a case,

firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card.

A "stun gun or taser", as used in this paragraph (a)

means (i) any device which is powered by electrical charging units, such as, batteries, and which fires one or several barbs attached to a length of wire and which, upon hitting a human, can send out a current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning or (ii) any device which is powered by electrical charging units, such as batteries, and which, upon contact with a human or clothing worn by a human, can send out current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning; or

(11) Sells, manufactures or purchases any explosive

bullet. For purposes of this paragraph (a) "explosive bullet" means the projectile portion of an ammunition cartridge which contains or carries an explosive charge which will explode upon contact with the flesh of a human or an animal. "Cartridge" means a tubular metal case having a projectile affixed at the front thereof and a cap or primer at the rear end thereof, with the propellant contained in such tube between the projectile and the cap; or

(12) (Blank); or

(13) Carries or possesses on or about his or her

person while in a building occupied by a unit of government, a billy club, other weapon of like character, or other instrument of like character intended for use as a weapon. For the purposes of this Section, "billy club" means a short stick or club commonly carried by police officers which is either telescopic or constructed of a solid piece of wood or other man-made material.

(b) Sentence. A person convicted of a violation of subsection 24-1(a)(1) through (5), subsection 24-1(a)(10), subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a Class A misdemeanor. A person convicted of a violation of subsection 24-1(a)(8) or 24-1(a)(9) commits a Class 4 felony; a person convicted of a violation of subsection 24-1(a)(6) or 24-1(a)(7)(ii) or (iii) commits a Class 3 felony. A person convicted of a violation of subsection 24-1(a)(7)(i) commits a Class 2 felony and shall be sentenced to a term of imprisonment of not less than 3 years and not more than 7 years, unless the weapon is possessed in the passenger compartment of a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code, or on the person, while the weapon is loaded, in which case it shall be a Class X felony. A person convicted of a second or subsequent violation of subsection 24-1(a)(4), 24-1(a)(8), 24-1(a)(9), or 24-1(a)(10) commits a Class 3 felony. The possession of each weapon in violation of this Section constitutes a single and separate violation.



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 001

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 95CR0257101

SHAWN

GOWDER

## CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION with the Clerk of the Circuit Court.

Charging the above named defendant with:

720-5/24-1(A)(10)1 F 4 CARRY/POSSES FIREARM IN P  
The following disposition(s) was/were rendered before the Honorable Judge(s):

01/19/95 IND/INFO-CLK OFFICE-PRES JUDGE	02/01/95 1701
95CR0257101 ID# CR100070900	
02/01/95 CASE ASSIGNED	02/08/95 6715
BASTONE, ROBERT P.	
02/01/95 MOTION TO SUBSTITUTE JUDGE	S 2
BASTONE, ROBERT P.	
02/01/95 CASE ASSIGNED	02/06/95 1723
BASTONE, ROBERT P.	
02/06/95 DEFENDANT ON BOND	
NEVILLE, RICHARD E.	
02/06/95 APPEARANCE FILED	
NEVILLE, RICHARD E.	
02/06/95 DEFENDANT ARRAIGNED	
NEVILLE, RICHARD E.	
02/06/95 PLEA OF NOT GUILTY	
NEVILLE, RICHARD E.	
02/06/95 CONTINUANCE BY AGREEMENT	04/07/95
NEVILLE, RICHARD E.	
04/07/95 DEFENDANT ON BOND	
NEVILLE, RICHARD E.	
04/07/95 MOTION TO QUASH ARREST	E 2
NEVILLE, RICHARD E.	
04/07/95 MOTION TO SUPPRESS	E 2
NEVILLE, RICHARD E.	
04/07/95 CONTINUANCE BY AGREEMENT	05/10/95
NEVILLE, RICHARD E.	
05/10/95 WITNESSES ORDERED TO APPEAR	05/10/95 1723
NEVILLE, RICHARD E.	
05/10/95 CONTINUANCE BY AGREEMENT	06/12/95
NEVILLE, RICHARD E.	



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 002

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 95CR0257101

SHAWN

GOWDER

## CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION

06/12/95 DEFENDANT ON BOND

06/12/95 WITNESSES ORDERED TO APPEAR

06/12/95 CONTINUANCE BY AGREEMENT

06/14/95

06/14/95 CONTINUANCE BY AGREEMENT

07/11/95

NEVILLE, RICHARD E.

07/11/95 DEFENDANT ON BOND

NEVILLE, RICHARD E.

07/11/95 WITNESSES ORDERED TO APPEAR

NEVILLE, RICHARD E.

07/11/95 CONTINUED BENCH TRIAL

08/21/95

NEVILLE, RICHARD E.

08/21/95 DEFENDANT ON BOND

NEVILLE, RICHARD E.

08/21/95 MOTION TO QUASH ARREST

NEVILLE, RICHARD E.

08/21/95 FINDING OF GUILTY

C001

NEVILLE, RICHARD E.

08/21/95 JGMT ON FINDING/VERDICT/PLEA

NEVILLE, RICHARD E.

08/21/95 DEF SENTENCED TO PROBATION

C001

1 YRS

NEVILLE, RICHARD E.

08/21/95 CHANGE PRIORITY STATUS

M

NEVILLE, RICHARD E.

08/21/95 CASH BOND REFUND TO ATTORNEY

B001

NEVILLE, RICHARD E.

08/25/95 CASH BOND REFUND TO ATTORNEY

B001

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08/25/95 CBR PROCSED FRWD ACCT DEP

09/01/95 MOTION DEFENDANT - NEW TRIAL

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09/01/95 NOTICE OF MOTION/FILING

09/08/95 1723

09/08/95 DEFENDANT NOT IN COURT

NEVILLE, RICHARD E.

09/08/95 MOTION DEFENDANT - NEW TRIAL

D 2

NEVILLE, RICHARD E.

09/08/95 NOTICE OF APPEAL FILED, TRNSFR

NEVILLE, RICHARD E.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 003

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 95CR0257101

SHAWN

GOWDER

## CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION

09/08/95 ILL STATE APPELLATE DEF APPTD

NEVILLE, RICHARD E.

09/08/95 CONTINUED FOR APPEAL

NEVILLE, RICHARD E.

09/08/95 NOTICE OF APPEAL FILED, TRNSFR

09/12/95 NOTICE OF NOTICE OF APP MAILED

09/12/95 CONTINUANCE BY ORDER OF COURT

09/15/95 1713

09/15/95 ILL STATE APPELLATE DEF APPTD

09/15/95 O/C FREE REPT OF PROCD ORD N/C

09/15/95 MEMO OF ORDS & NOA PICKED-UP

10/02/95 REPT OF PRCDs ORD FR CRT RPT

09/21/95 APPELLATE COURT NUMBER ASGND

95-3292

12/15/95 COMMON LAW RECORD PREPARED

12/19/95 CLR RECD BY APP COUNSEL

STATE APPELLATE DEFENDER

01/26/96 TRANS PROC REC/FILED CLKS OFF

02/07/96 REPORT OF PROCEEDINGS PREPARED

02/15/96 REPRT/PROCDS RECD BY APP ATTRY

STATE APPELLATE DEFENDER

07/30/96 MOTION FOR TERMINATION HEARING

07/30/96 PROB HEARING DATE ASSIGNED

08/07/96 1723

08/07/96 DEFENDANT NOT IN COURT

NEVILLE, RICHARD E.

08/07/96 PROB TERMINATED-SATISFACTORY

NEVILLE, RICHARD E.

09/26/97 MANDATE FILED

10/03/97 1701

10/03/97 REVIEW COURT AFFIRMANCE

FITZGERALD, THOMAS R.

04/08/03 SPECIAL ORDER

00/00/00 F

2

VACATE FELONY CONVICTION.

04/08/03 HEARING DATE ASSIGNED

04/21/03 1701

04/21/03 CASE ASSIGNED

04/21/03 1723

WOOD, WILLIAM S.

04/21/03 DEFENDANT ON BOND

00/00/00

SACKS STANLEY J.

04/21/03 SPECIAL ORDER

00/00/00

ATTY. PETERS IN COURT DRAFT ORDER ENTERED. DE T. CONVICTED

SACKS STANLEY J.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 004

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 95CR0257101

SHAWN

GOWDER

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION

04/21/03 SPECIAL ORDER

00/00/00

OF 8-21-1995 IS REDUCED FROM A FELONY TO A MIS EMEANOR. OFF CALL.

SACKS STANLEY J.

04/21/03 CHANGE PRIORITY STATUS

M

00/00/00

SACKS STANLEY J.



I hereby certify that the foregoing has been entered of record on the above captioned case.

