

HHB CV07 4015984

SUPERIOR COURT

EDWARD A. PERUTA

JUDICIAL DISTRICT OF

VS.

NEW BRITAIN

CONNECTICUT STATE DEPARTMENT OF
PUBLIC SAFETY, CONNECTICUT STATE
BOARD OF FIREARMS PERMIT EXAMINERS,
and CONNECTICUT STATE POLICE OFFICER
STANDARDS AND TRAINING COUNCIL

JUNE 17, 2008

MEMORANDUM OF DECISION ON MOTION TO STRIKE

The plaintiff brings this civil action seeking a declaratory judgment that the practices of the defendants in 1) prohibiting the open carrying of a pistol by those who have a valid pistol permit and 2) confiscating an individual's otherwise-valid pistol permit upon the arrest of that individual, are unlawful under the federal and state constitutions. The defendants are agencies of the state responsible for issuing firearms permits, for hearing appeals from the issuance or revocation of any firearms permit, and for training and certifying the training of municipal police forces in Connecticut.

The defendants, represented by the Attorney General, have moved to strike the complaint for failure to provide notice of this declaratory judgment action to all interested parties, namely the police forces of each municipality in the state. Though the plaintiff opposes the motion to strike, the plaintiff concedes that the police forces of Connecticut's municipalities are additional parties with an interest sufficient to provide them notice under the Declaratory Judgment Act, Conn. Gen. Stat. §52-29 and under Conn. P.B. §17-56. The plaintiff requests that the defendant cooperate in providing notice to these other interested parties through the auspices of the Connecticut Police Officer Standards and Training (POST) Council.

Judicial District of New Britain
SUPERIOR COURT
FILED

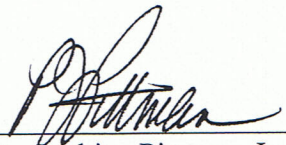
JUN 17 2008

ANDREW S. HOLDEN
ASSISTANT CLERK

Since both sides concede that notice is required under the statutory and practice book provisions that govern declaratory judgment actions, there is no need for the court to analyze whether the current parties sufficiently represent the interests of the other interested parties. See, Batte-Holmgren v. Commissioner of Public Health, 281 Conn. 277, 290-91, 914 A.2d 996 (2007) (held, in challenge to restaurant smoking ban, the Department of Public Health represented by the Attorney General adequately represented the interests of the municipalities). Rather the question is whether to strike the complaint so as to compel the plaintiff to replead the case with notice to all municipal police forces, or to enter orders that permit such notice without the necessity of repleading. The court elects the latter.

The court finds that the other entities entitled to notice of this action are all municipalities in Connecticut that employ one or more police officers. This court orders that the defendants supply to the plaintiff a list of names of all municipalities in Connecticut that employ one or more police officers, along with the address of each such police department, within thirty days of this order. Within thirty days of this order the plaintiff shall draft a proposed order of notice and submit it to the defendant for consent, not to be unreasonably withheld, as to its form. Upon such consent the parties will submit it to the court on motion for approval. Not later than three weeks after approval by the court as to the form of the order of notice, the plaintiff will cause to be served by regular mail such notice upon these other interested parties.

The Motion to Strike is denied at this time, without prejudice, subject to presentation to the court again if the plaintiff fails to timely comply with this order.


Patty Jenkins Pittman, Judge