

No. 25-

IN THE
Supreme Court of the United States

R.R.,

Petitioner,

v.

STATE OF NEW JERSEY,

Respondent.

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
SUPERIOR COURT OF NEW JERSEY – APPELLATE DIVISION**

PETITION FOR A WRIT OF CERTIORARI

EVAN F. NAPPEN
LOUIS P. NAPPEN
Counsel of Record
EVAN F. NAPPEN,
ATTORNEY AT LAW PC
21 Throckmorton Avenue
Eatontown, NJ 07724
(721) 389-8888
louis@evannappen.com

Counsel for Petitioner

March 5, 2026

120957



COUNSEL PRESS

(800) 274-3321 • (800) 359-6859

QUESTIONS PRESENTED

In *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1, 38, n.9 (2022), this Court rejected Second Amendment infringements that involve the “appraisal of facts, the exercise of judgment, and the formation of an opinion,” features that can be “put toward abusive ends,” and held that only “narrow, objective, and definite standards” pass constitutional muster.

Per the above, the Questions Presented here are:

1. May a court deny Second Amendment rights due to a person’s lawful and peaceful expression of his religious beliefs and grievances with his government?
2. Is disenfranchisement of Second Amendment rights constitutional when denied under a statute that prohibits issuance of firearm purchaser permits “in the interest of the public health, safety or welfare because the person is found to be lacking the essential character of temperament necessary to be entrusted with a firearm”?
3. Does the above standard constitute a Second Amendment restriction that is not in our Nation’s historical text and tradition of firearm regulation; or an unconstitutional interest-balancing test in offense to *Heller*; or an unconstitutionally vague or overbroad standard upon undefined terms that lack Due Process notice?

PARTIES TO THE PROCEEDING

Petitioner R.R. was the petitioner before the New Jersey Superior Court, the New Jersey Superior Court – Appellate Division, and the New Jersey Supreme Court.

Respondent State of New Jersey was the respondent before the New Jersey Superior Court, the New Jersey Superior Court – Appellate Division, and the New Jersey Supreme Court.

RELATED CASES

In the Matter of the Appeal of the Denial of an Application for a Permit to Carry a Handgun by Applicant, R.R. Superior Court of New Jersey. Judgments entered August 7, 2023.

In the Matter of the Appeal of the Denial of an Application for a Permit to Carry a Handgun by Applicant, R.R. Superior Court of New Jersey - Appellate Division. Judgment entered August 25, 2025.

In the Matter of the Appeal of the Denial of an Application for a Permit to Carry a Handgun by Applicant, R.R. (IMO the Appeal of the Denial of an Application for a Permit to Carry a Handgun by Applicant, R.R., 262 N.J. 350 (2025), Supreme Court of New Jersey. Judgment entered December 5, 2025.

TABLE OF CONTENTS

	<i>Page</i>
QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDING	ii
RELATED CASES	iii
TABLE OF CONTENTS.....	iv
TABLE OF APPENDICES	vii
TABLE OF CITED AUTHORITIES	viii
PETITION FOR WRIT OF CERTIORARI.....	1
OPINIONS BELOW.....	1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS.....	2
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE PETITION.....	8
I. Certiorari ought to be granted because New Jersey’s permit standard defies <i>Bruen</i>	8

Table of Contents

	<i>Page</i>
A. A universal “interest of public health, safety or welfare” test is not in our Nation’s historical text or tradition of firearm regulation, and New Jersey Appellate Division erred in finding R.R. is not part of “the people”	9
B. New Jersey’s standard contradicts <i>Rahimi</i> ’s rejection that an individual may be disarmed based upon a vague, alleged disability	11
C. Denial of R.R.’s permit defies <i>Bruen</i> and <i>Rahimi</i>	15
D. N.J.S.A. § 2C:58-3c(5) is unconstitutionally vague.	17
E. The Superior Court erred by denying Second Amendment rights based upon a made up distinction regarding suitability to possess in the home and suitability to carry	20
F. N.J.S.A. § 2C:58-3c(5) fails to provide Due Process	21
G. New Jersey’s standard is an unconstitutional balancing test in offense to <i>Heller</i>	24

Table of Contents

	<i>Page</i>
H. Summary	24
CONCLUSION	26

TABLE OF APPENDICES

	<i>Page</i>
APPENDIX A — DENIAL OF PETITION FOR CERTIFICATION OF THE SUPREME COURT OF NEW JERSEY, FILED DECEMBER 5, 2025	1a
APPENDIX B — OPINION OF THE SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION, DECIDED AUGUST 25, 2025.....	2a
APPENDIX C — ORDER AND DECISION OF MIDDLESEX SUPERIOR COURT, FILED SEPTEMBER 11, 2023.....	28a
APPENDIX D — DENIAL LETTER, DATED SEPTEMBER 29, 2022	34a

TABLE OF CITED AUTHORITIES

	<i>Page</i>
Cases	
<i>Brockett v. Spokane Arcades, Inc.</i> , 472 U.S. 491 (1985).....	21-22
<i>Burton v. Sills</i> , 53 N.J. 86, 97 (1968).....	10
<i>Chicago v. Morales</i> , 527 U.S. 41 (1999).....	18
<i>Crespo v. Crespo</i> , 201 N.J. 207 (2010).....	16
<i>Grannis v. Ordean</i> , 234 U.S. 385 (1914).....	21
<i>IMO M.U.'s App. for a Handgun Purchase Permit</i> , 475 N.J. Super. 148 (App. Div. 2023).....	16
<i>In re Application of Boyadjian</i> , 362 N.J. Super. 463 (App. Div.), certify. den. 178 N.J. 250. 466 (2003).....	18
<i>In re Dubov</i> , 410 N.J. Super. 190 (App. Div. 2009).....	6, 16, 22
<i>In re Osworth</i> , 365 N.J. Super. 72.....	22

Cited Authorities

	<i>Page</i>
<i>In re Winston</i> , 438 N.J. Super. 1 (2014)	16
<i>In re Z.L.</i> , 440 N.J. Super. 351 (App. Div.), certify. den. 223 N.J. 280 (2015)	19
<i>In the Matter of M.U.</i> , 475 N.J. Super. 148 (App. Div. 2023)	10, 11
<i>Levin v. Levin</i> , 129 N.J. Super. 142 (App. Div. 1974)	22
<i>Mahne v. Mahne</i> , 66 N.J. 53 (1974)	22
<i>New York State Rifle & Pistol Association v.</i> <i>Bruen</i> , 597 U.S. 1 (2022)	8, 9, 11, 15, 16, 17
<i>Personal Weapons & Firearms Identification</i> <i>Card Belonging to F.M.</i> , 225 N.J. 487 (2016)	19
<i>Range v. Attorney General II</i> , 124 F.4th 218 (3d Cir. 2024)	11
<i>Weston v. State</i> , 60 N.J. 36 (1972)	6, 22