Date 11/23/10

*[Handwritten Signature]*  
DOROTHY BROWN

CLERK OF THE CIRCUIT COURT OF COOK COUNTY

**THE CITY OF CHICAGO, ILLINOS  
DEPARTMENT OF ADMINISTRATIVE HEARINGS  
MUNICIPAL HEARINGS DIVISION**

**CITY OF CHICAGO, a Municipal )  
Corporation, )**

**Petitioner )**

**v. )**

**Docket No. 10 GR 000041**

**SHAWN GOWDER, - )  
Respondent )**

**DECISION**

1. This body has jurisdiction of the subject matter and over the parties.
2. This matter is before this body on an Appeal of the Denial of a Chicago Firearm Permit to Shawn Gowder ("the Applicant") by the Chicago Police Department, City of Chicago (the "Police Department")
3. The Applicant filed an application for a Chicago Firearm Permit ("CFP") with the Police Department. See Petitioner's Group Exhibit 5
4. By notice dated November 10, 2010, the Police Department advised the Applicant that he was ineligible to be approved for a CFP, and thus his application for a permit was denied. See Petitioner's Group Exhibit 4
5. The Police Department based its denial on the provisions found in MCC 8-20-110 (b) (3) (iii) which provides, in part that:
  - (a)... it is unlawful for any person to carry or possess a firearm without a CFP.
  - (b) No CFP application shall be approved unless the applicant:
    - (3) has not been convicted by a court in any jurisdiction of:
      - (iii) an unlawful use of a weapon that is a firearm...

5. The Applicant had been convicted on August 25, 1995 in Cook County Circuit Court of an *unlawful use of a weapon* in violation of 720 ILCS 5/24-1(a)(10). See Petitioner's Group Exhibits 6, 7, 8 and 9.

6. 720 ILCS 5/24-1(a)(10) provides as follows:

(a) A person commits the offense of unlawful use of a weapon when he knowingly:...

(10) Carries or possesses on or about his person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his land or in his abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm...

7. The provisions of 720 ILCS 5/24-1(a)(10) is clear as to what constitutes an unlawful use of a weapon.

8. The plain and ordinary meaning and usage given to "unlawful use of a weapon" in this jurisdiction is to "carry or possess a firearm" as provided in 720 ILCS 5/24-1(a)(10)

9. There is no distinction between the meanings of "use of a weapon" and "carry and possess a firearm" as used in MCC 8-20-110

10. The basis for the denial of the application has not been rebutted by the Applicant

11. The denial by the Chicago Police Department of the Applicant's application for a CFP is affirmed.

12. This body does not have jurisdiction to hear Constitutional issues as raised by the Applicant.

13. Pursuant to Section 2-14-102 of the Chicago Municipal Code, this final decision is subject to review under the Illinois Administrative Review Act.

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City, State, ZIP+4	CHICAGO, IL 60602

Entered:

Sharon K. Davis  
 Administrative Law Judge

12/8/10

**THE CITY OF CHICAGO, ILLINOS  
DEPARTMENT OF ADMINISTRATIVE HEARINGS  
MUNICIPAL HEARINGS DIVISION**

**CITY OF CHICAGO, a Municipal )  
Corporation, )**

**Petitioner )**

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7. The provisions of 720 ILCS 5/24-1(a)(10) is clear as to what constitutes an unlawful use of a weapon.

8. The plain and ordinary meaning and usage given to "unlawful use of a weapon" in this jurisdiction is to "carry or possess a firearm" as provided in 720 ILCS 5/24-1(a)(10)

9. There is no distinction between the meanings of "use of a weapon" and "carry and possess a firearm, as used in MCC 8-20-110

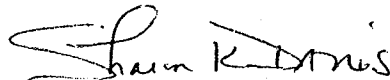
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Entered:



Sharon K. Davis  
Administrative Law Judge

12/8/10



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City, State, ZIP+4 Chicago, Illinois

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PS Form 3800, August 2006

**THE CITY OF CHICAGO, ILLINOS  
DEPARTMENT OF ADMINISTRATIVE HEARINGS  
MUNICIPAL HEARINGS DIVISION**

**CITY OF CHICAGO, a Municipal )  
Corporation, )**

**Petitioner )**

**v. )**

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Entered:



Sharon K. Davis  
Administrative Law Judge

12/8/10

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Me. Shawn Copeland***COMPLETE THIS SECTION ON DELIVERY**

- A. Signature ☒ Agent ☐ Addressee  
*Shawn Copeland*
- B. Received by (Printed Name) *Shawn Copeland* 9. Date of Delivery *12/23/09*
- D. Is delivery address different from item 1? ☐ Yes ☐ No  
 If YES, enter delivery address below:

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☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

**4. Restricted Delivery? (Extra Fee)**☐ Yes**2. Article Number**

(Transfer from service label)

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**ORIGINAL**

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1 ADMINISTRATIVE LAW JUDGE HARRIS: The case  
2 is the City of Chicago versus -- oh, it's actually  
3 in the -- it's in referring the -- let me see,  
4 Chicago Police Department, a request for a hearing  
5 by -- is that Gowder, Shawn Gowder?

6 MR. SACHNOFF: Correct.

7 ADMINISTRATIVE LAW JUDGE HARRIS: The  
8 Docket is 10GR000041. The Respondent is  
9 represented by counsel. Counsel, could you state  
10 your name?

11 MR. KOLODZIEJ: Yes, it's Steven Kolodziej,  
12 K-o-l-o-d-z-i-e-j for the Respondent, Mr. Gowder.

13 ADMINISTRATIVE LAW JUDGE HARRIS: And  
14 there's also a representative here on behalf of the  
15 City. Sir, could you state your name?

16 MR. SACHNOFF: Scott Sachnoff, Assistant  
17 Corporation Counsel for the City.

18 ADMINISTRATIVE LAW JUDGE HARRIS: Now, this  
19 matter is on the call regarding the Respondent's  
20 request for a hearing regarding the denial of his  
21 petition for a permit for a firearm by the Chicago  
22 Police Department.

R44

23 The matter was set to be heard today at 2;  
24 however, counsel it's my understanding you're

1 requesting a continuance; is that correct?

2 MR. KOLODZIEJ: That is correct.

3 ADMINISTRATIVE LAW JUDGE HARRIS: Why are  
4 you requesting a continuance?

5 MR. KOLODZIEJ: Your Honor, because I was  
6 just retained formally this -- just a few minutes  
7 before this hearing. Mr. Gowder completed his  
8 application and request, or his request rather for  
9 this hearing on Monday, the 22nd and was given this  
10 day less than 48 hours later, so I have not had  
11 time as his attorney to get up to speed and in a  
12 position to argue the case at this point.

13 ADMINISTRATIVE LAW JUDGE HARRIS: And  
14 counsel, I just am going to make aware to you now  
15 the ordinance does require that the hearing be  
16 conducted within 72 hours from the request,  
17 excluding Saturdays, Sundays and holidays. And you  
18 understand that by requesting a continuance that  
19 you're waiving the Respondent's right to have the  
20 hearing conducted within that 72 hours?

R45

21 MR. KOLODZIEJ: I do understand, your  
22 Honor, and because I am making a request for a  
23 continuance, I do agree to waive such rule.

24 ADMINISTRATIVE LAW JUDGE HARRIS: And the

1 City has no objection to the Respondent's motion  
2 for a continuance?

3 MR. SACHNOFF: That's correct.

4 ADMINISTRATIVE LAW JUDGE HARRIS: I'll  
5 grant the Respondent's motion continuing this  
6 matter, and there was a discussion, we were not on  
7 the record, but nonetheless there was a discussion  
8 regarding the continuance date, and it's my  
9 understanding that both parties have agreed to  
10 continue this matter to December the 8th at 2  
11 o'clock; is that correct?

12 MR. SACHNOFF: Yes.

13 MR. KOLODZIEJ: That is correct.

14 ADMINISTRATIVE LAW JUDGE HARRIS: I'll  
15 grant the Respondent's motion to continue this  
16 matter to December the 8th at 2 o'clock. Mr.  
17 Sachnoff's completing the copy of the order.

18 Counsel, I'll give you a copy in one  
19 moment.

20 MR. KOLODZIEJ: Thank you very much.

21 ADMINISTRATIVE LAW JUDGE HARRIS: You're  
22 welcome, sir.

**R46**

23 MR. KOLODZIEJ: I don't know if you want  
24 this on the record. I just -- do I get a copy of



1 the appearance form?

2 ADMINISTRATIVE LAW JUDGE HARRIS: Oh,  
3 absolutely.

4 MR. KOLODZIEJ: Okay.

5 ADMINISTRATIVE LAW JUDGE HARRIS: Yes, I'll  
6 give you a copy.

7 MR. KOLODZIEJ: Thank you.

8 ADMINISTRATIVE LAW JUDGE HARRIS: You're  
9 welcome.

10 Okay. Counsel, here's a copy of the order  
11 continuing the matter for a hearing to December the  
12 8th. You didn't put the time in there.

