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VENTURA COUNTY SHERIFF'S OFFICE
7 (*erroneously sued as Ventura County Sheriffs*
Department)
8

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11

12 SIGITAS RAULINAITIS,

13 Plaintiff,

14 v.

15 VENTURA COUNTY SHERIFFS
DEPARTMENT,

16 Defendant.
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21
22
23

CASE NO. CV13-02605-MAN

**DEFENDANT'S NOTICE OF
HEARING OF MOTION AND
MOTION FOR SUMMARY
JUDGMENT OR, IN THE
ALTERNATIVE, FOR PARTIAL
SUMMARY JUDGMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATIONS
OF DANIEL GONZALES AND
PLAINTIFF**

[Filed concurrently with Statement of
Uncontroverted Facts and Conclusions of
Law, proposed Order, and proposed
Judgment]

Date: September 2, 2014
Time: 1:00 p.m.
Ct rm: 580 Roybal Building

24 TO PLAINTIFF, SIGITAS RAULINAITIS, AND HIS COUNSEL OF RECORD,
25 JONATHAN W. BIRDT, ESQ.:

26 PLEASE TAKE NOTICE that on September 2, 2014, at 1:00 p.m., or as soon
27 thereafter as the matter may be heard in Courtroom 580 of the Roybal Federal
28 Building, located at 255 East Temple Street, Los Angeles, California, defendant

1 VENTURA COUNTY SHERIFF'S OFFICE (erroneously sued and served as
2 Ventura County Sheriffs Department) will move the Honorable Margaret A. Nagle,
3 acting United States District Court Judge, for an order granting it summary judgment
4 or, in the alternative, for partial summary judgment.

5 This motion is based upon this notice of hearing, the attached memorandum of
6 points and authorities, and the attached declarations, one of plaintiff Sigitas
7 Raulinaitis and the other two of Daniel Gonzales.

8 This motion is made following the conference of counsel pursuant to Central
9 District Local Rule 7-3, which took place on May 28, 2014.

10
11 DATED: June 3, 2014

WISOTSKY, PROCTER & SHYER

12
13 By: 

14 Jeffrey Held
15 Attorneys for Defendant,
16 VENTURA COUNTY SHERIFF'S OFFICE
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **ENABLING AUTHORITY**

4 Elaborating on summary judgment procedure, the Ninth Circuit explained:

5 Pursuant to Rule 56(c) of the Federal Rules of Civil
 6 Procedure, summary judgment shall be granted when,
 7 viewing the facts in the light most favorable to the non-
 8 moving party, (1) there is no genuine issue of material fact,
 9 and (2) the moving party is entitled to summary judgment
 10 as a matter of law. Once the moving party has satisfied his
 11 burden, he is entitled to summary judgment if the non-
 12 moving party fails to designate, by affidavits, depositions,
 13 answers to interrogatories, or admissions on file, specific
 14 facts showing that there is a genuine issue for trial.... The
 15 mere existence of a scintilla of evidence in support of the
 16 nonmoving party's position is not sufficient.... Factual
 17 disputes whose resolution would not affect the outcome of
 18 the suit are irrelevant to the consideration of a motion for
 19 summary judgment.... In other words, summary judgment
 20 should be granted where the nonmoving party fails to offer
 21 evidence from which a reasonable jury could return a
 22 verdict in its favor.

23 *Arpin v. Santa Clara Valley Transportation Agency*, 261 F.3d 912, 919 (9th Cir.
 24 2001).

25 Rule 56(a) allows a motion for summary judgment or partial summary
 26 judgment. A party may move for summary judgment as to all claims or "part of each
 27 claim." Unless a different time is set by local rule or the Court's order, a party may

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1 file a motion for summary judgment at any time until 30 days after the close of all
2 discovery. Rule 56(b). A hearing date of September 2, 2014, has been ordered.

3 Rule 56 requires that the moving party identify each claim or part of each claim
4 upon which summary judgment is sought. In this case, the complaint, as currently
5 pled, alleges a single claim based upon the defendant's March 18, 2013, denial of
6 plaintiff's January 15, 2013, application for issuance of a permit to carry a concealed
7 weapon. That is certainly one claim against which this summary judgment is
8 directed.

9 But as the litigation unfolded, it is arguable that a second claim was created
10 even though it has never been formalized by being pled in the complaint, nor has the
11 complaint been amended. During the combination continued hearing of plaintiff's
12 ex parte application for issuance of a preliminary injunction/16(b) case management/
13 scheduling conference, the Court allowed plaintiff to submit a second concealed
14 weapons permit application to the defendant, with the concurrence of defense counsel
15 and plaintiff's counsel. That application has been denied. Since that application
16 originated in a court conference with the imprimatur of the Court and concurrence of
17 counsel, defendant feels it fair to treat the second application as an implicitly pled
18 claim and will move for summary judgment as to that denial, as well.

19 This motion therefore seeks summary judgment in favor of the defendant on
20 both claims. In the alternative, the motion seeks partial summary judgment as to
21 either of the two denials of the plaintiff's concealed weapons permit applications as
22 to which the Court believes there is legal justification based upon the submissions.

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1 II.

2 **DEFENDANT’S DENIAL OF PLAINTIFF’S FIRST**
 3 **APPLICATION FOR ISSUANCE OF A LICENSE TO**
 4 **CARRY A CONCEALED WEAPON WAS LEGALLY**
 5 **JUSTIFIED BASED UPON THE FACT THAT PLAIN-**
 6 **TIFF WAS NOT A RESIDENT OF VENTURA**
 7 **COUNTY**

8 Penal Code Section 26150 governs applications for licenses to carry concealed
 9 weapons. Subdivision (a) provides that when a person applies for a license to carry a
 10 firearm capable of being concealed upon the person, the sheriff of a county “may
 11 issue” a license to such person upon proof of a number of items. These are listed as
 12 26150(a)(1)-(4). Subdivisions (1), (2), and (4) are not in play in this litigation.
 13 Subdivision (1) involves a requirement that the applicant is of good moral character;
 14 that is not in dispute here. The second subdivision involves the existence of good
 15 cause for the issuance, but that has been essentially erased by the *Peruta* decision.
 16 The fourth requirement is actually just a condition subsequent, not precedent, to the
 17 issuance of the permit and requires the successful applicant to then follow up with a
 18 completed course of training in firearms use and safety.