Cited Authorities

Page

Statutes and Other Authorities

U.S. Const. amend. II	2, 9, 10, 12-17, 20-22, 24
U.S. Const. amend. XIV	2, 21, 24
18 U.S.C. § 922	11
28 U.S.C. § 1257(a)	1
CGS § 29-28	12
N.J.A.C. 13:54-1.11(a)	18
N.J.S.2C:58-3	2, 3
N.J.S.A. § 2C:4	18
N.J.S.A. § 2C:25-21d(3)	23
N.J.S.A. § 2C:39-10	23
N.J.S.A. § 2C:58-3	3, 9, 23
N.J.S.A. § 2C:58-3c	3, 23
N.J.S.A. § 2C:58-3c(3)	3, 23
N.J.S.A. § 2C:58-3c(5)	4, 5, 8-10, 13-19, 21-23

Cited Authorities

	<i>Page</i>
N.J.S.A. § 2C:58-3f	4
N.J.S.A. § 2C:58-4c	2
N.J.S.A. § 2C:58-4d	3
Black’s Law Dictionary, 1213 (9th ed. 2009)	22
The Federalist Papers: No. 10 (Madison)	14
John Petrolino, <i>Black Applicants for N.J. Permits to Carry Denied More Than Double Whites, May 04, 2024</i> , available at bearingarms.com/john-petrolino/2024/05/04/black-applicants-for-nj-permits-to-carry-denied-more-than-double-whites-n1224780	13

PETITION FOR WRIT OF CERTIORARI

R.R. respectfully petitions review of the Opinion of the New Jersey Superior Court – Appellate Division, which was denied certification by the New Jersey Supreme Court. 2a,1a.

OPINIONS BELOW

On September 29, 2022, the Sayreville Police Department denied petitioner R.R.’s application for a New Jersey permit to carry a handgun pursuant to N.J.S.A. § 2C:58-3c(5)’s “in the interest of public health, safety and welfare.” 3a. On August 7, 2023, the New Jersey Superior Court Criminal Part denied petitioner’s appeal of this denial pursuant to the same statute. 28a. On August 25, 2025, the New Jersey Superior Court – Appellate Division affirmed the New Jersey Superior Court opinion. 2a. On December 5, 2025, the Supreme Court of New Jersey declined to hear the appeal of the Appellate Division’s decision. 2a,1a.

JURISDICTION

On December 5, 2025, the Supreme Court of New Jersey denied R.R.’s petition for certification. This Court has jurisdiction under 28 U.S.C. § 1257(a).

**CONSTITUTIONAL AND
STATUTORY PROVISIONS**

United States Constitution, Amendment II:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

United States Constitution, Amendment XIV:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

N.J.S.A. § 2C:58-4.c. Permits to carry handguns:

. . . . An application shall not be approved by the chief police officer or the superintendent unless the applicant demonstrates that the applicant is not subject to any of the disabilities set forth in subsection c. of N.J.S.2C:58-3, that the applicant is thoroughly familiar with the safe handling and use of handguns, including providing proof of completion of any training or proficiency requirements established under the law, and that the applicant is in compliance with

the liability insurance requirement of section 4 of P.L.2022, c.131 (C.2C:58-4.3).

N.J.S.A. § 2C:58-4.d. Issuance of permit; establishment of web portal; disposition of completed information:

. . . . The permit shall be issued to the applicant electronically through electronic mail or through the web portal established or designated for this purpose by the superintendent, or in such form or manner as may be authorized by the superintendent, if, but only if, the chief police officer or superintendent determines that the applicant:

(1) has not engaged in any acts or made any statements that suggest the applicant is likely to engage in conduct, other than lawful self-defense, that would pose a danger to the applicant or others and is not subject to any of the disabilities set forth in subsection c. of N.J.S.2C:58-3[.]

N.J.S.A. § 2C:58-3 Purchase of Firearms:

. . . c. Who may obtain. Except as hereinafter provided, a person shall not be denied a permit to purchase a handgun or a firearms purchaser identification card, unless the person is known in the community in which the person lives as someone who has engaged in acts or made statements suggesting the person is likely to engage in conduct, other than justified self-defense, that would pose a danger to self or others, or is subject to any of the disabilities

set forth in this section or other sections of this chapter. A handgun purchase permit or firearms purchaser identification card shall not be issued:

... (5) To any person where the issuance would not be in the interest of the public health, safety or welfare because the person is found to be lacking the essential character of temperament necessary to be entrusted with a firearm[.]

... f. A firearms purchaser identification card shall be void if the holder becomes subject to any of the disabilities set forth in subsection c. of this section. ...

STATEMENT OF THE CASE

Petitioner, R.R., is a retired electrician with deeply held Catholic beliefs. He is also a self-proclaimed “pacifist” who has enjoyed firearm sports for his entire adult life. [T9-24 to 25; T103-11 to -13] He has no history of violence or criminal convictions. He has never been subject to a restraining order. [T12-3 to -5]

R.R. has possessed firearms since 1980. [T70-3 to -8] He was granted a New Jersey permit to purchase a handgun as recently as 2022. [T107-13] Petitioner has never been accused of misusing any firearm. [T103-18 to -21] On his application, R.R. provided the names of three personal references, all of whom supported his application. [T11-8 to -16]

Separately in 2022, R.R. submitted the current application at issue for a New Jersey permit to carry a

handgun, which the municipal issuing authority denied under N.J.S.A. § 2C:58-3c(5), “To any person where the issuance would not be in the interest of the public health, safety or welfare,” which R.R. appealed.

At the Superior Court hearing, the State presented emails sent by R.R. from when he had petitioned the local tax assessor believing that his property had been incorrectly assessed. [T81-8 to -25; T91-8 to -17; *et al.*] Petitioner typically ended his emails with the statement “In the blood of Christ paid.” [T20-20 to -21] Petitioner also sent emails that included news stories regarding ballot harvesting schemes, the banking system being owned by the “cult,” a Wisconsin election being rigged by dictators in Syria and Korea, a governor’s handling of a teacher shortage, and references to a conservative song writer. [T29-20 to T30-3; T92-19 to 93-5; T32-3 to -15; *et al.*]

The town never requested that R.R. cease sending emails. [T44-24 to T25-2]

The municipal detective testified that R.R. had never threatened anyone with violence. [T47-14 to -20; T50-17 to -22]

When asked why he sent the numerous emails and documents, R.R. stated that they were intended “[t]o notice” his town of “correcting the record” and that his references to the Blood of Christ referred to his “religious and spiritual belief[s].” [T82-15 to -22]

To preempt any mental health allegation that may be raised at his summary, *de novo* hearing – and as anticipated under N.J.S.A. § 2C:58-3c(3) – R.R. provided

a licensed MD/Psychiatrist's "Comprehensive Evaluation" report, which found that he was safe to carry a firearm.

Applicants are expected to testify at firearm permit appeal hearings. *Weston v. State*, 60 N.J. 36 (1972); *In re Dubov*, 410 N.J. Super. 190 (App. Div. 2009). The State questioned R.R. regarding the emails he sent regarding his religious beliefs, despite counsel's objections. For example:

Q. Why did you reference the blood of Christ in that –

A. Okay. My belief and according to our government bill of rights, I have the right to whatever religion I want. In my case it's Catholicism... I've gone through all the teachings of the Catholic church. And in the Catholic Church it says that Jesus Christ died on the cross for our sins, which he gave blood... [B]y doing so, by God giving his son, that all mankind is relieved of sin... sin is all debt. Any debt... [A]ll sin is done away with.