13 MR. SACHNOFF: Oh, sorry.

14 ADMINISTRATIVE LAW JUDGE HARRIS: That's  
15 okay. I'll put it in there at 2 o'clock.

16 MR. KOLODZIEJ: May I ask a question on the  
17 record, please?

R47

18 ADMINISTRATIVE LAW JUDGE HARRIS: Sure.

19 MR. KOLODZIEJ: We do anticipate making a  
20 constitutional challenge to the provision that's at  
21 issue here. I understand that this tribunal's  
22 capacity in that regard is limited, but I would  
23 like to ask may I submit a written brief in support  
24 of our position at the hearing on December 8th or

1 will it be...

2 ADMINISTRATIVE LAW JUDGE HARRIS: I don't  
3 think -- yeah, I think a hearing officer will allow  
4 you to do that, especially because the ordinance  
5 does allow us to take it under advisement and not  
6 enter -- we don't have to enter written...

7 Well, we have to enter a written decision  
8 within five days at the conclusion of a hearing, so  
9 we are allowed to take it under advisement, which  
10 means that if you submit it, just make sure you  
11 give a copy...

12 If you're going to do that, I would  
13 probably make sure you want to give a copy to  
14 counsel, maybe a couple of days before. We're not  
15 going to hear this until the 8th. Can you have a  
16 copy of that written brief to him by the 1st, at  
17 least a week before because he should be given an  
18 opportunity to respond to it. Do you want to put  
19 that in the order just in case?

R48

20 - I mean I'm making it part of the record, I  
21 might not be the hearing officer who hears the  
22 case, and so I just want to make sure it's clear  
23 that I am ordering you that if you're going to be  
24 submitting a written brief, would you be wanting to

1 respond to that in writing? Because you're right,  
2 they're not going to be allowed to -- we don't have  
3 the authority to entertain constitutional arguments  
4 to the ordinance.

5 We decide whether or not there was a  
6 violation of the city's municipal ordinance. You  
7 can make a record in the event you do want to  
8 appeal it on constitutional basis. That being  
9 said, if you're going to be written -- entering a  
10 written brief making it part of the record, arguing  
11 constitutional grounds I would want to give the  
12 City an opportunity to respond to that brief, which  
13 means that we probably might or might not be -- if  
14 I were the hearing officer, may or may not be able  
15 to do it December the 8th.

16 MR. KOLODZIEJ: I understand, and if the  
17 limitation is five days for you to reach a ruling,  
18 I mean I think that's fair.

R49

19 ADMINISTRATIVE LAW JUDGE HARRIS: But then  
20 he would have to have an opportunity to respond to  
21 your brief, so if you have, you know, unless you're  
22 going to give it to him tomorrow and he's going to  
23 respond by the 3rd, if I'm telling you that you  
24 need -- the hearing is set for the 8th. This is

1 the 24th, so if I give you a week to give that  
2 brief to him, he's going to need an opportunity to  
3 respond to it, and I don't know if all of that can  
4 be done by the deadline of having the hearing set  
5 for December the 8th is what I'm saying.

6 MR. KOLODZIEJ: That's what I was trying to  
7 say. I agree with what you're saying, and I will  
8 make every effort to get any -- if we are going to  
9 submit a brief. I will let him know for sure by  
10 next Wednesday whether we're going to submit one,  
11 and if we are, if at all possible, i would get it  
12 to him. But if I can't get it to him until next  
13 Thursday, I mean would that be okay?

14 I'll do my best, it's just -- I mean if  
15 want to order me to have it to him, obviously I'll  
16 comply with the order. I'm -- I don't know how  
17 much time counsel would want.

18 ADMINISTRATIVE LAW JUDGE HARRIS: Well, if  
19 he submits a written brief, are you intending to  
20 respond to it?

R50

21 MR. SACHNOFF: If the brief we're talking  
22 about is anything like what counsel and I discussed  
23 when we were talking about this matter generally,  
24 then you've pretty much summed up my response,

1 which is constitutional issues can be made of  
2 record here, but cannot be ruled on at  
3 Administrative Hearings, and can't -- can only be  
4 preserved for any possible appeal.

5 ADMINISTRATIVE LAW JUDGE HARRIS: So that  
6 would be your response in any event, so you  
7 wouldn't need time to for a written response?

8 MR. SACHNOFF: I can't --

9 ADMINISTRATIVE LAW JUDGE HARRIS: I know.  
10 I know.

11 MR. SACHNOFF: -- predict what's going to  
12 be in there.

13 ADMINISTRATIVE LAW JUDGE HARRIS: I  
14 understand, and I'm not asking you to do that, I  
15 know that's different.

16 MR. SACHNOFF: Sure.

17 ADMINISTRATIVE LAW JUDGE HARRIS: There's  
18 no way you can...

19 MR. SACHNOFF: Sure. I mean if he's going  
20 to say something more substantive about what's  
21 actually at issue here, then of course I would want  
22 to respond.

R51

23 ADMINISTRATIVE LAW JUDGE HARRIS: Well,  
24 then let's just leave it open. We'll set it for

1 December the 8th. If you're going to be providing  
2 a written brief, just make sure you give it to  
3 counsel, and if necessary, if you need time to  
4 respond, then you have to come back on the 8th and  
5 make that argument. Okay?

6 MR. SACHNOFF: Yes.

7 ADMINISTRATIVE LAW JUDGE HARRIS: You can  
8 step up, counsel. And it's not a cold, I just got  
9 choked, so don't worry, I'm not contagious. There  
10 you go, here's a copy to December the 8th at 2  
11 o'clock. Well, there you go.

12 MR. KOLODZIEJ: Thank you.

13 ADMINISTRATIVE LAW JUDGE HARRIS: You're  
14 welcome.

15 MR. KOLODZIEJ: Do we -- are we...

16 ADMINISTRATIVE LAW JUDGE HARRIS: That's  
17 it.

18 MR. KOLODZIEJ: Adjourned? Thank you.

19 ADMINISTRATIVE LAW JUDGE HARRIS: Yes.  
20 Thank you, gentlemen.

21

22

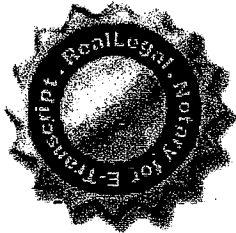
23

R52

24

(END OF PROCEEDINGS)

1 I, Susanne M. Carlin, do hereby certify or  
2 affirm that I have impartially transcribed the  
3 foregoing from an audiotape record of the  
4 above-captioned proceedings to the best of my  
5 ability.



6  
7 *Susanne M. Carlin*

8 Susanne M. Carlin  
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R53

**ORIGINAL**



1 ADMINISTRATIVE LAW JUDGE DAVIS: City  
2 versus Shawn Gowder, Docket 10GR000041.

3 Counsel, your name for the record?

4 MR. KOLODZIEJ: Steven Kolodziej,  
5 K-o-l-o-d-z-i-e-j for the Respondent, Shawn Gowder.

6 ADMINISTRATIVE LAW JUDGE DAVIS: Is that  
7 spelled G-o-w-d-e-r?

8 MR. KOLODZIEJ: Correct.

9 ADMINISTRATIVE LAW JUDGE DAVIS: And how is  
10 it pronounced?

11 MR. KOLODZIEJ: Gow-der.

12 ADMINISTRATIVE LAW JUDGE DAVIS: Gowder,  
13 all right. Counsel, your name for the record?

14 MR. SACHNOFF: Scott Sachnoff,  
15 S-a-c-h-n-o-f-f, Assistant --

16 ADMINISTRATIVE LAW JUDGE DAVIS: And are  
17 you ready --

18 MR. SACHNOFF: -- Corporation Counsel for  
19 the City.

20 ADMINISTRATIVE LAW JUDGE DAVIS: Are you  
21 ready to proceed, counsel?

22 MR. SACHNOFF: Yes.

23 MR. KOLODZIEJ: Yes.

R55

24 MR. SACHNOFF: Just so your Honor is aware,

1 this is up on a continued continuation. The matter  
2 was originally scheduled for November 24th. There  
3 was an order entered on that date. Counsel for Mr.  
4 Gowder having waived the requirement of a hearing  
5 within 72 hours. He requested a continuance, which  
6 was granted, without objection to today's date.

7 At this time the City has already tendered  
8 the documents it plans to use as part of its case  
9 to counsel for today, and this afternoon counsel  
10 tendered to me a document that I assume he's  
11 intending to file today. Perhaps the hearing  
12 officer can inquire if Mr. Kolodziej...