19 The only subdivision requirement at issue in this litigation is 26150(a)(3). It
 20 requires that the concealed weapons applicant either be a county resident or maintain
 21 a principal place of employment in the county while spending a substantial period of
 22 time in that place of employment.

23 There is no interpretive authority construing the meaning of the residency
 24 requirement in Penal Code Section 26150. It is therefore proper to turn to analogous
 25 sources of construction to answer the question of whether the plaintiff was a resident
 26 of Ventura County at the time he made the application. In the case of *In re Marriage*
 27 *of Thornton*, 135 Cal.App.3d 500 (1982), the subject of defining a resident for
 28 dissolution of marriage purposes had to be resolved. While the discussion in

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1 *Thornton* originates in the dissolution of marriage context, the observations of the
2 court are not limited to that subject. The burden of proving residence is on the party
3 alleging it. 135 Cal.App.3d at 510. “It is well settled in California that the term
4 ‘residence’ ... is synonymous with ‘domicile.’” *Id.* at 507. The difference between
5 “residence” and “domicile” has been summarized in the California Supreme Court
6 decision of *Smith v. Smith*, 45 Cal.2d 235, 239 (1955), quoted in *Thornton*,
7 135 Cal.App.3d at 507-508:

8 “Courts and legal writers usually distinguish ‘domicile’ and
9 ‘residence,’ so that ‘domicile’ is the one location with which
10 for legal purposes a person is considered to have the most
11 settled and permanent connection ... which the law may also
12 assign to him constructively ‘Domicile’ normally is the
13 more comprehensive term, in that it includes both the *act* of
14 residence and an *intention* to remain; a person may have
15 only one domicile at a given time, but he may have more
16 than one physical residence separate from his domicile, and
17 at the same time.... But statutes do not always make this
18 distinction in the employment of those words. They
19 frequently use ‘residence’ and ‘resident’ in the legal
20 meaning of ‘domicile’ and ‘domiciliary,’ and at other times
21 in the meaning of factual residence or in still other shades of
22 meaning.... For example, in our codes ‘residence’ is used as
23 synonymous with domicile in the following statutes: sections
24 243 and 244 of the Government Code, giving the basic rules
25 generally regarded as applicable to domicile.”

26 *Thornton, id.*, quoting *Smith, supra* [emphasis in original].

27 The *Thornton* case also emphasized that there must be a union of act and
28 intent: “The combination of actual presence and intention is required.”

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1 135 Cal.App.3d at 509. The *Thornton* court concluded that, “In sum, an individual
2 may become a resident (meaning domiciliary) of California.” *Id.* at 509, equating the
3 two legal terms. While there is no litmus test for residency, a number of factors have
4 been identified as relevant; however, it is a totality of the circumstances test with no
5 one factor or group of factors wholly determinative. The *Thornton* court observed, at
6 509-510, that “merely purchasing a home ... is not sufficient to demonstrate intent to
7 acquire a domicile if contradicted by other substantial evidence of intent.”
8 Government Code Section 244 is helpful in understanding what the term “residence”
9 means in California statutory use.

10 Section 244 governs determination of place of residence. It is to be consulted
11 in determining the place of residence. Subdivision (b) provides that “there can only
12 be one residence.” Subdivision (a) largely equates “residence” with where a person
13 spends his or her leisure time: “It is the place where one remains when not called
14 elsewhere for labor or other special or temporary purpose, and to which he or she
15 returns in seasons of repose.” “Repose” is a synonym for sleep. The leading statu-
16 tory definition of the term is therefore where one sleeps and relaxes.

17 Subdivision (f) echoes the *Thornton* principle that residence can be changed
18 only by the union of act and intent. Plaintiff, in this case, does not contend that he
19 satisfies the statutory definition of “residence” under 26150(a) by having a principal
20 place of employment in Ventura County and spending a substantial period of time
21 there. Rather, he contends that he was a resident of Ventura County when he
22 submitted the applications.

23 The California Supreme Court, in the *Smith* case, 45 Cal.2d at 239-240,
24 quoting from a state appellate court decision, concluded that “Residence, as used in
25 the law, is a most elusive and indefinite term” whose meaning in any particular
26 statutory use must be determined by reference to the purpose of the statute. The
27 *Smith* court listed four California statutes in which “residence” was used synony-
28 mously with “domicile.” *Id.* at 239-240. The *Smith* court looked to the importance of

1 the legislative history of the statute it was construing to ascertain the purpose of the
2 residency requirement.

3 California's first concealed weapons permit statute was enacted in 1917. It
4 contained the present "good moral character" and "good cause" requirements, but it
5 did not have any residency requirement. Stats. 1917, c. 145, p. 222, §6. Subsequent
6 amendments to the statute in 1923, 1947, and 1951 similarly omitted any residency
7 requirement. Stats. 1923, c. 339, p. 698, §8; Stats. 1947, c. 1281, p. 2793, §1; Stats.
8 1951, c. 1619, p. 3630, §1.

9 In 1953, the statute was enacted as Stats. 1953, c. 36, p. 656, §1. It was
10 codified as Penal Code Section 12050. It still did not include any residency
11 requirement.