Q. ...So you put that into a document that you intended to persuade all these people that were copied on it and it's directed to. What was the purpose in trying to persuade those people? What were you trying to do?

A. Correct the record.

Q. Correct the record about what? That you overpaid your taxes?

A. Overage. To clarify the overage... [T84-4 to T85-7]

...Q. And you think that somehow writing dozens of page about zygotes and placentas and the blood of Christ would have somehow furthered your cause in terms of getting your money back?

A. It's my religious belief and the ultimate aim is that God, through his son... [T87-17 to T88-22]

The Superior Court made no negative findings regarding petitioner's character of temperament. Rather, the Court found:

[Petitioner] presented himself as polite and respectable gentleman who was articulate and professional in his attempt to respond to the State's cross examination questions. 32a.

Nonetheless, the Court found:

[H]is testimony was consistent with this email correspondence in that it was incoherent and non-sensical, thus making it difficult for this court to support a finding that Mr. R. could formulate the kind of rational thinking expected of individuals permitted to publicly carry firearms... when weighed together, Mr. R.'s testimony and his email correspondence support a conclusion that granting Mr. R.'s application was not in the best interest of the

public health safety, and welfare, and remains so. 32a to 33a.

The Sayreville Police initially denied R.R.'s application under a prior version of N.J.S.A. § 2C:58-3c(5), which stated "in the interest of public health, safety or welfare." However, by the time of the hearing the statute was amended and the phrase "because the person is found to be lacking the essential character of temperament necessary to be entrusted with a firearm" was added. On appeal to the Appellate Division, R.R. argued that the Superior Court failed to apply the most recent version of the statute. The Appellate Division found that R.R.'s application was governed by the prior version of § 2C:58-3c(5) at the time he applied and affirmed the Superior Court's finding that issuance would not be "in the interest of public health, safety or welfare." 27a.

REASONS FOR GRANTING THE PETITION

I. Certiorari ought to be granted because New Jersey's permit standard defies *Bruen*

In *Bruen*, this Court condoned only "narrow, objective, and definite standards" guiding firearm licensing officials and condemned standards constituting the "appraisal of facts, the exercise of judgment, and the formation of an opinion" – features that "can be put toward abusive ends." *Bruen*, 597 U.S. at 38, n.9. Vague, overbroad permitting statutes cry out for judicial review.

Under N.J.S.A. § 2C:58-3c(5), New Jersey's issuing authorities and courts rely on undefined terms, such as "public health, safety or welfare" and "essential character

of temperament necessary to be entrusted with a firearm” when denying applicants. *Id.* Under New Jersey law, police chiefs and judges thus have free rein to deny Second Amendment rights.

N.J.S.A. § 2C:58-3c(5)’s key terms remain undefined and subjectively interpreted. Different issuing authorities and courts apply the standard inconsistently.

This firearm permit standard suffers from a similar defect as the “proper cause” standard struck down in *Bruen*. Specifically, “public health, safety or welfare” and “essential character of temperament necessary to be entrusted with a firearm” are “may-issue” standards. Under such standards “authorities have discretion to deny concealed-carry licenses even when the applicant satisfies the statutory criteria, usually because the applicant has not demonstrated cause or suitability for the relevant license.” *Bruen*, 597 U.S. at 14-15.

This Court should grant certiorari to clarify that the Second Amendment abhors unchecked discretion in the hands of government officials.

A. A universal “interest of public health, safety or welfare” test is not in our Nation’s historical text or tradition of firearm regulation, and New Jersey Appellate Division erred in finding R.R. is not part of “the people”

N.J.S.A. § 2C:58-3c’s restrictions upon individual exercise of the right to keep firearms date back to 1966, when New Jersey considered individuals’ right to keep and bear arms was a mere privilege. When the statute was challenged in 1968, the New Jersey Supreme Court found:

As the language of the Second Amendment itself indicates it was not framed with individual rights in mind. Thus it refers to the collective right “of the people” to keep and bear arms in connection with “a well-regulated militia.” *Burton v. Sills*, 53 N.J. 86, 97 (1968).

Burton’s foundational pillars expressed above were demolished by this Court in *Heller* and *McDonald*, yet New Jersey courts continue to regularly cite *Burton* and its progeny when affirming denials of firearms permits. For instance, the New Jersey Appellate Division below upheld the constitutionality of N.J.S.A. § 2C:58-3c(5) citing *Burton*’s rationale. 23a. See also *In the Matter of M.U.*, 475 N.J. Super. 148 (App. Div. 2023).

As far as New Jersey courts are concerned, *M.U.* is the controlling law. It has been three years since the Appellate Division published its opinion in *M.U.* and the Supreme Court of New Jersey has yet to grant or deny hearing the petition for certification. In *M.U.*, the Appellate Division found:

The historical record shows that legislatures had broad discretion to prohibit those who had not respected the law from possessing firearms. Individuals who commit felonies and felony-equivalent offenses are not among ‘the people’ whom the Second Amendment protects. So too, individuals who engage in repeated misconduct, even if not convicted of a felony-equivalent offense, are not protected by the Second Amendment.

In so finding, the New Jersey Appellate Division relied upon sources alleging, “The first firearm legislation prohibited Native Americans, African Americans, and indentured servants from owning firearms.” *M.U.*, 475 N.J. Super. at 186-188. The Appellate Division cited legislation barring Catholics due to their “propensity for violence” and because “Catholics [defy] sovereign authority and communal values,” and recognized laws that were prejudicial against discrete and insular minorities, such as a Pennsylvania law that deprived arms to “Quakers, Mennonites, Moravians, and other groups” because oath-taking violated their religious convictions. *Id.*

We challenge New Jersey’s reliance upon racist, outlier laws as acceptable historical analogues under a *Bruen* analysis. They are not analogous to this provision’s broadly applied and indefinite “interest of public health, safety or welfare” disqualifier. In addition, all such racist laws are outrageous and unconstitutional.

Notably, the Third Circuit concluded the opposite of *M.U.* and correctly applied *Bruen* by ruling that an individual convicted of a crime is part of “the people” and rejected government’s argument that Range’s conviction placed him outside of “the people.” *Range v. Attorney General II*, 124 F.4th 218, 225 (3d Cir. 2024).

B. New Jersey’s standard contradicts *Rahimi*’s rejection that an individual may be disarmed based upon a vague, alleged disability

While most states have firearm restrictions similar to the federal standards expressed under 18 U.S.C. § 922, some states continue to restrict firearm possession upon

such nebulous standards as “in the interest of public health, safety or welfare,” “character” or “temperament.”

New Jerseyans’ hope lies with this Court to clarify that disqualifiers such as “public health, safety or welfare” and “character of temperament” do not constitute reasonable limitations upon Second Amendment rights.

In *Rahimi*, this Court explicitly rejected “Government’s contention that Rahimi may be disarmed simply because he is not ‘responsible.’” *Rahimi*, 602 U.S. 680, 701 (2024).

