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July 17, 2008

By facsimile and first-class mail

Matthew B. Beizer, Attorney
Office of the Attorney General
110 Sherman St
Hartford CT 06105-2394
Fax: (860) 808-5591

Re: Edward A. Peruta v. CT State Department of Public Safety, et al.

Proposed Order of Notice and Finding – Defendants’ Demand for Publication

Dear Attorney Beizer:

I did receive your letter dated July 16, 2008, indicating that you would consent to the proposed Order of Notice and Finding that I forwarded to you on July 16, 2008, in accordance with the Court’s June 17, 2008, Order, if Plaintiff agrees to notice the general public by publication in newspapers of the pendency of the action similar to the notice ordered and found by Judge Pittman in the matter of Kerrigan v. State of Connecticut.

First, we may assume that Judge Pittman recalled her Order from the case of Kerrigan and would have included such a provision for publication in her memorandum of decision dated June 17, 2008, in the instant case had she found it necessary.¹ The State did not request and Judge Pittman did not order such publication.

Second, while Plaintiff recognizes that he bears the burden of proof in this case and must bear certain costs as the individual who brought this action in the interests of, as you state in your July 16, 2008, letter, the “general public,” there must be a limit to the responsibility Plaintiff is expected to adopt in the service of a general public who has elected and compensates Attorney General Richard Blumenthal (“Mr. Blumenthal”) to perform such service on its behalf. While I do not know the communications that have occurred between you and your clients, specifically, the POST Council, the Board of Firearms Permit Examiners (BFPE), and the CT State Department of Public Safety (DPS), it must be that you have cause to believe that POST Council Executive Director Thomas E. Flaherty, DPS Commissioner John A. Danaher, III, and the BFPE, comprised of Christopher R. Adams, Arthur C. Carr, Joseph T. Corradino, T. William Knapp, Eric C. Nelson, M. Peter Kuck,² and Kenneth Tramadeo, authorized you to move to

¹ At the hearing on Defendants’ Motion to Strike held on May 27, 2008, Judge Pittman indicated to counsel that she had issued a previous Order having a similar issue of adequate notice to interested parties. This comment led undersigned counsel to identify the case and obtain Judge Pittman’s Order in Kerrigan at the Superior Court in New Haven.

² As M. Peter Kuck (“Mr. Kuck”)’s private attorney, I am able to state that Mr. Kuck has not been consulted or apprised by Defendants’ counsel of the instant action or asked his position in an official capacity as a member of the Board or been present when the BFPE or any of its other members was consulted or apprised by Defendants’ counsel of the instant action or asked its position.

strike Plaintiff's Complaint and agreed that Plaintiff's requests for declaratory judgment, when brought to their attention and reviewed with you, should be addressed procedurally rather than substantively.

By their authorization for you to act on their joint behalf, the POST Council, the BFPE, and the DPS, through Mr. Blumenthal, continue to subject Connecticut residents to arrest, loss of property, specifically pistol permits, and a potential loss of liberty when the only "offense" has been a "failure" to conceal or entirely conceal a pistol or revolver. The Office of Legislative Research for the State of Connecticut issued a Research Report dated April 10, 2008, which answers the question, "Is there any statute prescribing that firearms must be carried concealed?" in the negative. See <http://www.cga.ct.gov/2008/rpt/2008-R-0238.htm>. The Supreme Court of the United States has expressed the import of definiteness in the context of criminal law:

The constitutional requirement of definiteness is violated by a criminal statute that fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute. The underlying principle is that no man shall be held criminally responsible for conduct which he could not reasonably understand to be proscribed.

Bouie v. Columbia, 378 U.S. 347, 351 (1964) (cited in State v. Vickers, 260 Conn. 219, 230 (2002)). In sentiments posted by DPS Detective Thomas Karanda ("Det. Karanda") as a representative of the DPS and by the acts and omissions of the POST Council, the BFPE, and the DPS, there is apparently a joint agreement among these agencies, condoned by Mr. Blumenthal, to ignore the constitutional principle expressed by the United States Supreme Court in Bouie. See attached email posted by Det. Karanda at www.opencarry.org, dated July 7, 2008.

This response to your July 16, 2008, letter is intended to convey to you the costs and burdens that Plaintiff has incurred in his efforts to protect the general public and to prevent the loss of property and potential loss of liberty for even one additional Connecticut resident subject to arrest for "failing" to conceal a pistol or revolver that he or she lawfully possesses. Your threat to withhold agreement to Plaintiff's proposed Order of Notice and Finding unless and until Plaintiff spends more money, when the June 17, 2008, ruling of the Court does not order or obligate Plaintiff to do so, is unreasonable. Mr. Blumenthal was elected by the general public and is compensated to serve the general public's interests. There is no greater interest than the general public's right to know for what actions an individual may or may not be subject to arrest, loss of property, and potential loss of liberty. Expectations of Plaintiff's service as Mr. Blumenthal's *de facto* agent in fulfilling this mandate must be limited. Mr. Blumenthal does not need a Court Order to provide notice to the general public of the pendency of the instant action. If notice is in the interests of the general public according to Mr. Blumenthal then the moral and responsible action on his part, as an elected official, will be to do effect notice as soon as possible through the extensive access to media opportunities he is known to possess.

Please notify me of your consent or objection to Plaintiff's proposed Order of Notice and Finding so that we may submit the proposal to the Court as written or notify the Court of our disagreement.

Sincerely,

Rachel M. Baird, Attorney

Encls: Email from Det. Karanda posted on www.opencarry.org, dated July 7, 2008
Plaintiff's Proposed Schedule A to Proposed Order of Notice and Finding