13 MR. KOLODZIEJ: Kolodziej.

14 MR. SACHNOFF: Has any objection to the  
15 documents the City intends to enter into evidence.

16 ADMINISTRATIVE LAW JUDGE DAVIS: Did you  
17 review the documents, counsel?

18 MR. KOLODZIEJ: I have, your Honor, and the  
19 documents which I was given which are marked  
20 Exhibits 1 through 8, I have no objection, and in  
21 fact they are the same exhibits upon which I will  
22 rely, so they are fine.

R56

23 MR. SACHNOFF: Okay. Then for the record,  
24 I'll be tendering the originals.

1 ADMINISTRATIVE LAW JUDGE DAVIS: All right.

2 City --

3 MR. SACHNOFF: Of those documents to the  
4 hearing officer today.

5 ADMINISTRATIVE LAW JUDGE DAVIS: All right.

6 City --

7 MR. SACHNOFF: I'm moving that they be  
8 entered into evidence as City's Exhibits 1 through  
9 8.

10 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
11 Petitioner's Exhibits 1 through 8 will be admitted  
12 into evidence.

13 (Whereby Petitioner's Exhibits  
14 1 through 8 having been  
15 admitted into evidence.)

16 MR. KOLODZIEJ: If I may, and the document  
17 to which counsel just referred is a brief that I  
18 prepared. The hearing officer last time we were  
19 here gave me leave to file this.

R57

20 It is a -- this is a case involving a  
21 denial of Chicago firearms permit. Our position is  
22 and understanding that the jurisdiction of this  
23 tribunal, but our position is that there are  
24 serious constitutional implications with this

1 denial of the application, and we have prepared a  
2 brief outlining our position on that that we would  
3 like to introduce into the record.

4 ADMINISTRATIVE LAW JUDGE DAVIS: When were  
5 you supposed to tender the brief, counsel?

6 MR. KOLODZIEJ: Today.

7 ADMINISTRATIVE LAW JUDGE DAVIS: To be read  
8 today and decided on today?

9 MR. KOLODZIEJ: Well, not necessarily  
10 decided, but to be read. It's my understanding  
11 that the disposition has to be entered within five  
12 days after the hearing is concluded, so.

13 ADMINISTRATIVE LAW JUDGE DAVIS: Counsel,  
14 any objection? Is this your understanding, because  
15 I don't see it in the order, in the file I don't  
16 see that.

R58

17 MR. SACHNOFF: The hearing officer's right.  
18 There's nothing about being granted leave to file  
19 the brief in the order, but there was some  
20 extensive discussion on the record at the last  
21 hearing about the possibility of filing a brief.

22 There was also some discussion about the  
23 fact that counsel was going to be making some  
24 constitutional arguments, which I pointed out to

1 him under the rules and regulations of the  
2 Department of Administrative Hearings can only be  
3 made for the record and not be ruled upon by an  
4 Administrative Law Judge.

5 I would like to briefly for the record go  
6 through the City's documents that have been entered  
7 into evidence, so that there's something on the  
8 written record about what we're basing the denial  
9 of counsel's client's application for the firearm  
10 permit.

11 ADMINISTRATIVE LAW JUDGE DAVIS: I'm sorry,  
12 Mr. Sachnoff, start that again. You said you  
13 wanted to go through each document because you  
14 wanted to --

15 MR. SACHNOFF: Just briefly to explain  
16 what's been entered into evidence and what the  
17 basis of the denial was.

18 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
19 Are you bringing your client here today?

20 - MR. KOLODZIEJ: I was not planning to. I  
21 can if need be.

R59

22 ADMINISTRATIVE LAW JUDGE DAVIS: Well,  
23 that's up to you, it's your client, but are you  
24 ready to go to a hearing today?

1 MR. KOLODZIEJ: Yes.

2 ADMINISTRATIVE LAW JUDGE DAVIS: This is  
3 for a hearing?

4 MR. KOLODZIEJ: It is.

5 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
6 So now let's first address this before we go onto  
7 that. Counsel is absolutely right. This can be  
8 noted for the record, but we don't rule on  
9 constitutional issues.

10 MR. KOLODZIEJ: I do understand that, but I  
11 do need to make a record on that if there is  
12 further appeal, and that is the reason for  
13 tendering this to make this Court aware of our  
14 position. I did think this would be helpful as  
15 well in outlining the arguments I'm going to make.

16 I do understand that you cannot rule upon  
17 constitutional issues. I don't believe that is  
18 necessary for a disposition of this case, but --  
19 and I will get to that in my presentation, but this  
20 does outline the issues that I wish to bring to  
21 your attention.

R60

22 ADMINISTRATIVE LAW JUDGE DAVIS: All right,  
23 counsel, so let me just make sure I'm understanding  
24 what -- so you have filed an appeal of a denial of

1 the Chicago firearm permit. Are you using this as  
2 a basis for discussion today or is this something  
3 --

4 (Phone ringing.)

5 ADMINISTRATIVE LAW JUDGE DAVIS: Sharon  
6 Davis. Yes. Okay. All right. Bye bye.

7 (End of call.)

8 MR. KOLODZIEJ: That is correct. I am  
9 using this as a basis for discussion today. If you  
10 wish to take, you know, 10 minutes or so to read  
11 that, I know it's a four-page document, that might  
12 facilitate things, it's totally --

13 ADMINISTRATIVE LAW JUDGE DAVIS: I would  
14 certainly like to, but, you know, I mean this is  
15 just coming as a surprise because I had no idea  
16 that anything was going to be written -- in written  
17 form, and I would assume that the Administrative  
18 Law Judge would have required that this be  
19 submitted sometime prior to the hearing. R61

20 MR. KOLODZIEJ: Well, I have the transcript  
21 of that last hearing, and it was discussed.

22 ADMINISTRATIVE LAW JUDGE DAVIS: But  
23 discussed, was there some conclusion as to what you  
24 discussed? Was there a resolution?

1 MR. SACHNOFF: I think the correct answer  
2 to that is no, because I couldn't anticipate what  
3 he was going to file, and now that I've looked at  
4 it in part it does relate to his constitutional  
5 arguments, but there's also a statutory  
6 interpretation argument in here as well, which I'm  
7 perfectly ready to address on the record with the  
8 documents that the City has...

9 ADMINISTRATIVE LAW JUDGE DAVIS: Well, I'll  
10 have --

11 MR. SACHNOFF: Put into evidence.

12 ADMINISTRATIVE LAW JUDGE DAVIS: -- I'll  
13 have to take about 15 minutes to read this if you  
14 have no objection.

15 MR. SACHNOFF: That's fine.

16 ADMINISTRATIVE LAW JUDGE DAVIS: All right.

17 MR. SACHNOFF: Recess?

18 ADMINISTRATIVE LAW JUDGE DAVIS: Yes,  
19 please until 2:30. Please, thank you.

20 (Whereby a recess was had.)

21 ADMINISTRATIVE LAW JUDGE DAVIS: All right,  
22 counsel, I'm ready. Is the court reporter still  
23 here?

24 THE REPORTER: Yes.

R62



1 ADMINISTRATIVE LAW JUDGE DAVIS: Okay.  
2 Down there. All right. We're still on the record,  
3 so I just took a few minutes.

4 All right. Counsel, your first -- the  
5 conviction was for unlawful use of a weapon seems  
6 to me a statutory interpretation as opposed to a  
7 constitutional issue.

8 Counts -- the other one, denial of -- based  
9 on a misdemeanor conviction for mere possession  
10 carrying of a firearm violates the right to keep  
11 and bear arms. I'll let you --

12 THE REPORTER: I'm sorry, your Honor?

13 ADMINISTRATIVE LAW JUDGE DAVIS: Yes.

14 THE REPORTER: I'm having a hard time  
15 hearing you.

16 ADMINISTRATIVE LAW JUDGE DAVIS: You can't  
17 hear me?

18 THE REPORTER: I'm having a hard time  
19 hearing you.

20 ADMINISTRATIVE LAW JUDGE DAVIS: Okay.  
21 I'll try to speak up.

22 THE REPORTER: Okay. R63

23 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
24 I'm not going to -- I'll note, for the record, I

1 will accept this and note it and enter it into --  
2 do you have any objection, counsel, to this being  
3 filed today?

4 MR. SACHNOFF: Assuming that we have --  
5 that I have the ability to orally respond to it at  
6 the hearing, no, I don't.

7 ADMINISTRATIVE LAW JUDGE DAVIS: Well, I  
8 want to start off there. I don't want you to  
9 respond to Number 2 because that's a constitutional  
10 issue, but I wanted to state for the record that  
11 that would be noted for the record but not ruled  
12 upon because we don't have jurisdiction to hear  
13 constitutional issues.