“‘Responsible’ is a vague term. It is unclear what such a rule would entail. Nor does such a line derive from our case law.” *Id.*

“Character of temperament” is an entirely novel and ahistorical term nowhere to be found in our Nation’s text, history, or tradition of firearm regulation. Connecticut’s firearm law states “suitability,” which has been interpreted to mean “character” or “temperament” but neither terms are in the statute. CGS § 29-28.

“Character of temperament” is unique to New Jersey (as of 2022) and used nowhere else under our Nation’s laws past or present. In any case, “character” and “temperament” are, on their own, vague, undefined terms that invite an “appraisal of facts, the exercise of judgment, and the formation of an opinion” that “can be put toward abusive ends.” These disqualifiers fail to present the “narrow, objective, or definite standards” condoned by this Court.

In New Jersey, disqualification “in the interest of public health, safety and welfare” has given birth to

institutionalized racism where minorities are being disproportionately disenfranchised of their Second Amendment civil rights. Applying data supplied by the New Jersey Attorney General's office, black people are denied permits to carry more than double that of white people under this specific disqualifier. See, John Petrolino, *Black Applicants for N.J. Permits to Carry Denied More Than Double Whites, May 04, 2024*, available at bearingarms.com/john-petrolino/2024/05/04/black-applicants-for-nj-permits-to-carry-denied-more-than-double-whites-n1224780.

At least under the irresponsible person standard of review raised in *Rahimi* and rejected by this Court, government may point to instances where a person arguably acted irresponsibly. New Jersey, however, provides no metric to gauge "character of temperament." Someone with Tourette Syndrome? A political protester? A fiery evangelist? New Jersey's firearm permit disqualifier results in judges and issuing authorities erring on the side of restrictive caution rather than, in Thomas Jefferson's words, on the side of "dangerous freedom." (January 30, 1787, letter to James Madison.) Due Process demands standards to which people may conform their actions to abide by the law. How can one possibly know what a court may find constitutes poor character, temperament, or, in the case of N.J.S.A. § 2C:58-3c(5), the characteristics of one's temperament?

In the present case, the Superior Court judge made a mental health finding contrary to a mental health expert's certified mental health findings. The Judge apparently could not comprehend petitioner's deeply held Catholic beliefs and teachings, so it found that petitioner's "ability

to engage in coherent and rational[] thinking has lessened or been compromised to the extent that his ability to publicly carry a firearm is rightfully a health and safety concern for both [petitioner] and the public.” 33a.

New Jersey’s 2C:58-3c(5) enables and emboldens lawfare – denial of people’s fundamental, individual rights because the person in power does not like someone’s religious or political views or how they disseminate them, or because someone dares to question government actions. Yet, freedom of religion, the right to political expression, and the right to petition grievances are three of the most important rights our Nation has recognized and enshrined since its inception. At least in part, for exercising these First Amendment rights, New Jersey stripped R.R. of his Second Amendment rights. As recognized in *The Federalist Papers: No. 10* (Madison):

A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert result from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual.

New Jersey’s N.J.S.A. § 2C:58-3c(5) exemplifies the type of unconstitutional, subjective standard(s) that Madison and this Court warned against, and it should be struck as unconstitutional generally and as applied to the present petitioner.

C. Denial of R.R.'s permit defies *Bruen* and *Rahimi*

This Court's review is necessary to ensure that a fair, consistent standard applies to all people wishing to exercise their Second Amendment right to keep and bear arms. In the wake of *Rahimi*, requiring an objective, defined standard of review is needed to align legislatures and judges that resist this Court's *Bruen* decision and to stop them from treating the Second Amendment as a second-class right.

Respondents in *McDonald* argued that the Second Amendment right should be given "second class status" and that it differs from all other provisions of the Bill of Rights because it concerns the right to possess a deadly implement and thus has implications for public safety. *McDonald* at 35-36. This Court rejected these arguments, noting that the Second Amendment is not the only Constitutional right that has public safety implications - that all provisions restricting law enforcement and the prosecution of crimes also share this issue. *Id.* at 36. *Heller* also rejected an argument that, under the principal of federalism, state and local governments should be allowed to restrict firearms and enact provisions, including complete bans, that they deem "reasonable." *Id.* at 37.

In the wake of this Court's *McDonald* and *Bruen* decisions, the New Jersey Legislature not only kept "interest of public health, safety or welfare" on the books, but actively enacted additional laws to further restrict the exercise of Second Amendment rights. Since *McDonald*, the New Jersey Judiciary has summarily rejected all unconstitutionality arguments and has expressly found:

that N.J.S.A. § 2C:58-3(c)(5) is not unconstitutionally vague, *In re Dubov*, 410 N.J. Super. 190, 197 (App. Div. 2009); that “the right to possess firearms clearly may be subject to reasonable limitations” *Crespo v. Crespo*, 201 N.J. 207, 210 (2010); and that *Heller* and *McDonald* do not render N.J.S.A. § 2C:58-3(c)(5) unconstitutional, *In re Winston*, 438 N.J. Super. 1, 10 (2014).

Most recently, in *IMO M.U.’s App. for a Handgun Purchase Permit*, 475 N.J. Super. 148 (App. Div. 2023) (NJ Supreme Court Docket No. 088129 pending since April 2023) (hereinafter *M.U.*), the New Jersey Superior Court – Appellate Division upheld the constitutionality of N.J.S.A. § 2C:58-3c(5). For almost three years, however, the Supreme Court of New Jersey has delayed whether or not to grant certification upon *M.U.*

In 2022’s *Bruen*, decision, this Court pronounced our Nation’s standard for going forward on all Second Amendment-related matters:

In keeping with *Heller*, we hold that when the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct falls outside the

Second Amendment’s “unqualified command.”
(Internal citation omitted.)

At the Superior Court hearing below, petitioner’s counsel argued that “it sounds . . . like we’re hearing . . . [government is] trying to deny [petitioner]’s Second Amendment rights based on his exercise of his First Amendment rights,” specifically upon petitioner’s “political beliefs,” his “religious beliefs,” and his “right to seek assistance of the government.” [T105-6 to T106-15.] At the Appellate Division, petitioner further asserted that, per *Bruen*, “it is not in our nation’s text, history or tradition to deny Second Amendment rights for expressing one’s religious and political beliefs, or for petitioning government to redress grievances, [that is] for lawfully exercising First Amendment rights.” Petitioner below argued to the Appellate Division that government violated petitioner’s Second Amendment rights because of the petitioner’s “[p]eaceably attempting to resolve a taxation grievance is not a reason to deny Second Amendment rights. . . .” and that the Superior Court “failed to specify how [petitioner’s] non-threatening expression of his beliefs or petitions to redress grievances with his local government . . . make him a danger to the public health, safety, or welfare,” and that such a finding “is mere speculation.”

D. N.J.S.A. § 2C:58-3c(5) is unconstitutionally vague

Statutes and ordinances may be found unconstitutionally vague and offensive to Due Process if they do not provide fair notice of the conduct they prohibit or demand, or if they are so indefinite that they confer unstructured and unlimited discretion on a fact-finder to decide whether

the law has been violated. *Chicago v. Morales*, 527 U.S. 41 (1999); *et al.* Under N.J.S.A. § 2C:58-3c(5), individuals have no opportunity to conform their actions to the law because they never know what a court may deem “not in the interest of the public health, safety or welfare” until after it rules. Courts are free to liberally add any behavior(s) they deem inappropriate to strip citizens of their rights to keep arms.