12 The residency requirement appeared for the first time in 1969. Senate Bill
13 1272 passed, amending Section 12050 to add to the "moral character" and "good
14 cause" requirements for the issuance of a concealed weapons permit the requirement
15 that the applicant be a resident of the county. Stats. 1969, c. 1188, p. 2318, §1. The
16 bill was sponsored by the Attorney General and was "intended to stop shopping for
17 permits throughout the state." See Enrolled Bill Memorandum to Governor for
18 SB1272, dated August 20, 1969, signed by the legislative secretary with a recom-
19 mendation to approve. Before Senate Bill 1272 was signed by then-Governor Reagan
20 on August 30, 1969, the Attorney General and Assistant Attorney General of the
21 State of California sent the Governor a memorandum on August 11, 1969, urging him
22 to sign the bill into law. They stated:

23 The purpose of this bill is to curtail the present practice of
24 shopping for concealed weapons permits throughout the
25 state. It is now common practice for citizens to obtain these
26 permits from law enforcement agencies in jurisdictions
27 hundreds of miles from their residence. ¶ Senate Bill 1272
28 would require that an applicant obtain his permit from the

1 sheriff or a chief of police within the county of his
2 residence. It would also help to ensure that permits are not
3 granted improvidently. Law enforcement agencies near the
4 residence of the applicant are obviously in a much better
5 position to evaluate the background, reputation, and need
6 for a weapon, of an applicant.

7 On August 8, 1969, the Alameda County District Attorney wrote to then-
8 Governor Reagan on behalf of the California Peace Officers' Association and the
9 District Attorneys' Association of California and urged the Governor to approve
10 Senate Bill 1272, stating:

11 This requirement of residency will assist law enforcement
12 in effectively ascertaining just who within their county does
13 possess such a permit, and these are the officials who are
14 most likely to know whether the applicant does in fact
15 possess that good moral character which must be demon-
16 strated in order to obtain such a license.

17 The addition of the residency requirement for the concealed weapons permit
18 statute was motivated by a desire to ensure that such permits were issued only to
19 persons who actually lived within the counties in which the permits were sought. The
20 bill's proponents believed that an adequate assessment of the good moral character
21 and good cause requirements was possible only if an applicant resided within the
22 county of application. Considering the legislative goal motivating the importation of
23 the residency requirement effectuated by the passage of Senate Bill 1272, it appears
24 that the statute's newly added use of the term "resident" was intended to embody a
25 concept akin to that of a domiciliary.

26 That conclusion is fortified by a subsequent amendment to Section 12050. In
27 1997, Senate Bill 146 passed and was signed into law. Before that, a city police chief
28 could issue a concealed weapons permit to county residents who did not reside within

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1 his jurisdiction. The amendment effected by Senate Bill 146 took away from city
2 police chiefs the ability to issue concealed weapons permits to citizens who did not
3 reside in their cities but resided in the county in which the city was located. The
4 bill's sponsor noted his intent to keep "local control for issuing a [concealed weapons
5 permit] where it belongs." The impetus, the sponsor noted, was "to prevent a
6 Northern California police chief from issuing permits to non-city residents who
7 resided in the county."

8 The Legislature amended the statute for the purpose, once again, of ensuring
9 that the local officials who assess concealed weapons permit applications would be
10 appropriately positioned to do so because the applicants actually resided within their
11 jurisdictions. In 2008, Section 12050 was amended to include the alternate basis of
12 residency, this being having one's principal place of business or employment in the
13 county while spending a substantial amount of time there. This amendment expanded
14 the category of persons able to apply for such permits to include those who were not
15 domiciled within a county but who spent a substantial portion of their time working
16 within the county. The Legislature again evidenced a desire that such permits be
17 issued only to persons who were actually physically present within a county to a
18 significant degree.

19 Finally, in 2010, Penal Code Section 12050 was repealed but continued
20 without substantive change into separate statutes which were renumbered. The core
21 of old 12050 was continued without substantive change, renumbered as Penal Code
22 Section 26150.

23 It is clear that whether or not to issue a concealed weapons permit pursuant to
24 26150 rests within the discretion of the local issuing authority – here, the defendant.
25 By its very terms, the statute makes such discretion explicit: "When a person applies
26 for a license to carry a pistol, revolver, or other firearm capable of being concealed
27 upon the person, the sheriff of a county *may* issue a license to that person"
28 [Emphasis supplied.] The Ninth Circuit and California appellate courts which have

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1 considered this “may” language in Section 12050(a), the immediate predecessor to
2 Section 26150(a), have drawn the same conclusion: The statute “explicitly grants
3 discretion to the issuing officer to issue or not issue a license to applicants meeting
4 the minimum statutory requirements.” *Erdelyi v. O’Brien*, 680 F.2d 61 (9th Cir.
5 1982).

6 In *Association of Orange County Deputy Sheriffs v. Gates*, 716 F.2d 733 (9th
7 Cir. 1983), former deputy sheriffs retired under medical disability brought a civil
8 rights action alleging that they had been unconstitutionally deprived of permits
9 allowing them to carry concealed, loaded weapons. The Central District granted
10 summary judgment against the deputies, with the Ninth Circuit unanimously
11 affirming. The holding was that the statute providing for issuance of certificates
12 allowing retired peace officers to carry concealed, loaded weapons did not create an
13 entitlement sufficient to warrant constitutional protection.

14 A reasonable expectation of an entitlement is determined mostly by the
15 language of the statute and the extent to which the entitlement is couched in
16 mandatory terms. *Gates*, 716 F.2d at 734. The Ninth Circuit held that the require-
17 ment of good cause prior to the denial of a weapon certificate does not create a
18 constitutionally protected liberty interest because it is not a significant substantive
19 restriction on the basis for the agency’s action. *Id.* The *Gates* court wrote, “The right
20 of a retired deputy sheriff to carry concealed weapons is not so fundamental as to
21 warrant constitutional protection apart from its status under state law.” *Id.* at 735,
22 n.4.