14 MR. SACHNOFF: And that's basically my  
15 entire response to that section.

16 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
17 Do you have a -- but not section 1?

18 MR. SACHNOFF: No.

19 ADMINISTRATIVE LAW JUDGE DAVIS: Okay. All  
20 right. Counsel?

R64

21 MR. SACHNOFF: Well, I really think that we  
22 need to address the City's exhibits that are in  
23 evidence so we know why we're here and what it is  
24 that counsel is responding to.

1 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
2 Okay. Then you could put your case on. You know,  
3 since I didn't have this before, I don't know what  
4 has transpired, so all right.

5 MR. SACHNOFF: Okay.

6 ADMINISTRATIVE LAW JUDGE DAVIS: Put your  
7 case on.

8 MR. SACHNOFF: Just to briefly go through  
9 the City's exhibits.

10 ADMINISTRATIVE LAW JUDGE DAVIS: Um-hmm.

11 MR. SACHNOFF: This is 10GR000041, it's an  
12 appeal by Mr. Shawn Gowder of a denial by the  
13 Chicago Police Department of his application for a  
14 Chicago firearms permit. The City's submitted  
15 eight exhibits into evidence.

16 City's Exhibit 1 is Mr. Gowder's  
17 handwritten request for a hearing regarding the  
18 denial of his application. It was dated November  
19 22nd and filed with the Department of  
20 Administrative Hearings that day. It's signed by  
21 him and has his address.

R65

22 City's Exhibit 2 is the Notice of Hearing  
23 that the Department of Administrative Hearings  
24 scheduled for him dated that same day November 22nd

1 to Mr. Gowder, identifying a specified hearing date  
2 of November 24th, 2 o'clock, in Room 111. That's  
3 the date and time that I previously referred to  
4 that this matter was continued from.

5 City's Exhibit 3 is a certification by  
6 Sergeant Jeffrey Schaaf that all the documents that  
7 the police department has provided regarding this  
8 docket number and Mr. Gowder's case are true and  
9 accurate and kept in the regular course of business  
10 by the police department, signed by Sergeant  
11 Jeffrey Schaaf, that's S-c-h-a-a-f.

12 City's Group Exhibit 4 is the denial letter  
13 that was issued by the Chicago Police Department.  
14 It's to Mr. Gowder, it's dated November 10th. It  
15 specifies the basis of denial of the Chicago  
16 firearm permit application as being you have been  
17 convicted by a court in any jurisdiction of an  
18 unlawful use of a weapon that's a firearm, city  
19 municipal code of Chicago 8-20-110(3)(iii). And  
20 then it gives Mr. Gowder the information regarding  
21 how to file an appeal, which he then did.

R66

22 The second page of that document is a  
23 certificate of service indicating that it was  
24 mailed to him on or before 5 o'clock November 10th,

2010, signed again by the same Sergeant Jeffrey Schaaf of the gun registration section.

City's Group Exhibit 5 is Mr. Gowder's Chicago firearms permit application. It consists of three pages. The application is the first page, it has various information about Mr. Gowder himself. The second page is the certification that he has actually accomplished the firearms training which is a necessary part of the application, and the third page is a photocopy of his FOID card, F-O-I-D card and his driver's license.

There -- City's Group Exhibit 6 is the Illinois State Police records of Mr. Gowder's criminal background history, and on that we have on the third page the reference to Mr. Gowder's disposition of guilty to a statute citation 7-20 ILCS 5.0 24-1-A-10, literal description: Carry/Poss, firearm in public. Disposition was guilty, the disposition date 8/21/1995, and it specifies a case number and the sentence of one-year of probation.

R67

ADMINISTRATIVE LAW JUDGE DAVIS: All right, counsel, I missed that, the last...

MR. SACHNOFF: So we're talking about the

1 third and last page --

2 ADMINISTRATIVE LAW JUDGE DAVIS: Yes.

3 MR. SACHNOFF: -- of City's Group 6?

4 ADMINISTRATIVE LAW JUDGE DAVIS: Yeah, I  
5 know, but I...

6 MR. SACHNOFF: Okay.

7 ADMINISTRATIVE LAW JUDGE DAVIS: The  
8 disposition I see, 8/21/1995, yes, I see it.

9 MR. SACHNOFF: Okay. The City's Group 7 is  
10 the Chicago Police Department records for Mr.  
11 Gowder, commonly known as a rap sheet. It again on  
12 page 2 specifies that Mr. Gowder was charged with  
13 and convicted of carry/possess firearm. Under that  
14 same cite it's state statute, indicates a one-year  
15 probation, and has a sentence date and disposition  
16 date of August 21st, 1995.

17 City's Group 8 is the copy of the state  
18 statute in question, 7-20 ILCS 5/24-1, which is  
19 entitled, "Unlawful use of a weapon."

20 UNIDENTIFIED: (Inaudible). R68

21 MR. SACHNOFF: This document consists of  
22 three pages, and on the second page is the  
23 subsection that Mr. Gowder was charged under, which  
24 is subsection 10, carries or possesses on or about

1 his person, and that references or describes the  
2 violation that Mr. Gowder was convicted of.

3 Finally, City's Group Exhibit 8 is the  
4 certified statement of conviction disposition that  
5 was -- that the City obtained regarding Mr.  
6 Gowder's case, wherein he was found liable and  
7 sentenced to one year's probation for the  
8 carry/possess firearm.

9 So those are the City's documents that  
10 we're basing this on. Now, as far as argument is  
11 concerned, I don't think there's any argument about  
12 the facts here. This is all about --  
13 constitutional challenges are statutory  
14 interpretation.

15 The statutory interpretation I'll address  
16 because the City is entitled to rely on the public  
17 record and the plain language of the ordinances and  
18 statutes that people are found guilty of,  
19 convicting. It is a fact that as counsel cites,  
20 the basis for denying Chicago firearms permit is if  
21 you've been convicted in a court of any  
22 jurisdiction of unlawful use of a weapon that's a  
23 firearm.

R69

24 The state statute that Mr. Gowder was

1 convicted under is unlawful use of a weapon.  
2 Whether he was using it in a common sense,  
3 colloquial sense or any other sense is irrelevant,  
4 because unless you're going to find the state  
5 statute to be invalid, that statute is and  
6 identifies a crime which is of the type that this  
7 allows one from being able to get a Chicago  
8 firearms permit. Now --

9 ADMINISTRATIVE LAW JUDGE DAVIS: Now,  
10 counsel, I -- you -- right there you said that  
11 there's no question that Mr. Gowder was convicted  
12 of a violation of a state statute; is that correct?

13 MR. SACHNOFF: Right. Right. I don't  
14 think there's any dispute, I don't -- and there's  
15 no dispute about what state statute he was charged  
16 under, convicted of, sentenced under. Okay?

17 ADMINISTRATIVE LAW JUDGE DAVIS: Okay.

18 MR. SACHNOFF: The question is I think how  
19 that impacts his ability to get a Chicago firearms  
20 permit and whether it actually constitutes unlawful  
21 use of a weapon. I mean if you look at the  
22 description, I mean this section is called unlawful  
23 use of weapons, and it has 10 subsections.  
24 Actually, it has 13 subsections.

R70



1 ADMINISTRATIVE LAW JUDGE DAVIS: What  
2 exhibit are you referring to?

3 MR. SACHNOFF: All of which -- we're  
4 looking at City's Group 1, which is the actual  
5 statute that Mr. Gowder was convicted under. It  
6 says:

7 A person who commits the offense  
8 of unlawful use of a weapon when  
9 he knowingly...

10 And then it has 13 subsections, the one  
11 that Mr. Gowder was convicted of was subsection 10.  
12 Okay?

13 Carries or possesses on or about  
14 his person a weapon.

15 That constitutes unlawful use of a weapon  
16 in the state of Illinois under that state statute,  
17 because that's an unlawful use of a weapon and it's  
18 a conviction for unlawful use of a weapon, the City  
19 was entitled to deny Mr. Gowder's application for a  
20 Chicago firearms permit. I'll leave it at that for  
21 now.

R71

22 ADMINISTRATIVE LAW JUDGE DAVIS: Counsel?

23 MR. KOLODZIEJ: Well, I am not as counsel's  
24 suggested, stating or suggesting that you have to

1 find the Illinois criminal statute  
2 unconstitutional, that's not the point of this, nor  
3 am I asking this tribunal to interpret that section  
4 of the Illinois criminal code.

5 What I am asking you to do is interpret the  
6 section of the Chicago municipal code that's at  
7 issue here, which is section 8-20-110(b)(3), sub  
8 iii. Now, if I -- and I'm stating this merely as  
9 preparatory remarks, but I need to get these in the  
10 record, but as is pointed out in the brief, the  
11 Illinois Supreme Court recognized in District of  
12 Columbia versus Heller that the right to keep and  
13 bear arms is a fundamental right protected by the  
14 2nd Amendment to the U.S. Constitution.