For instance, in New Jersey, when people change residences, they must apply for duplicate New Jersey firearms purchaser identification cards (FPICs) representing their new addresses, and, after two years, people must renew their permits to carry a handgun. See N.J.A.C. 13:54-1.11(a); *In re Application of Boyadjian*, 362 N.J. Super. 463 (App. Div.), cert. den. 178 N.J. 250. 466 (2003); N.J.S.A. § 2C:4. When reviewing firearm permit applications, N.J.S.A. § 2C:58-3c(5) requires police chief issuing authorities to consider the interests of their communities. *Id.* at 475. Thus, even though nothing in applicants’ records have changed since the granting of their permits by their former issuing authorities, FPICs and carry permits are often denied under a new issuing authority’s or judge’s different or more stringent “interest of public health, safety or welfare” and “character of temperament” criterion.

The objection of vagueness is twofold: inadequate guidance to the individual whose conduct is regulated, and inadequate guidance to the triers of fact. N.J.S.A. § 2C:58-3c(5)’s “interest of the public health, safety or welfare” due to lacking “character of temperament” (whatever that means) is appallingly vague. It provides no set boundaries into which citizens are informed to constrain

their behavior. Such a provision confers unstructured and unlimited discretion on a fact-finder to decide what behavior endangered the public (with no requirement to justify such a conclusion). N.J.S.A. § 2C:58-3c(5) provides no Due Process notice as to what specific behavior(s) may be proscribed. It is abused by anti-gun licensing authorities and courts because it allows them to decide, after-the-fact, that certain behavior or a long-gone act “endangers the public” without having to justify how such a behavior causes a danger or who it endangers. (Examined further *infra*.) For instance, in *In re Z.L.*, 440 N.J. Super. 351 (App. Div.), cert. den. 223 N.J. 280 (2015), a denial of a New Jersey purchase permit may be denied pursuant to N.J.S.A. § 2C:58-3c(5) upon a history of domestic disputes despite an applicant never being the subject to a restraining order, never being convicted of an offense, and despite an alleged past “victim” not contesting issuance of a firearm purchase permit to the applicant. In *Personal Weapons & Firearms Identification Card Belonging to F.M.*, 225 N.J. 487 (2016), the New Jersey Supreme Court found that firearms and a firearms purchaser identification card seized *ex parte* pursuant to the Prevention of Domestic Violence Act may be forfeited after a finding that possession of weapons by the defendant was “not in the interest of public health, safety or welfare” even though a final restraining order was not issued. These are just a sampling of the hundreds of permit denial and weapon forfeitures denied pursuant solely under N.J.S.A. § 2C:58-3c(5) each year in New Jersey.

Here, the municipal police detective testified regarding various emails petitioner sent to the Sayreville clerk referring to the “Blood of Christ” and an affidavit submitted by petitioner to Sayreville regarding the

definition of “zygotes” in a religious context. Detective Berry testified he did not understand what petitioner was discussing and that, in his opinion, the communications were “kind of rambling” and had nothing to do with petitioner’s tax issues.

Here, the Superior Court made a mental health determination even though the State did not move upon any mental health disqualifier. The Court did not deny the petitioner under any enumerated mental health disqualifier, but used its own mental health determination as part of its “interest of public health, safety, or welfare” analysis.

The Court was not a mental health professional and its finding contradicted the findings presented in petitioner’s submission of an un rebutted and certified fitness-for-firearms psychiatric evaluation from a licensed medical professional who found that the petitioner was “very stable, reliable, intelligent and pleasant” who suffered from no mental health disease or disorder and was “psychiatrically cleared,” and was an “appropriate” candidate for a “concealed carry permit.” 11a.

E. The Superior Court erred by denying Second Amendment rights based upon a made up distinction regarding suitability to possess in the home and suitability to carry

At the hearing, the State argued (and the Court apparently accepted) that there is a difference in suitability criteria between possessing a firearm in one’s home to protect themselves and going out and interacting with the public. [T110-16 to -21] The Superior Court apparently used a heightened standard to find that R.R.’s emails and

testimony, which the Court did not understand, could not “support a finding that Mr. R. could formulate the kind of rational thinking expected of individuals permitted to publicly carry firearms.” 32a to 33a. Yet, New Jersey’s licensing law presents no such distinction and, while possession in one’s home may be a more protected right, these are both rights confirmed by this Court under our Second Amendment.

Notably, the denial of the permit to carry at issue under N.J.S.A. § 2C:58-3c(5) also negates petitioner’s firearms identification card to acquire firearms (even for home protection).

F. N.J.S.A. § 2C:58-3c(5) fails to provide Due Process

Notice is a fundamental requisite of Due Process of law. *Grannis v. Ordean*, 234 U.S. 385, 394 (1914); *et al.* Due Process particularly should be provided when Constitutional rights are at issue, such as Amendments I, II, V, and XIV presented here. This Court has never forwarded that arbitrary, vague, or overbroad firearm licensing laws or gun control schemes that lack Due Process would be found constitutional. Rather, this Court has recognized that absolute or irrational bans will not stand, and that mere rational basis review is not enough to deny this fundamental, individual constitutional right. “In the interest of public health, safety or welfare” and “character of temperament” are unconstitutionally overbroad.

To be constitutional, an overbroad law must be incapable of narrower construction. *Brockett v. Spokane*

Arcades, Inc., 472 U.S. 491 (1985). Overbreadth Doctrine holds that if a statute is so broadly written that it deters free actions, then it can be struck down on its face because of its chilling effect – even if it also prohibits acts that may legitimately be forbidden. Black’s Law Dictionary, 1213 (9th ed. 2009). “Interest of the public health, safety or welfare” and “character of temperament” openly invites judges to, “under the pretense of regulating,” destroy a person’s Second Amendment rights by deciding, on a case-by-case basis, through a single or series of successive findings, that various behavior(s) not previously proscribed, present a threat to the public and define one’s “character of temperament” absent any mental health professional’s opinion.

In New Jersey, hearsay, police reports, and allegations surrounding criminal charges that were dismissed may be (and are) presented to deny firearm purchase permits and to deny the return of firearms seized for safekeeping. *In re Osworth*, 365 N.J. Super. 72, 77-79; *In re Dubov*, 410 N.J. Super. 190 (App. Div. 2009). Although permit applications and return of firearms may not be denied “entirely upon hearsay,” applicants and defendants are expected to testify at permit appeal and weapon forfeiture hearings regarding incidents alleged by the Government and, historically, a negative inference may be drawn against applicants and defendants who refuse to testify. *Weston v. State*, 60 N.J. 36 (1972); *Dubov* at 202-203; *Mahne v. Mahne*, 66 N.J. 53 (1974); *Levin v. Levin*, 129 N.J. Super. 142 (App. Div. 1974).