23 The California appellate court has analyzed the Ninth Circuit’s holdings in this
24 regard and agreed with them. The issue was taken up in *Gifford v. City of Los*
25 *Angeles*, 88 Cal.App.4th 801 (2001). In that case, the plaintiff was an applicant for a
26 concealed firearm license which the Los Angeles Police Department refused to issue.
27 The applicant sought mandate from the superior court, which was granted. But the

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1 appellate court unanimously reversed, reinstating the agency's decision to deny the
2 concealed weapons permit. The *Gifford* court explained:

3 [Penal Code] Section 12050 gives "extremely broad
4 discretion" to the sheriff concerning the issuance of con-
5 cealed weapons licenses ... and explicitly grants discretion
6 to the issuing officer to issue or not issue a license to
7 applicants meeting the minimum statutory requirements....

8 *Gifford*, 88 Cal.App.4th at 805 [citing *Erdelyi*].

9 In the case of *Nichols v. County of Santa Clara*, 223 Cal.App.3d 1236, 1241
10 (1990), the court explained:

11 In light of this statute's delegation of such broad
12 discretion to the sheriff, it is well established that an
13 *applicant* for a license to carry a concealed firearm has no
14 legitimate claim of entitlement to it under state law, and
15 therefore has no "property" interest to be protected by the
16 due process clause of the United States Constitution.

17 *Nichols*, 223 Cal.App.3d at 1241 [citing both *Erdelyi* and *Gates* with approval].

18 "It is true that 'domicile' and 'residence' ... are usually in the same physical
19 location." *Milton H. Greene Archives, Inc. v. CMG Worldwide*, 568 F.Supp.2d 1152,
20 1179 (C.D. Cal. 2008). "As a result, in many statutes, 'residence' is frequently
21 construed to mean domicile and the terms are often used synonymously." *Id.* "The
22 California Supreme Court has recognized that many statutes use 'residence' and
23 'domicile' synonymously" [citing *Smith*, 45 Cal.2d at 239]. 568 F.Supp.2d at 1179.
24 The *Greene* court held at 1181, "These regulations demonstrate that under
25 California's Inheritance Tax Law, residence and domicile are synonymous." These
26 authorities evidence an intent that county sheriffs grant concealed weapons permits
27 only to those persons who are physically present within their respective counties to an
28 extent consistent with the concept of "domicile."

1 The decision in *Cantwell v. Connecticut*, 310 U.S. 296 (1940), supports a local
2 residence requirement as a valid constitutional basis for regulation. The *Cantwell*
3 Court ruled that a state can constitutionally require a stranger to the community to
4 establish his identity and authority to act for a charitable cause before allowing him to
5 solicit contributions. *Id.* at 306. Although a fund solicitation is an exercise of free
6 speech, the establishment of community ties as a condition precedent to soliciting is
7 permissible as a regulation of time, place, and manner “in the interest of public
8 safety.” *Id.* at 306-307.

9 Plaintiff’s two links to Ventura County are that he has purchased a home here
10 and registered to vote here. We know from the *Thornton* decision that home
11 ownership is not a terribly persuasive factor, because a wealthy person can own
12 homes in many counties. The registration to vote is of fairly insignificant
13 consequence as well, because it does not require any proof of county residence – not
14 a driver’s license, not even a utility bill (see Gonzales Declaration 2, Exhibit B, ¶42).

15 The evolution of the residency requirement through several statutory
16 amendments makes plain the intent of the state Legislature to ensure that a concealed
17 weapons permit is issued by a county sheriff only to someone who actually lives
18 within the county or spends most of his working time within that county.

19 Critically, plaintiff concedes that there is no county within California within
20 which he spends the majority of his time and that the Oxnard home is just one of
21 multiple residences in three counties which he considers to be his permanent home.
22 Plaintiff admitted during his interview with Deputy Gonzales that during the prior
23 four months, he had spent more time at the Santa Clarita home than in Ventura
24 County.

25 The investigation performed by Deputy Gonzales on behalf of the defendant, in
26 regard to the first application, is exhaustively described in the declaration relevant to
27 that application, Gonzales Declaration 1 (Exhibit A). The declaration establishes the
28 plaintiff’s concession that he had been living at his home in Santa Clarita for the

1 previous four months before the application (Exhibit A, ¶8). The plaintiff's driver's
2 license reflected that his address was in Burbank (¶9).

3 The California Department of Motor Vehicles registration checks revealed that
4 two of the plaintiff's vehicles were registered to his Santa Clarita residence address
5 and the other two were registered to his Burbank work address (¶10). Further, the
6 plaintiff's concealed weapons permit application listed his business address as being
7 in Burbank (¶11).

8 The same application listed plaintiff's wife's residence as being in Santa
9 Clarita. While not determinative in itself, the fact that an individual's spouse resides
10 in another county suggests a significant connection with spending time in that other
11 county (Exhibit A, ¶12).

12 Deputy Gonzales learned that Mr. Raulinaitis had sued Los Angeles County for
13 denying him a concealed weapons permit about a year and a half earlier. He would
14 have needed to have claimed Los Angeles County residency in order to qualify for a
15 concealed weapons permit in that county (¶13).

16 Deputy Gonzales then conducted surveillance of the Santa Clarita address
17 listed in the concealed weapons permit application. The details are described in his
18 declaration and in the statement of uncontroverted facts and conclusions of law.
19 These revealed that his silver Infiniti with customized California plates was parked in
20 the driveway of the home he claimed was his wife's residence on different days in
21 late January and early February of 2013. When Deputy Gonzales spoke with the
22 property manager of the Oxnard condominium complex, he learned that plaintiff's
23 wife had told the property manager that they were renting the condominium to their
24 son. The son was therefore the occupant of that residence, not the plaintiff.

25 From this evidence, it is apparent that the plaintiff, whose burden it is to prove
26 residence has not presented any evidence which would contradict the well-reasoned
27 exercise of discretion by the Ventura County Sheriff's Office. The Oxnard
28 condominium is but "one of my permanent homes" (Raulinaitis declaration, Exhibit

D, ¶4, website docket entry 13-1). He owns homes in other counties, as well as Ventura County (¶5). He frequently travels for both business and pleasure (¶5). The plaintiff claims that, due to the variable nature of his personal and professional life, “it is impossible to pick a county within California” in which he spends the majority of his time (¶6). There is no evidence submitted by the plaintiff indicating any activity or permanence associated with Ventura County; rather, his associations here are transient, periodic, and sporadic. He is therefore not a resident of Ventura County.