15 In McDonald versus City of Chicago, the  
16 Illinois Supreme Court ruled that that fundamental  
17 right is incorporated by the 14th Amendment, and  
18 therefore applicable to the states and  
19 municipalities. R72

20 In the Illinois Constitution, Article 1,  
21 Section 22, also protects the fundamental right to  
22 keep and bear arms. That being said, the Chicago  
23 municipal code section 8-20-110(b)(3) requires as a  
24 condition to possess a firearm in the City of

1 Chicago, that a person have a Chicago firearms  
2 permit or CFP. It further requires that a CFP  
3 application will be denied if the applicant has  
4 been convicted, and this is the language, in any  
5 jurisdiction of unlawful use of a weapon.

6 The ordinance does not distinguish between  
7 felony and misdemeanor convictions, and under the  
8 holding in District of Columbia versus Heller, the  
9 Supreme Court recognized that only felons, only  
10 felony convictions constitute a basis to infringe  
11 the fundamental right to keep and bear arms. Okay.

12 It -- federal and Illinois law do not allow  
13 a person to be denied the right to own firearms  
14 based on a misdemeanor conviction. The Firearm  
15 Owners Identification Act, the Illinois statute  
16 only sets forth that you cannot have a felony  
17 conviction. There's no reference to misdemeanor  
18 convictions.

R73

19 The Chicago ordinance however, lumps them  
20 all together, and by including misdemeanor and  
21 felony convictions broadly as a grounds for denial  
22 of a CFP and thereby denial of the right to own a  
23 handgun in the City of Chicago, section 8-20-110  
24 violates the federal and state constitutional right

1 to keep and bear arms.

2 ADMINISTRATIVE LAW JUDGE DAVIS: So you're  
3 getting --

4 MR. KOLODZIEJ: I'm not asking --

5 ADMINISTRATIVE LAW JUDGE DAVIS: -- well,  
6 that sounds like you're asking me.

7 MR. KOLODZIEJ: Well, but the reason I'm  
8 saying this, your Honor, is that you don't need to  
9 reach that issue if you interpret the ordinance in  
10 the manner that we are suggesting, which is the  
11 ordinance itself does not define the word "use".

12 Interestingly, the Illinois statute does,  
13 but the ordinance, the Chicago ordinance does not  
14 define the word use, nor does it incorporate the  
15 definition of the word use from the Illinois  
16 statute, the criminal statute specifically.

17 ADMINISTRATIVE LAW JUDGE DAVIS: And the --

18 MR. KOLODZIEJ: And it refers broadly to  
19 any jurisdiction.

R74

20 ADMINISTRATIVE LAW JUDGE DAVIS: Um-hmm.

21 MR. KOLODZIEJ: We don't know what statutes  
22 in other jurisdictions might provide about what the  
23 meaning of unlawful use is as opposed to carrying  
24 or possessing, but my point is that because the

1 ordinance does not define the word use, it has to  
2 under well settled case law, you have to as a  
3 tribunal give that word its plain and ordinary  
4 meaning, and the plain and ordinary meaning of the  
5 word use as the U.S. Supreme Court recognized in  
6 Bailey versus United States, which we've cited,  
7 held that the word "use" means:

8 .An active employment of a  
9 firearm.

10 In other words discharging or firing a  
11 firearm. Now, Mr. Gowder here and counsel just  
12 argued it, Mr. Gowder was convicted of carrying or  
13 possessing.

14 The section of the Illinois criminal code  
15 under which he was convicted does not list use in  
16 the sense of firing or discharging a weapon as a  
17 basis for a conviction, only the mere carrying or  
18 possessing. And therefore, the elements of that  
19 offense are not active employment or use of a  
20 firearm in the common plain ordinary meaning of the  
21 word use.

22 ADMINISTRATIVE LAW JUDGE DAVIS: Well, no,  
23 go on counsel, I'm listening.

R75

24 MR. KOLODZIEJ: Mr. Gowder was convicted of

1 carrying or possessing only, not of discharging or  
2 operating or in the ordinary meaning using a  
3 firearm.

4 Therefore, he must be in compliance with  
5 section 8-20-110(b)(3) of the municipal code, and  
6 his action is wrongfully denied, his application is  
7 wrongfully denied. The reason I say this is that  
8 if you rule otherwise, if you interpret in the  
9 manner that counsel is suggesting, the word "use"  
10 in the Chicago ordinance, the undefined word use,  
11 if you interpret it to have the exact same meaning  
12 as the Illinois criminal statute appears to, in  
13 other words, use encompasses --

14 ADMINISTRATIVE LAW JUDGE DAVIS: Yes.

15 MR. KOLODZIEJ: -- which is an abnormal  
16 meaning.

17 ADMINISTRATIVE LAW JUDGE DAVIS: Yeah, but  
18 go on. Finish it.

R76

19 MR. KOLODZIEJ: Okay. If you interpret it  
20 that way, then you are raising the serious  
21 constitutional question of whether precluding  
22 someone from possessing a firearm in Chicago on the  
23 basis of a misdemeanor conviction violates the  
24 fundamental right to keep and bear arms.

1           There is an easy way out. Interpret this  
2     in the logical manner, give the word "use" the  
3     undefined word "use" in the ordinance the plain and  
4     ordinary meaning of firing, employing actively, not  
5     mere carrying or possessing, and the reason you do  
6     that is because the ordinance refers to a  
7     conviction in any jurisdiction, not just Illinois.  
8     If it were only Illinois --

9           ADMINISTRATIVE LAW JUDGE DAVIS: But do you  
10    want me to -- do you want me to -- not to consider  
11    Illinois?

12           MR. KOLODZIEJ: No, I do, but the point is  
13    because they have expanded this to the entire  
14    country, any jurisdiction, and the Illinois Supreme  
15    Court itself ruled under federal law the word "use"  
16    means active employment, operating, discharge of  
17    the weapon. That's what the Bailey case held, so  
18    under Illinois federal -- or U.S. federal law, use  
19    does not mean the mere carrying or possessing, and  
20    the Supreme Court's been very clear that merely a  
21    conviction for merely carrying, or possessing a  
22    misdemeanor conviction, that is not grounds to  
23    infringe the fundamental right to keep and bear  
24    arms.

R77

1           So what I'm suggesting to this Court is  
2     that only by interpreting the ordinance in the  
3     fashion I'm suggesting, and giving the word "use"  
4     its ordinary plain meaning of operating or  
5     discharging the firearm can you avoid a serious  
6     constitutional issue being raised by a -- by the  
7     denial of this application, and the Illinois  
8     Supreme Court has instructed us -- has instructed  
9     courts that they are to construe statutes and  
10    ordinances whenever possible in a manner so as to  
11    avoid raising serious constitutional questions.

12           ADMINISTRATIVE LAW JUDGE DAVIS: Well,  
13    counsel, let me just stop you right there. Now,  
14    you're arguing that -- you're telling me about the  
15    ordinary use of the word use, and in the state  
16    statute the use -- the word unlawful use of weapons  
17    has about 10 different, maybe more than that,  
18    interpretations, one of which is the one under  
19    which your client was convicted. So are you  
20    telling me I should ignore that? Because this is  
21    unlawful use of a weapon, section 24-1, part 10  
22    says:

R78

23                   Carries or possesses on or about  
24                   his person.



1           And then it gives you a litany of -- a  
2           description of what that interprets, what that  
3           means.

4           MR. KOLODZIEJ: That's correct.

5           ADMINISTRATIVE LAW JUDGE DAVIS: So do you  
6           want me to ignore that?

7           MR. KOLODZIEJ: You -- I'm not asking you  
8           to ignore that.

9           ADMINISTRATIVE LAW JUDGE DAVIS: Oh, okay.

10          MR. KOLODZIEJ: But I'm not -- nor am I  
11          asking you to interpret the Illinois statute.

12          ADMINISTRATIVE LAW JUDGE DAVIS: No, it's  
13          already been -- this has been interpreted for me,  
14          unlawful use of a weapon definition in effect is  
15          here. It tells me what the unlawful use of a  
16          weapon is comprised of under the statute.

17          MR. KOLODZIEJ: But the Chicago ordinance  
18          does not so define the word use, nor does it refer  
19          to this Illinois statute and adopt its meaning of  
20          the word use. It uses that word generically, and  
21          refers to any jurisdiction which would be unlawful  
22          use in Idaho or California.