N.J.S.A. § 2C:58-3c(5) is used by issuing authorities and courts to deny purchase and carry permits as well as to determine whether firearms may be returned after

domestic violence weapon forfeiture seizures, per N.J.S.A. § 2C:25-21d(3). Disqualification under N.J.S.A. § 2C:58-3c(5) continues in perpetuity — even after a person has matured, circumstances have changed, or other events have rendered the findings inappropriate. Yet, N.J.S.A. § 2C:58-3 does not provide any form of redress. Since an N.J.S.A. § 2C:58-3c disqualifier has been found, R.R. is now forever barred from further firearm acquisition, as well. Even a felon convicted of unlawful firearm possession may eventually receive an expungement and again be eligible to possess firearms, but New Jersey statutes provide no relief to N.J.S.A. § 2C:58-3c(5).

Even if the governing statute did allow for relief, how would a person know when a Court may no longer find him a threat when it balances “the interest of public health, safety or welfare”? Here, the applicant provided an unrebutted and current psychiatrist Comprehensive Evaluation, which the trial Court ignored in favor of its own mental health opinion. Furthermore, New Jersey’s firearm permit application forms ask whether a person has been previously denied or revoked any firearm permit and, if so, the applicant must state where, when and why. Failure to do so may constitute falsification of the firearm application form, which is a separate disqualifier with potential criminal charges. See N.J.S.A. § 2C:58-3c(3) and N.J.S.A. § 2C:39-10.

Accordingly, N.J.S.A. § 2C:58-3c(5) should be found unconstitutionally vague.

G. New Jersey's standard is an unconstitutional balancing test in offense to *Heller*

“Interest of public health, safety and welfare” is plainly an “interest-balancing” test. (Emphasis added.) For this reason alone, New Jersey's statute should be struck. “In the interest of public health, safety or welfare” invites courts to balance a generalized public interest against an individual's right to keep and bear arms. It allows for the destruction of Second Amendment rights without any criminal conviction, restraining order, or notice that a certain behavior may result in the loss of Second Amendment rights.

Per *Heller*, an individual's right to keep arms may not be balanced-tested against such nebulous or speculative concerns. *Heller* at 634-635. Since “interest of the public health, safety or welfare” weighs an individual's actions against Government's alleged interests, it should be struck as unconstitutional.

H. Summary

Presently at issue is the Due Process denied to thousands of New Jersey firearm purchase permit applicants each year. Second, Fifth, and Fourteenth Amendment issues are cognizable in this case, and the matter is of paramount public interest.

There is no better example of a law used to deny a fundamental right that is more unconstitutionally vague and overbroad than “in the interest of public health, safety or welfare because the person is found to be lacking the essential character of temperament necessary to be

entrusted with a firearm.” This disqualifier is not narrowly tailored at all. People concerned with running afoul of “the public health, safety or welfare” or of displaying poor “character of temperament” are broadly restrained from exercising their First Amendment rights in fear that any action could be found to constitute a reason to disqualify them. Here, R.R. was found to be a danger to the “public health, safety or welfare” and to lack “character of temperament” because he fervently promoted his faith and dared to petition tax grievance with his municipal authority.

New Jersey—in all three branches of its government—has made it clear that it will not abide by this Court’s rulings absent specific review of New Jersey’s laws.

CONCLUSION

For the reasons set forth above, the Court should grant the petition for a writ of certiorari.

Respectfully submitted,

EVAN F. NAPPEN

LOUIS P. NAPPEN

Counsel of Record

EVAN F. NAPPEN,

ATTORNEY AT LAW PC

21 Throckmorton Avenue

Eatontown, NJ 07724

(721) 389-8888

louis@evannappen.com

Counsel for Petitioner

March 5, 2026

APPENDIX

TABLE OF APPENDICES

	<i>Page</i>
APPENDIX A — DENIAL OF PETITION FOR CERTIFICATION OF THE SUPREME COURT OF NEW JERSEY, FILED DECEMBER 5, 2025	1a
APPENDIX B — OPINION OF THE SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION, DECIDED AUGUST 25, 2025.....	2a
APPENDIX C — ORDER AND DECISION OF MIDDLESEX SUPERIOR COURT, FILED SEPTEMBER 11, 2023.....	28a
APPENDIX D — DENIAL LETTER, DATED SEPTEMBER 29, 2022	34a

1a

**APPENDIX A — DENIAL OF PETITION FOR
CERTIFICATION OF THE SUPREME COURT OF
NEW JERSEY, FILED DECEMBER 5, 2025**

SUPREME COURT OF NEW JERSEY
C-256 September Term 2025
091208

IN THE MATTER OF THE APPEAL OF THE
DENIAL OF AN APPLICATION FOR A PERMIT
TO CARRY A HANDGUN BY APPLICANT, R.R.

(R.R. - Petitioner)

ORDER

A petition for certification of the judgment in A-000078-23 having been submitted to this Court, and the Court having considered the same;

It is ORDERED that the petition for certification is denied.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at Trenton, this 2nd day of December, 2025.

_____/s/
CLERK OF THE SUPREME COURT

**APPENDIX B — OPINION OF THE SUPERIOR
COURT OF NEW JERSEY, APPELLATE DIVISION,
DECIDED AUGUST 25, 2025**

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0078-23

IN THE MATTER OF THE APPEAL OF THE
DENIAL OF AN APPLICATION FOR A PERMIT TO
CARRY A HANDGUN BY APPLICANT, R.R.

Submitted March 19, 2025 – Decided August 25, 2025

Before Judges Marczyk and Paganelli.

On appeal from the Superior Court of New Jersey,
Law Division, Middlesex County, Docket No.
GPA-MID-021-2022.

PER CURIAM

Petitioner R.R.¹ appeals from the trial court's August 7, 2023 order denying his application for a permit to carry a handgun. Based on our review of the record and the applicable legal principles, we affirm.

1. We refer to petitioner by initials because of the submission of a psychiatric evaluation in the proceeding. *See R. 1:38-3(a)(2)*.

*Appendix B***I.**

We derive the following facts from the hearing and other portions of the record. Petitioner applied for a permit to carry a handgun in August 2022. Detective Jeremy Berry of the Sayreville Police Department (SPD) conducted an investigation regarding petitioner's application. Detective Berry found petitioner had no documented criminal history or mental health issues. Detective Berry contacted petitioner's references, who "returned favorable reviews." Petitioner also provided proof he completed a handgun qualification course. During the course of the investigation, the Sayreville clerk informed Detective Berry about numerous email communications petitioner had sent to Sayreville employees over a two-year span regarding a tax dispute where petitioner believed he overpaid taxes.

Detective Berry ultimately denied petitioner's application to carry a handgun. In the September 29, 2022 letter, the detective stated:

My investigation revealed that you have had some concerning correspondences, via email, with employees of [Sayreville]. Specifically, on [September 29, 2022], you sent an email to the [SPD] where you were demanding information and you named each member of the [SPD] Chief's family. I have informed the prosecutors of my finding[s] and WE have decided to **REJECT** your application to carry a firearm[] [under] [N.J.S.A.] 2C:58-3(c), public health, safety and welfare.

Appendix B

Petitioner appealed from the denial of his application, and the trial court conducted a hearing in August 2023. Detective Berry was called as a witness, and the State introduced a series of emails between petitioner and Sayreville employees which Detective Berry relied upon to deny the application.