III.

NEITHER WAS PLAINTIFF A RESIDENT WITHIN THE MEANING OF PENAL CODE SECTION 26150(a)(3) AT THE TIME OF THE SECOND APPLICATION FOR A CONCEALED WEAPONS PERMIT

Deputy Gonzales’s second declaration (Exhibit B), containing 42 paragraphs, debunks the idea that plaintiff increased or perpetuated his involvement in Ventura County between the time of the two applications. To the contrary, the second Gonzales declaration establishes the connection with Los Angeles County which one would expect of a resident there:

- In mid-April of 2014, during three consecutive days of two-hour surveillance of the Oxnard address given by the plaintiff in his second concealed weapons permit application, no vehicle registered to him or his wife was seen in the parking lot, adjacent street, or subterranean parking structure, nor was there any sighting of the plaintiff himself.
- During three successive days in late April of 2014, Deputy Gonzales conducted surveillance of the Santa Clarita address which the plaintiff listed for his wife’s residence in his second concealed weapons permit application. On each occasion, in the early morning hours, Deputy Gonzales saw

1 two vehicles parked in the driveway of the Santa Clarita home, one
2 belonging to the plaintiff and the other belonging to the plaintiff's wife. On
3 each occasion, Deputy Gonzales saw the plaintiff driving his silver Infiniti
4 from the driveway of the home he said his wife lived at in the early morning
5 hours.

- 6 • On May 15, 2014, Deputy Gonzales and his partner, Detective Jones,
7 knocked on seven doors in the Santa Clarita area to interview neighbors
8 about plaintiff's residence. On that occasion, they saw the plaintiff's silver
9 Infiniti with the personalized license plate parked in the driveway of the
10 home he listed as belonging to his wife. Deputy Gonzales spoke with 11
11 people who lived near the Santa Clarita address listed by Mr. Raulinaitis in
12 his second concealed weapons permit application as being his wife's
13 residence. Those interviews are described in paragraphs 31 through 38 of
14 the second Gonzales declaration (Exhibit B). Of the 11 neighbors whom
15 Deputy Gonzales interviewed, seven were very familiar with the plaintiff
16 and identified him as residing in the home he said his wife lived in. Four
17 said they did not know him but clarified that they didn't socialize with their
18 neighbors or had not met any of their neighbors.
- 19 • From this investigation, combined with the absence of any claim to Ventura
20 County residency other than voter registration and the purchase of a
21 condominium, Mr. Raulinaitis has established but an extremely weak link
22 with Ventura County residence. The voter registration is addressed by
23 Deputy Gonzales in paragraph 42 of his second declaration. The Registrar
24 of Voters does not require any residency proof and simply takes the appli-
25 cant's word for it. The person does not need to show any identification or
26 even a utility bill, nor any evidence that he or she actually resides in
27 Ventura County. This is extremely weak proof of Ventura County
28 residence. It could easily be jury rigged by an unsuccessful applicant for a

concealed weapons permit in another county desiring to apply in a new county by simply telling the clerk at the registrar's counter that he lives there and wants to register to vote. This is gossamer proof at best.

CONCLUSION

By:

1 Re: *Raulinaitis v. Ventura County Sheriffs Department*
2 USDC Case No. CV13-02605-MAN

3 **DECLARATION OF DANIEL GONZALES**

4 **IN SUPPORT OF DEFENDANT'S SUMMARY JUDGMENT MOTION**

5 **AS TO INITIAL CONCEALED WEAPONS PERMIT APPLICATION**

6 I, Daniel Gonzales, declare as follows:

7 1. I make this declaration of facts based upon information which is
8 personally known to me. If called to testify as a witness to the facts contained in this
9 declaration, I would competently and accurately do so under penalty of perjury of the
10 laws of the United States of America.

11 2. I am a deputy sheriff employed by the Ventura County Sheriff's Office.
12 I was employed by the Ventura County Sheriff's Office from January of 2000
13 through May of 2008 and again from December of 2008 through the present.

14 3. My current assignment is concealed weapons investigation. I am a full-
15 time sworn law enforcement officer for the Ventura County Sheriff's Office in that
16 assignment. I have held that position since June of 2012.

17 4. On January 15, 2013, the Ventura County Sheriff's Office received an
18 application to carry a concealed weapon from plaintiff, Sigintas Raulinaitis. It was my
19 job responsibility to investigate the application.

20 5. California Penal Code Section 26150(a)(3) establishes a residency
21 requirement that the concealed weapons applicant must be a resident of the county or
22 of a city within the county or have a principal place of business in one of the two.

23 6. The Ventura County Sheriff's Office's policy, page 1, section 2A, also
24 makes it mandatory that the applicant must be a resident of Ventura County.

25 7. For many reasons, my investigation revealed that Mr. Raulinaitis was
26 not a Ventura County resident.

27 8. Mr. Raulinaitis frankly conceded in my February 20, 2013, interview
28 with him that he had been living at his home in Santa Clarita for the past four months.

1 *"...I will be frank with you. Some of the things that we've learned at this stage in the*
2 *investigation suggest that you spend more time in Santa Clarita than you do here.*
3 *Well, I would say over the last 4 months that's true ... probably literally four months*
4 *almost all the time."* Santa Clarita is a city in Los Angeles County.

5 9. At the time of my investigation, Mr. Raulinaitis's driver's license
6 reflected that his address was in Burbank. Burbank is a city in Los Angeles County.
7 This turned out to be his place of business. Mr. Raulinaitis submitted his California
8 driver's license along with his application for a concealed weapons permit, which
9 showed that his address was in Burbank.