R79

23          ADMINISTRATIVE LAW JUDGE DAVIS: Well,  
24          let's don't go to Idaho, let's just go to Illinois.

1       Why can't I stop at Illinois?

2               MR. KOLODZIEJ: Because the ordinance uses  
3       the word "any jurisdiction".

4               ADMINISTRATIVE LAW JUDGE DAVIS: Well, any  
5       would be Illinois, wouldn't it?

6               MR. KOLODZIEJ: It -- that is one of many.

7               ADMINISTRATIVE LAW JUDGE DAVIS: Well, I  
8       don't -- I don't have to go outside of Illinois, do  
9       I? I mean if I have -- if I have the definition in  
10      Illinois, what do I need to go to Idaho for?

11              MR. KOLODZIEJ: Let me give you an example.  
12      If the Idaho criminal statute has a criminal  
13      statute that makes illegal the unlawful firing or  
14      unlawful use of a firearm and another statute that  
15      makes the unlawful carrying of a firearm, then if  
16      you were convicted under the Iowa -- the Idaho  
17      statute for unlawful carrying, under the Chicago  
18      ordinance, you could not be denied a Chicago  
19      firearms permit as Mr. Gowder has been.

R80

20              As a practical matter, the elements of the  
21      offense here are no different because they are mere  
22      possession or carrying. Regardless of the way the  
23      Illinois legislature defined the term "use" in that  
24      statute, it is undisputed that Mr. Gowder's offense

1 involved only carrying or possessing and was a  
2 misdemeanor conviction, and so given the fact that  
3 the ordinance encompasses any jurisdiction, not  
4 just Illinois, it's not limited just to Illinois.

5 ADMINISTRATIVE LAW JUDGE DAVIS: Well,  
6 counsel, what -- I mean I would -- if it had said  
7 all under jurisdictions, but any jurisdiction seems  
8 to be that you can be selective. If I were even to  
9 accept that argument, that premise, all  
10 jurisdictions, but any jurisdiction means that you  
11 can pick any of them.

12 MR. KOLODZIEJ: Well, given that fact, you  
13 have to define -- you have to construe the word  
14 "use" then in the broad sense of the word because  
15 you can pick any of them. Not all jurisdictions,  
16 and we know this from the Bailey case, the United  
17 States does not define the word "use" the way  
18 Illinois does, so as we pointed out in our brief --

19 ADMINISTRATIVE LAW JUDGE DAVIS: Say that  
20 again.

R81

21 MR. KOLODZIEJ: The United States federal  
22 law does not interpret the way -- the word "use",  
23 unlawful use of a firearm in the manner that  
24 Illinois does, and that's -- the argument that

1 we've made in our brief, so if Mr. Gowder were  
2 convicted under federal law of a misdemeanor of  
3 carrying or possessing, he could not be denied a  
4 firearms permit in Chicago, but if he's convicted  
5 under the Illinois statute for carrying or  
6 possessing, he can be merely because the Illinois  
7 statute uses an uncommon meaning of the word use.

8 And what I'm saying to you is if you  
9 interpret the ordinance to have that unusual  
10 meaning of the word use that the Illinois statute  
11 does, then you are raising a very serious  
12 constitutional question here, because other  
13 jurisdictions do not define the word use that way,  
14 and so the right to keep and bear arms, a  
15 fundamental right is being raised here if you  
16 affirm the denial of this CFP.

17 ADMINISTRATIVE LAW JUDGE DAVIS: Counsel,  
18 are you telling me that every jurisdiction in these  
19 -- in the United States uses the definition that  
20 you want me to use?

21 MR. KOLODZIEJ: I cannot tell you that, I  
22 do not know.

**R82**

23 ADMINISTRATIVE LAW JUDGE DAVIS: Well, then

24 --

1 MR. KOLODZIEJ: But I do --

2 ADMINISTRATIVE LAW JUDGE DAVIS: -- there  
3 may be some that uses the same one that we use,  
4 right?

5 MR. KOLODZIEJ: There may be, but that --

6 ADMINISTRATIVE LAW JUDGE DAVIS: Oh, okay.

7 MR. KOLODZIEJ: -- is not the test.

8 ADMINISTRATIVE LAW JUDGE DAVIS: Well, but  
9 that's what you just told me.

10 MR. KOLODZIEJ: We know for a fact that at  
11 least one jurisdiction, the United States, the  
12 federal government does not use that definition.

13 ADMINISTRATIVE LAW JUDGE DAVIS: States  
14 usually -- state not federal.

15 MR. KOLODZIEJ: The U.S. Supreme Court in  
16 the Bailey case defined the word "use" as:

17 The active employment of a  
18 firearm.

R83

19 That's not the way the Illinois statute  
20 defines it, so by wording this ordinance in Chicago  
21 to encompass any jurisdiction, that has to be taken  
22 into account, and the Chicago ordinance could  
23 easily have defined the word "use" and did not do  
24 so. And under the case law we have cited to, you

1 have to therefore give the word its ordinary  
2 meaning, and that I suggest is the manner you  
3 should decide this case, because it will avoid any  
4 serious constitutional question.

5 ADMINISTRATIVE LAW JUDGE DAVIS: Counsel,  
6 you know, unlawful use of weapon has been around  
7 for so long I can't tell you, and nobody has  
8 brought up this argument that I know of. I mean  
9 unlawful use of weapon by its common term as far as  
10 I know has always been possessing a firearm. Why  
11 are you coming up with this?

12 I mean it's -- and I don't know that it's  
13 been defined anywhere, but that is the common  
14 usage, unlawful use of a weapon has always meant  
15 carrying or possessing a weapon.

16 MR. KOLODZIEJ: But the longevity of the  
17 Illinois statute is not at issue. This is a new  
18 ordinance passed by the City --

19 ADMINISTRATIVE LAW JUDGE DAVIS: Well,  
20 you're talking about --

21 MR. KOLODZIEJ: -- in July. R84

22 ADMINISTRATIVE LAW JUDGE DAVIS: -- the  
23 common usage, so that's why I went to that because  
24 that's what I've always understood it to mean.

1 I've never understood it necessarily to mean that  
2 you fired a firearm or anything else other than  
3 possessing it. But do you want to respond to that?  
4 Are you done, counsel?

5 MR. KOLODZIEJ: I think I've said what I  
6 need to say, thank you.

7 ADMINISTRATIVE LAW JUDGE DAVIS: Thank you.

8 MR. SACHNOFF: I just want to briefly  
9 mention that I think that the Bailey case can be  
10 distinguished here, and part of that is because the  
11 Bailey case, as counsel cites, defines use in the  
12 context of a firearm during drug trafficking or a  
13 crime of violence.

14 So Bailey was a criminal matter, and Mr.  
15 Bailey's liberty was at issue based upon the  
16 interpretation of whether "use" meant carry or not.  
17 That is not the context here. No one is going to  
18 send Mr. Gowder to jail because of this denial.

19 This is simply about whether or not he gets  
20 a Chicago firearms permit, not whether he gets  
21 convicted and goes to federal prison, so therefore,  
22 I think the City is entitled to rely on the use of  
23 the word use that the state legislature has  
24 adopted.

R85

1           The other point I want to make is there's  
2       been no testimony or evidence at all about what Mr.  
3       Gowder actually did or didn't do. All we have is  
4       documentary evidence about the nature of his  
5       charge, the statute that he was convicted under and  
6       the disposition. So I don't want to get personal  
7       about this because this isn't personal, and because  
8       what Mr. Gowder may have done or actually did isn't  
9       relevant, it's just what ordinance or statute was  
10      he convicted under.

11           If there's some distinction between felony  
12      and misdemeanor, which the City stipulates, that  
13      the ordinance does not contain, our ordinance does  
14      not distinguish between felony and misdemeanor  
15      convictions as far as disqualifying someone from  
16      getting a Chicago firearms permit. And that the  
17      disposition under what statute he was charged with  
18      and what effect that has on his ability to get a  
19      firearms permit, so I just want to make sure that  
20      we're not talking about...

21           ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
22      Mr. Sachnoff, you --

**R86**

23           MR. SACHNOFF: -- what Mr. Gowder may have  
24      done or didn't do.



1 ADMINISTRATIVE LAW JUDGE DAVIS: And you're  
2 not taking the position that whatever -- whatever  
3 the facts situation under which he was convicted  
4 would have no relevance in any event, is that  
5 your...

6 MR. SACHNOFF: No.

7 ADMINISTRATIVE LAW JUDGE DAVIS: I'm...

8 MR. SACHNOFF: I'm fairly certain that we  
9 are in agreement that there aren't any felony  
10 convictions here, although I'm not really sure  
11 about that.