Detective Berry initially testified regarding petitioner's three municipal court cases. In 2010, petitioner pled guilty to an amended petty disorderly persons offense and fines were imposed. In another matter, petitioner was charged with disobeying the orders of a judge and passive physical restraint of police while they were attempting to make an arrest. Of the two charges, one was dismissed, and one was amended to disorderly conduct for which petitioner was fined.

Detective Berry then testified regarding various emails petitioner sent to the Sayreville clerk referring to the "Blood of Christ" and an affidavit submitted by petitioner to Sayreville regarding "[o]ne's [e]ntire [z]ygote/[p]ellucid [m]embrane as the [s]ingular '[h]istorical & [p]resent, [r]eligious & [s]cientific, [n]ative & [c]ustomary, [t]ruth & [m]atter of [f]act' [p]roving [o]ne's [p]ersonal, [p]rivate, and [c]onfidential [p]roperty/[p]aramount [e]quity '[f]ound' within [o]ne's [o]riginal [b]iological/DNA [b]irthday '[c]ake' a.k.a. [o]ne's '[b]aggage and [e]ffects' a.k.a. [o]ne's [p]lacentia." Detective Berry testified he did not understand what petitioner was discussing, and the communications were "kind of rambling" and had nothing to do with petitioner's tax issues.

Appendix B

Detective Berry further testified regarding: petitioner's referencing credit as a "figment of the imagination," ballot harvesting schemes, the banking system being owned by the "cult," a Wisconsin election being rigged by dictators in Syria and Korea, a governor's handling of a teacher shortage, and references to a conservative song writer. Detective Berry stated that in his "training and experience," he never saw "an individual correspond with a government body" in this manner and that petitioner was "not really addressing any specific issue."

In one email, petitioner noted the SPD Chief was married and named his wife and his children. Detective Berry testified it appeared petitioner "cut and paste[d]" this information from the Chief's biography on the SPD's website. Detective Berry referenced this communication in his denial letter. He testified "the way that [petitioner] was interacting regarding his permit [application]" caused him concern, as petitioner "was demanding answers" and "wasn't letting the investigative process play out." He also testified petitioner's references to the Chief's family caused him concern.

Detective Berry conceded on cross-examination that Sayreville never told petitioner to stop sending emails. He also acknowledged petitioner was previously approved for a firearms purchaser identification card and had obtained permits to purchase a handgun as recently as 2022. He also testified there was no evidence petitioner had threatened anyone with violence or had any documented mental health issues.

Appendix B

Petitioner testified he is a retired electrician and has owned firearms since 1980. When asked why he sent the numerous emails and documents to Sayreville, petitioner stated they were intended “[t]o notice” Sayreville of “correcting the record,” and that his references to the blood of Christ referred to his “religious and spiritual belief[s].”

Petitioner’s counsel objected to petitioner having to “explain his religious beliefs.” The court overruled the objection. The following colloquy took place between the prosecutor and petitioner:

Q: Why did you reference the blood of Christ in that --

A: Okay. My belief and according to our government bill of rights, I have the right to whatever religion I want. In my case it’s Catholicism I’ve gone through all the teachings of the Catholic church.

And in the Catholic church it says that Jesus Christ died on the cross for our sins, which he gave blood. . . .

. . . [B]y doing so, by God giving his son, that all mankind is relieved of sin.

. . . Sin is all debt. Any debt. . . [A]ll sin is done away with.

Appendix B

Q: . . . So you put that into a document that you intended to persuade all these people that were copied on it and it's directed to. What was the purpose in trying to persuade those people? What were you trying to do?

A: Correct the record.

Q: Correct the record about what? That you overpaid your taxes?

. . . .

A: Overage. To clarify the overage. . . .

Q: Where in this document does it talk about overage and the amounts of money that you went over? And outside of using it to discuss zygotes, placentas, birthday cakes, DNA, where does it say in here the amounts that you . . . overpaid . . . and how it could be accounted for? Where does it say that?

. . . .

A: By the affidavit that I sent.

Q: Can you point out to us where in this document you discuss the overage?

A: Not this document, but the [ten] before it.

Appendix B

Q: Then what was the purpose of this document? . . . Talking about zygotes and things of that nature? Placentas and DNA and birthday cake and the blood of Christ.

A: It was to educate people . . . in general, along with filing it into the court record

Q: Educate people how in terms of your issue that you had?

. . . .

A: To inform these people . . . of the case . . . for presenting that document to the court

Q: And you think that somehow writing dozens of pages about zygotes and placentas and the blood of Christ would have somehow furthered your cause in terms of getting your money back[?]

A: It's my religious belief and the ultimate aim is that God, through his son

Q: Okay. I'm not asking you about your religious beliefs. I'm asking you how . . . did this address the specific issue that you had?

. . . .

Q: What does a zygote have to do with your tax issue?

Appendix B

A: It has to do with the blood of Christ and the soul and my religious belief, which you're protesting against it when I applied it.

Q: I'm not protesting anything against your religious belief. I'm asking you how you apply your religious beliefs How does this document further your argument?

A: This document relates to the affidavit which relates to the zygote which God

THE COURT: We can't mix religion and the court. We've got to separate the two.

THE WITNESS: Well, this is all about religion.

THE COURT: I know it is, but as far as asking people about what their specific religious

. . . .

THE WITNESS: Maybe I'm answering incorrectly.

THE COURT: No, no. You're answering perfectly So please just continue. Don't change a thing.

THE WITNESS: Okay. My interpretation of God, the Bible, and Jesus Christ and the transactions they acquired through Pontius

Appendix B

Pilate rubbing his hands of the authority that he had over Jesus Christ

Two people, hopefully married, sleep together. Each one supplies 23 chromosomes each. When the chromosomes meet, this is an event that may start life. Until God comes along and breathes the breath of life or the soul into the zygote or the chromosomes, it becomes a zygotes and attaches to the womb. Am I correct?

Q: Okay. Go on.

A: Okay. So eventually, . . . this zygote becomes a baby, a child with a soul. And in the case with Jesus Christ, same thing happened. God gave his son to take away all the sins of humanity, including debt. Debt is a sin.

Q: Okay. You look at this document and . . . [w]ere you trying to get out of the foreclosure, or were you trying to get your money back with this document?

A: No, we were addressing the issue of . . . [o]verage. . . . We were trying to get the end result of what was owed and not owed, okay? And this was an education, along with filing it in the court . . . to correct the record. . . .

Q: I mean, I guess . . . I don't understand your response

Appendix B

A: It's commonsense. . . . Commonsense and religion.

Petitioner was questioned about a July 29, 2023 fitness for firearms psychiatric evaluation conducted by Jeffrey Ilardi, M.D., a licensed psychiatrist. He noted that Dr. Ilardi performed a psychiatric evaluation and opined petitioner was “very stable, reliable, intelligent and pleasant.” Dr. Ilardi further noted petitioner was “psychiatrically cleared,” and he was an “appropriate” candidate for a “concealed carry permit.” Petitioner’s attorney explained in a colloquy with the court that the psychiatric evaluation was submitted in anticipation of denial based on N.J.S.A. 2C:58-3(c)(3),² “in response to an allegation of mental health, which [counsel] saw . . . in passing . . . in the denial letter,” as the SPD expressed “concerns for mental health.”