10 10. The California Department of Motor Vehicles registration checks which
11 I requested that Ventura County Sheriff's Office's records technicians perform
12 revealed that two of Mr. Raulinaitis's vehicles were registered to his residence
13 address in Santa Clarita (Los Angeles County) and that the other two were registered
14 to his work address in Burbank (also in Los Angeles County). I can provide these
15 printouts to the Court in chambers or under seal, if requested.

16 11. Mr. Raulinaitis's concealed weapons permit application listed his
17 business address as 142 W. Verdugo Avenue in Burbank (Los Angeles County).

18 12. Mr. Raulinaitis's concealed weapons application listed his wife's resi-
19 dence address as being in Santa Clarita (Los Angeles County). While not determina-
20 tive of the applicant's residence address in itself, the fact that the individual's spouse
21 resided in another county suggested a connection with spending time in that other
22 county.

23 13. During my investigation, I learned that Mr. Raulinaitis had sued Los
24 Angeles County for denying him a concealed weapons permit about a year and a half
25 earlier. He would have needed to have claimed Los Angeles County residency in
26 order to qualify for a concealed weapons permit in that county.

27 ///

28 ///

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1 14. In order to further ascertain Mr. Raulinaitis's residency, I conducted
2 surveillance of the Santa Clarita address he listed in his concealed weapons permit
3 application.

4 15. On January 28, 2013, I parked my unmarked police vehicle at the end of
5 the cul-de-sac near the Santa Clarita address listed by Mr. Raulinaitis in his concealed
6 weapons permit application as belonging to his wife. From the end of the cul-de-sac,
7 I had a clear, unobstructed view of the home listed by Mr. Raulinaitis as his wife's
8 residence.

9 16. I arrived at 6:15 a.m. At 6:43 a.m., I saw Mr. Raulinaitis leave from that
10 house. I recognized him from his DMV photograph which I obtained from a state-
11 wide database called Cal Photo.

12 17. I saw Mr. Raulinaitis enter his silver Infiniti (with customized California
13 plates reading "SIG ESQ") This vehicle was parked backed into the driveway.

14 18. The vehicle was parked next to his wife's Toyota SUV, also in the
15 driveway.

16 19. Mr. Raulinaitis loaded a blue cooler onto the passenger seat of his car.

17 20. Mr. Raulinaitis then entered the driver's seat and drove away.

18 21. I, along with my partners, Ed Jones and Kevin Donoghue, followed
19 Mr. Raulinaitis in his silver Infiniti to 142 W. Verdugo Avenue in Burbank (which he
20 had listed in his concealed weapons permit application as his business address and
21 which his driver's license, a copy of which he submitted pursuant to the concealed
22 weapons permit application's requirement, listed as his address).

23 22. At my instruction, my fellow investigator, Ed Jones, conducted a follow-
24 up surveillance and reported the results to me. Reserve Deputy Jones reported to me
25 that he saw Mr. Raulinaitis leave the home in Santa Clarita (the same address which
26 his application listed as his wife's residence).

27 23. Detective Jones told me that he saw Mr. Raulinaitis walk to a silver
28 Infiniti, license plate SIG ESQ.

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24. Detective Jones further reported to me that he recognized Mr. Raulinaitis from his DMV photograph and from our prior surveillance.

25. Detective Jones's observations about Mr. Raulinaitis were made on February 1, 2013, at 6:42 a.m.

26. My personal surveillance of the address given by Mr. Raulinaitis as his wife's, combined with the report of my partner, Detective Jones, confirmed that Mr. Raulinaitis stayed at the Santa Clarita residence from which he departed for work on the two mornings we conducted surveillance of him at that residence.

27. Mr. Raulinaitis's only claim to Ventura County residency was that he owned a condominium in Oxnard.

28. But when I spoke with the property manager, she told me that she had spoken with Mr. Raulinaitis's wife, Rima, who said that they were renting the condominium to their son, Justin.

29. On the same day as the interview I conducted with Mr. Raulinaitis, February 20, 2013, he registered to vote in Ventura County. Before that date, including at the time of his concealed weapons permit application, Mr. Raulinaitis was not registered to vote in Ventura County. I learned this information by interviewing an employee at Voter Registration in the Hall of Administration of the Ventura County Government Center.

30. From this investigation it was not reasonable to conclude that Mr. Raulinaitis was a Ventura County resident. On that basis his concealed weapons permit application was denied. It was not necessary for me to investigate the moral character and good cause issues.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information is true and correct.

Executed this 19 day of May, 2014, at Ventura, California.

D. Gonzales
DANIEL GONZALES

1 Re: *Raulinaitis v. Ventura County Sheriffs Department*
2 USDC Case No. CV13-02605-MAN

3 **DECLARATION OF DANIEL GONZALES**
4 **IN SUPPORT OF DEFENDANT'S SUMMARY JUDGMENT MOTION**
5 **AS TO PLAINTIFF'S SECOND CONCEALED WEAPONS PERMIT**
6 **APPLICATION AND IN OPPOSITION TO PLAINTIFF'S**
7 **SUMMARY JUDGMENT MOTION**

8 I, Daniel Gonzales, declare as follows:

9 1. I base this declaration upon information which is personally known to
10 me. If called to testify to the facts contained in this document, I would competently
11 and accurately do so under penalty of perjury of the laws of the United States.

12 2. I am a deputy sheriff employed by the Ventura County Sheriff's Office.
13 I was employed by the Ventura County Sheriff's Office from January of 2000
14 through May of 2008, and again from December of 2008 through the present.

15 3. My current assignment is to investigate applications for concealed
16 weapons permits. I am a full-time sworn law enforcement officer for the Ventura
17 County Sheriff's Office in that assignment. I have held this position continuously
18 and full time since June of 2012.

19 4. On March 26, 2014, I received a new concealed weapons permit
20 application from Sigitas Raulinaitis.

21 5. It was my responsibility to investigate Mr. Raulinaitis's March 26, 2014,
22 concealed weapons permit application.