12 I mean if you look at City's Group 7, the  
13 first page does have criminal justice summary total  
14 list 3, zero felony, two misdemeanor. Then if you  
15 look at the second page of that, you've got Class F  
16 or what he was charged with, and then later some  
17 other types of issues that Mr. Gowder had, and  
18 those are Class M, and I'm just not sure whether  
19 we're talking about whether this was originally a  
20 felony charge, and then at some point maybe later  
21 was reduced once the probation was completed or  
22 not, I -- I'm just not an expert in interpreting  
23 these kind of things.

R87

24 I'm not in a position at this point to

1 stipulate that we're not talking about a felony.

2 ADMINISTRATIVE LAW JUDGE DAVIS: Would it  
3 make a difference?

4 MR. SACHNOFF: I'm sorry?

5 ADMINISTRATIVE LAW JUDGE DAVIS: Would it  
6 make a difference?

7 MR. SACHNOFF: Under counsel's  
8 interpretation, yes, because he's saying --

9 ADMINISTRATIVE LAW JUDGE DAVIS: But not  
10 under the ordinance.

11 MR. SACHNOFF: -- that only felony  
12 convictions can deprive you of the right to bear  
13 arms.

14 ADMINISTRATIVE LAW JUDGE DAVIS: Well, I'm  
15 not getting to the constitutional issue.

16 MR. SACHNOFF: I understand.

17 ADMINISTRATIVE LAW JUDGE DAVIS: I know the  
18 ordinance says --

19 MR. SACHNOFF: I just want to make sure for  
20 the record that I don't know for a fact, and I'm  
21 not in a position to stipulate that there's no  
22 felony conviction here.

R88

23 MR. KOLODZIEJ: Well, the certified  
24 statement of conviction does show what happened,

1 and that's in evidence in the last page of it.

2 ADMINISTRATIVE LAW JUDGE DAVIS: Well, I'm,  
3 you know --

4 MR. KOLODZIEJ: Answers the question.

5 ADMINISTRATIVE LAW JUDGE DAVIS: -- I'm not  
6 concerned whether there's a misdemeanor or a felony  
7 because the ordinance doesn't make a distinction.  
8 It says:

9 Unlawful use of a weapon.

10 MR. KOLODZIEJ: Let me then if I may just  
11 respond to what counsel said about the Bailey case  
12 involving a deprivation of liberty. I would  
13 suggest that -- well, not suggest, I will argue  
14 forcefully that the Illinois Supreme Court held in  
15 District of Columbia versus Heller and McDonald  
16 versus City of Chicago that the right to keep and  
17 bear arms is a fundamental right just like the  
18 fundamental right to liberty, so I don't think  
19 there's a distinction in the qualitative rights  
20 here. They're both fundamental rights, and they're  
21 both on equal pairing here, and I do think the fact  
22 that it is a misdemeanor...

R89

23 I understand your position, but I  
24 respectfully disagree, and the only way that you

1 can avoid raising a constitutional issue here is to  
2 rule according to the interpretation I've  
3 suggested.

4 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
5 Thank you, counsel. Anything else?

6 MR. SACHNOFF: Nothing further.

7 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
8 You don't plan to call any witnesses, counsel?

9 MR. KOLODZIEJ: I do not.

10 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
11 City, you've rested, right?

12 MR. SACHNOFF: Yes.

13 ADMINISTRATIVE LAW JUDGE DAVIS: Okay.

14 MR. KOLODZIEJ: And if I may, I -- the  
15 exhibits that counsel introduced, which are  
16 Exhibits 1 through 9?

17 MR. SACHNOFF: I believe.

18 ADMINISTRATIVE LAW JUDGE DAVIS: 1 through  
19 8.

20 MR. KOLODZIEJ: 1 through 8 would be the --  
21 I have 1 through 9 actually.

22 MR. SACHNOFF: Really?

R90

23 MR. KOLODZIEJ: I want to make sure I'm not  
24 misspeaking, but this -- the --

1 ADMINISTRATIVE LAW JUDGE DAVIS: Yes, this  
2 does say --

3 MR. KOLODZIEJ: -- criminal statute is  
4 Group 8, and then the certified statement of  
5 conviction is Group 9, according to the package.

6 MR. SACHNOFF: Oh, you're right, you're  
7 right.

8 ADMINISTRATIVE LAW JUDGE DAVIS: Right.  
9 All right.

10 MR. KOLODZIEJ: So I would ask that those  
11 nine exhibits be admitted with respect to my case  
12 as well.

13 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
14 Petitioner's Exhibits 1 through 9 will be admitted  
15 into evidence.

16 (Whereby Petitioner's Exhibit  
17 Number 9 having been admitted  
18 into evidence.)

19 ADMINISTRATIVE LAW JUDGE DAVIS: And they  
20 will also be admitted on Respondent's request.

21 MR. KOLODZIEJ: Thank you.

R91

22 ADMINISTRATIVE LAW JUDGE DAVIS: As your  
23 exhibits.

24 (Whereby Respondent's Exhibits

1 1 through 9 having been  
2 admitted into evidence.)

3 ADMINISTRATIVE LAW JUDGE DAVIS: And your  
4 appeal -- appeal of denial of Chicago firearms  
5 permit municipal code of Chicago is -- what's the  
6 word I want to use? Well, it's filed.

7 MR. KOLODZIEJ: The brief I submitted?

8 ADMINISTRATIVE LAW JUDGE DAVIS: The brief,  
9 yes.

10 MR. KOLODZIEJ: Thank you.

11 ADMINISTRATIVE LAW JUDGE DAVIS: You're  
12 welcome.

13 MR. KOLODZIEJ: And that will be part of  
14 the record then?

15 ADMINISTRATIVE LAW JUDGE DAVIS: Yes.

16 MR. KOLODZIEJ: Thank you.

17 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
18 Anything else?

19 MR. SACHNOFF: No, not from the City.

20 MR. KOLODZIEJ: No.

R92

21 ADMINISTRATIVE LAW JUDGE DAVIS: All right.  
22 I'll have a written response within five days, is  
23 that what I have, Mr. Sachnoff?

24 MR. SACHNOFF: I believe -- I believe

1 that's correct.

2 ADMINISTRATIVE LAW JUDGE DAVIS: Business  
3 days or?

4 MR. SACHNOFF: I know we've had this  
5 discussion before. I think we're talking about  
6 8-2200, so 200(d):

7 Based on the evidence contained,  
8 the record of the administrative  
9 law officer and the Department of  
10 Administrative Hearings shall  
11 within five days of the  
12 conclusion of the hearing issue  
13 written findings and enter an  
14 order granting or denying the  
15 application.

16 It's the City's position that's five  
17 calendar days, just because of the reference  
18 earlier in the section where it specifies the time  
19 period for scheduling a hearing, which is 72 hours,  
20 excluding Saturdays, Sundays and holidays, so  
21 therefore if the city council had meant to define  
22 that as working days or business days, then they  
23 would have included that same provision.

R93

24 ADMINISTRATIVE LAW JUDGE DAVIS: Okay. So

1 it's five calendar days?

2 MR. SACHNOFF: Five calendar days from  
3 today, December 8th.

4 ADMINISTRATIVE LAW JUDGE DAVIS: And is  
5 that the date on which counsel has to receive it  
6 also, the fifth day? Yeah, you can -- it can be  
7 faxed to you.

8 MR. KOLODZIEJ: That's fine.

9 ADMINISTRATIVE LAW JUDGE DAVIS: Do you  
10 have something to say, counsel?

11 MR. KOLODZIEJ: I would like to note for  
12 the record that counsel just made the argument  
13 regarding the interpretation of the ordinance on  
14 the number of days by saying:

15 If the city council wished to define it, it  
16 would have done so, and I have made the same  
17 argument regarding the word "use," so I'd just like  
18 to note that for the record.

19 ADMINISTRATIVE LAW JUDGE DAVIS: That's by  
20 December the 15th, is that right? It would be the  
21 fifth day. All right.

**R94**

22 That'll conclude the hearing for today, and  
23 you'll get a response counsel, by the 15th of  
24 December, written response.



1 MR. KOLODZIEJ: Thank you very much.

2 ADMINISTRATIVE LAW JUDGE DAVIS: You're

3 welcome, counsel, thank you.

4 MR. SACHNOFF: Thank you.

5 ADMINISTRATIVE LAW JUDGE DAVIS: You're

6 welcome.

7

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10 (END OF PROCEEDINGS)

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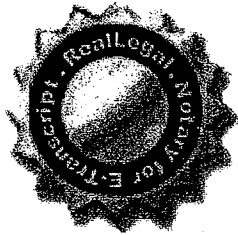
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R95

1 I, Susanne M. Carlin, do hereby certify or  
2 affirm that I have impartially transcribed the  
3 foregoing from an audiotape record of the  
4 above-captioned proceedings to the best of my  
5 ability.



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7 *Susanne M. Carlin*

8 Susanne M. Carlin

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R96