23 6. After the *Peruta* decision, there are two aspects of a concealed weapons
24 permit application, these being good moral character and Ventura County residency.
25 The third requirement, successful completion of a firearms training course, is a
26 condition subsequent following issuance of the permit.

27 7. On April 16, 2014, I began surveillance at Mr. Raulinaitis's address
28 which he gave in his application, in the city of Oxnard.

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1 8. At 5:30 a.m., I went to the condominium complex in Oxnard, a city in
2 Ventura County, which Mr. Raulinaitis provided in his concealed weapons permit
3 application as being his home. I drove through the outer parking lot but did not see
4 his vehicle parked in it.

5 9. I then began my surveillance, which lasted continuously from 5:30 a.m.
6 to 7:30 a.m. I did not see Mr. Raulinaitis or any of the vehicles registered to him or
7 to his wife.

8 10. On April 17, 2014, I arrived at that condominium complex in Oxnard at
9 5:24 a.m.

10 11. I drove through the parking lot, as I had on the previous occasion.
11 Again, I did not see any of the vehicles registered to him parked in the lot or on the
12 adjacent street.

13 12. I parked and began surveillance at 5:25 a.m., which I continuously
14 maintained from 5:25 a.m. to 7:30 a.m.

15 13. During that time, I did not see Mr. Raulinaitis or any of the vehicles
16 registered to him.

17 14. On April 18, 2014, at 5:27 a.m., I arrived at the Oxnard address listed in
18 Mr. Raulinaitis's concealed weapons permit application. I drove through the parking
19 lot and again did not see any of the vehicles registered to Mr. Raulinaitis.

20 15. At 5:37 a.m., I gained access to the secured parking structure beneath the
21 Oxnard condominium complex which Mr. Raulinaitis listed as his residence in the
22 concealed weapons permit application. I searched that parking structure, including
23 the numbered space assigned to him, for any vehicles registered to Mr. Raulinaitis.
24 None of the vehicles registered to Mr. Raulinaitis were present either in his assigned
25 space or in the entire parking garage.

26 16. I continued surveillance until 7:00 a.m. I did not see Mr. Raulinaitis or
27 any of the vehicles registered to him or to his wife.

28 ///

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1 17. On April 21, 2014, Detective Jones and I began surveillance of the Santa
2 Clarita address which Mr. Raulinaitis listed for his wife's residence in his concealed
3 weapons permit application.

4 18. We arrived at 5:40 a.m. and saw two vehicles parked in the driveway of
5 the house in Santa Clarita. One was a Toyota Sequoia belonging to Mr. Raulinaitis's
6 wife. The other was a silver Infiniti with the license plate of "SIG ESQ." I knew that
7 he drove that vehicle from my previous investigation of his initial concealed weapons
8 permit application.

9 19. At 7:15 a.m., Detective Jones and I saw the silver Infiniti leave the
10 cul-de-sac containing the residence where his concealed weapons permit application
11 claimed his wife lived, in Santa Clarita (in Los Angeles County).

12 20. Detective Jones and I followed the silver Infiniti until we were able to
13 positively identify the driver as Mr. Raulinaitis.

14 21. On April 22, 2014, Detective Jones and I conducted surveillance at the
15 Santa Clarita address. There were, again, two vehicles parked in the driveway. One
16 was the Toyota Sequoia belonging to his wife. The other was Mr. Raulinaitis's silver
17 Infiniti, license plate "SIG ESQ."

18 22. We began our surveillance at 6:51 a.m. I saw Mr. Raulinaitis driving his
19 silver Infiniti. I recognized Mr. Raulinaitis from my interview of him in connection
20 with his initial concealed weapons permit application and from his DMV photograph.

21 23. On April 23, 2014, Detective Jones and I went to the Santa Clarita
22 address. We saw the same two vehicles parked in the driveway as we had seen the
23 previous two days.

24 24. At 6:51 a.m., I saw Mr. Raulinaitis driving his silver Infiniti. I
25 recognized him from my previous interview of him and from his DMV photograph.

26 25. On April 23, 2014, Mr. Raulinaitis drove at a very slow rate of speed,
27 which was not typical of his driving behavior. He was looking at Detective Jones and
28 ///

1 me. I believe he then became aware of our surveillance. The next day, when we
2 conducted surveillance, he was not there at the Santa Clarita address.

3 26. On May 15, 2014, Detective Jones and I knocked on doors at the Oxnard
4 condominium complex, hoping to interview neighbors, but no one answered.

5 27. While there, at about 4:00 p.m. that day, we checked the parking
6 structure, and none of Mr. Raulinaitis's vehicles nor his wife's vehicle were present.

7 28. On May 15, 2014, Detective Jones and I drove to Santa Clarita to contact
8 neighbors. When we arrived, we saw the silver Infiniti, license plate "SIG ESQ,"
9 parked in the driveway of the house he listed as belonging to his wife.

10 29. Detective Jones placed his hand next to the front engine grille and felt
11 heat emanating from the engine at 6:33 p.m.

12 30. Attached to my declaration as Exhibit C is a photograph I took on
13 May 15, 2014, at approximately 6:33 p.m., showing Mr. Raulinaitis's silver Infiniti
14 with the personalized plates backed into the driveway of the Santa Clarita residence.

15 31. I showed the first neighbor we contacted the DMV photograph of
16 Mr. Raulinaitis. The neighbor immediately recognized Mr. Raulinaitis as being his
17 neighbor. He said that they had been neighbors for 14 years. The neighbor said he
18 saw Mr. Raulinaitis on a regular basis. I asked him whether he knew what type of
19 vehicle Mr. Raulinaitis drives. He said it was a silver Infiniti with a custom license
20 plate, "SIG" something.

21 32. We contacted another neighbor and showed her the DMV photograph.
22 She didn't know him but recognized his photograph. I asked her if she knew where
23 he lived. She stepped into her front yard and pointed at his house. She then called
24 her son to the front door to see if he recognized the photograph. I showed her son
25 Mr. Raulinaitis's DMV photograph. He identified it as being their neighbor. I asked
26 her son if he knew where Mr. Raulinaitis lived; he too stepped into the front yard and
27 pointed at Mr. Raulinaitis's home.

28 ///

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1 33. We then spoke with a third neighbor, to whom I showed the DMV
2 photograph of Mr. Raulinaitis. He identified him as "Sig." I asked him when he last
3 saw Sig. He told me he saw Sig two days earlier coming home from work. I asked if
4 he saw Sig on a regular basis. He said he saw Sig about every other day and waved
5 to him in greeting. This neighbor said that he was good friends with Sig's son and
6 that they grew up together.

7 34. As we were walking away, this neighbor's mother drove into the
8 driveway. Detective Jones and I spoke with her. We showed her Mr. Raulinaitis's
9 DMV photograph. She positively identified the man shown in the photograph as
10 being "Sig." She said she often saw Sig and last socialized with him in March or
11 April of 2014 at a neighborhood function. I asked her if the silver Infiniti parked in
12 the driveway belonged to Sig. She answered, "Yes."

13 35. Detective Jones and I then spoke with a wife and husband who lived in a
14 home in the same neighborhood who didn't recognize Mr. Raulinaitis's DMV photo-
15 graph. They added that they don't socialize with any of their neighbors. While I was
16 speaking with the wife and husband, I noticed a vehicle moving in my peripheral
17 vision. Turning around, I saw the silver Infiniti, license plate "SIG ESQ," pulling out
18 of the driveway of the home claimed in Mr. Raulinaitis's application for a concealed
19 weapon permit to belong to his wife. Looking in the driver's compartment of the
20 silver Infiniti, I recognized the driver as Sigitas Raulinaitis. I noticed that he was
21 focusing his gaze in my direction.

22 36. The next interview was also with a wife and husband. They explained
23 that they moved into the neighborhood a couple of years earlier but had not met any
24 of their neighbors.

25 37. The next neighbor interview involved showing her the DMV photograph
26 of Mr. Raulinaitis. She identified him as "Sig." She said she sees Sig once or twice a
27 week. I asked her if she knew the type of car he drove. She said he drives a silver

28 ///

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1 Infiniti. I asked her how often she saw the silver Infiniti parked in the driveway. She
2 said, "Every day."

3 38. The final neighbor we interviewed was a Los Angeles County sheriff's
4 deputy. We showed him Mr. Raulinaitis's DMV photograph, which he identified as
5 being "Sig." As he was saying, "Oh, that's Sig," he pointed at the home which
6 Mr. Raulinaitis's concealed weapons permit application identified as belonging to his
7 wife. He said he saw Sig on a regular basis.

8 39. If the Court thinks it significant, I can identify each of the interviewed
9 neighbors by name; I haven't provided them in my declaration because it didn't seem
10 crucial and I didn't want to violate their privacy.

11 40. The Thousand Oaks special enforcement unit of the Ventura County
12 Sheriff's Office located Mr. Raulinaitis's Twitter page, which was e-mailed to me.
13 His Twitter page was identified by his name, Sig Raulinaitis, at the top. He wrote
14 "Contractor, Attorney, Broker and gun toting libertarian!" On the next line, he wrote
15 "Santa Clarita · mtibuilders.com."

16 41. Based upon the entirety of my investigation, I concluded that
17 Mr. Raulinaitis's residence, or, at a minimum, his primary residence, was in Santa
18 Clarita in Los Angeles County, contradicting his concealed weapon permit
19 application, in which he claimed to reside in Oxnard.

20 42. Although Mr. Raulinaitis is registered to vote in Ventura County, this is
21 of extremely minimal significance. The Clerk-Recorder/Registrar of Voters does not
22 require any residency proof; the individual is simply requested to provide a residence
23 address. The person does not need to show identification, a utility bill, or any other
24 evidence that he or she actually resides in Ventura County. I recently needed to

25 ///

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28 ///

1 change my address with the Registrar's Office, and I was not asked to provide any
2 proof of residency.

3 I declare under penalty of perjury under the laws of the United States of
4 America that the foregoing information is true and correct.

5 Executed this 19 day of May, 2014, at Ventura, California.

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7 D. Gonzales
8 DANIEL GONZALES
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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 SIGITAS RAULINAITIS,

11 Plaintiff,

12 vs.

13 VENTURA COUNTY SHERIFFS
14 DEPARTMENT,

15 Defendants.

) **CASE NO. CV 13-2605MAN**

)
) **DECLARATION OF SIGITAS**
) **RAULINAITIS**

16
17
18
19 **DECLARATION OF SIGITAS RAULINAITIS**

20 1. I hereby declare under penalty of Perjury that the facts set forth herein are true
21 and correct under the laws of the State of California.

22
23 2. In June of 2012, I purchased a home in Oxnard, Ventura County, and
24 immediately thereafter moved my personal effects in and later updated my
25 voter registration to Ventura County. Other than my family members, nobody
26 else rents or uses our home, other than invited guests, and I maintain and pay
27 for all of the utilities at this address.
28

- 1 3. I fully intend to cast my vote in the next election for the Ventura County
2 Sheriff and any other open office/referendum/proposition, and am legally
3 entitled to do so.
4
5 4. I consider this residence to be one of my permanent homes and place I always
6 intend to return, and frequently do.
7
8 5. I do own other homes in two other counties, and frequently travel for business
9 and pleasure.
10
11 6. Due to the variable nature of my personal and professional life, it is impossible
12 to pick a County within California where I spend the majority of my time.
13
14 7. Moreover, I believe any inquiry beyond the Statutory language above, my own
15 personal declaration, coupled with the physical acts of moving and the legal act
16 of registering to vote are sufficient, and any further inquiry by the Government
17 as to what bed I choose to sleep in on a particular night would be an invasion
18 of my Right of Privacy specifically protected by the California Constitution.
19
20
21

22 June 3, 2013

Original to be lodged_
Sigitas Raulinaitis