Petitioner’s counsel argued “it sounds . . . like we’re hearing . . . [Sayreville] trying to deny [petitioner]’s Second Amendment rights based on his exercise of his

2. At the time of petitioner’s application, N.J.S.A. 2C:58-3(c)(3) prohibited a person from obtaining a permit to carry if they:

[S]uffer[] from a physical defect or disease which would make it unsafe for him to handle firearms, [or] to any person who has ever been confined for a mental disorder . . . unless . . . the . . . person[] produces a certificate of a medical doctor . . . or psychiatrist licensed in New Jersey . . . that he is no longer suffering from that particular disability in a manner that would interfere with or handicap him in the handling of firearms.

Appendix B

First Amendment rights,” specifically his “political beliefs,” his “religious beliefs,” and his “right to seek assistance of the government.”

The State argued it was:

not here because [petitioner] was exercising his rights . . . to express himself in this way. . . . The issue is whether giving him a permit to carry would be contrary to the public’s safety, health and welfare.

If you go through these documents, . . . they make little or no sense without any context. And even when [petitioner] was . . . trying to give context, it didn’t make sense in terms of what he was trying to get across to [Sayreville]. It’s easy to see how people reviewing his permit application would think that he had some mental health stability issues.

. . . .

And . . . looking at [the email discussing] . . . zygotes and placentas and birthday cake . . . , it makes no sense . . . in terms of what he was trying to get across. And it speaks . . . to his . . . mental stability.

And I understand that he has a permit to purchase and he’s got a firearms ID card. But there’s a difference when someone has a gun

Appendix B

in their house to protect themselves and . . . going out and interacting with the public, with members of the government, with people that he had disputes with.

On August 7, 2023, the trial court issued a written decision and accompanying order denying petitioner's permit to carry a handgun. The court opined "[t]he ultimate issue . . . was whether the State proved by a preponderance of the evidence that [the SPD Chief] had good cause for denying [petitioner]'s application . . ." The court referenced Detective Berry's September 29, 2022 letter and the correspondence with Sayreville. The court specifically found:

While initially referencing a tax issue which [petitioner] raised, these emails ultimately gave way to what can only be characterized charitably as the incomprehensible and incoherent musings of an individual who seemingly failed to appreciate both the peculiar and eccentric nature of those communications. A review of these emails, coupled with the testimony [of petitioner] . . . leave little doubt that they are concerning and most certainly a valid basis for denying his application to carry a handgun.

The court further held:

[Petitioner] presented himself as a polite and respectable gentleman who was articulate and professional in his attempts to respond to the

Appendix B

State's cross examination questions. However, his testimony was consistent with his email correspondence in that it was incoherent and non-sensical, thus making it difficult for this [c]ourt to support a finding that [petitioner] could formulate the kind of rational thinking expected of individuals permitted to publicly carry firearms. This remains true despite having been originally issued, more than a decade ago, firearms identification cards for several handguns registered to [petitioner]. Whatever his mental status was when these permits were originally issued, during the . . . hearing, and through his email correspondence with [Sayreville], [petitioner] illustrated in clear format that his ability to engage in coherent and rational[] thinking has lessened or been compromised to the extent that his ability to publicly carry a firearm is rightfully a health and safety concern for both [petitioner] and the public. . . . [Petitioner]'s testimony and his email correspondence support a conclusion that granting [petitioner]'s application was not in the best interest of the public health[,] safety, and welfare, and remains so.

Accordingly, I do find that the State has met its burden by proving by a preponderance of the evidence that [the SPD Chief] had good cause for denying [petitioner]'s application.

*Appendix B***II.**

On appeal, petitioner argues the trial court failed to find that he lacks “character of temperament” as required for denial under the amended version of N.J.S.A. 2C:58-3(c)(5). He further contends the court erred by ignoring the unrebutted findings of a mental health professional and by substituting its own mental health evaluation thereby circumventing the Legislature’s mandate as to how alleged mental health concerns are to be addressed. He further asserts under *New York State Rifle & Pistol Association, Inc., v. Bruen*,³ “it is not in our nation’s text, history or tradition to deny Second Amendment rights for expressing one’s religious and political beliefs, or for petitioning government to redress grievances, [that is] for lawfully exercising First Amendment rights.”

A judicial determination that a petitioner poses a threat to the public health, safety, and welfare is a fact-sensitive analysis. *In re Forfeiture of Pers. Weapons & Firearms Identification Card belonging to F.M.*, 225 N.J. 487, 505, 139 A.3d 67 (2016). Thus, the scope of our review is limited. “[W]e give deference to the trial court that heard the witnesses, sifted the competing evidence, and made reasoned conclusions.” *Gripenburg v. Twp. of Ocean*, 220 N.J. 239, 254, 105 A.3d 1082 (2015). “Reviewing appellate courts should ‘not disturb the factual findings and legal conclusions of the trial judge’ unless convinced that those findings and conclusions were ‘so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the

3. 597 U.S. 1, 142 S. Ct. 2111, 213 L. Ed. 2d 387 (2022).

Appendix B

interests of justice.” *Ibid.* (quoting *Rova Farms Resort v. Invs. Ins. Co.*, 65 N.J. 474, 484, 323 A.2d 495 (1974)). However, a “trial court’s interpretation of the law and the legal consequences that flow from established facts are not entitled to any special deference.” *Rowe v. Bell & Gossett Co.*, 239 N.J. 531, 552, 218 A.3d 784 (2019) (quoting *Manalapan Realty, L.P. v. Twp. Comm. of Manalapan*, 140 N.J. 366, 378, 658 A.2d 1230 (1995)). “Questions of law receive de novo review.” *Allstate Ins. Co. v. Northfield Med. Ctr., P.C.*, 228 N.J. 596, 619, 159 A.3d 412 (2017) (citing *Manalapan Realty, L.P.*, 140 N.J. at 378).

Petitioner argues that N.J.S.A. 2C:58-3(c)(5) as amended in December 2022, should apply to his application. He asserts that his emails to Sayreville “allud[ed] to his views on religion and natural philosophy,” and he explained to the court that his references to zygotes and placentas were “to educate people.” He notes he never threatened anyone, his mental health background check was negative, and he was never told to stop sending emails.

Petitioner asserts Sayreville violated his First Amendment rights and posits “[p]eaceably attempting to resolve a taxation grievance is not a reason to deny Second Amendment rights” He argues the court “failed to specify how [his] non-threatening expression of his beliefs or petitions to redress grievances with his local government . . . make him a danger to the public health, safety, or welfare,” and such a finding “is mere speculation contrary” to this court’s holding in *One Marlin Rifle*.⁴

4. *State v. One Marlin Rifle*, 319 N.J. Super. 359, 725 A.2d 144 (App. Div. 1999).

Appendix B

Petitioner notes Dr. Ilardi opined he was mentally safe to carry a firearm, which was unrebutted by the State. He maintains the “Legislature has clearly delineated . . . how mental health concerns are to be addressed in the context of firearms permit applications,” under the amended N.J.S.A. 2C:58-3(c)(3) and, because petitioner was never admitted or committed for mental health reasons, he is not disqualified under the statute from holding a permit to carry.

Petitioner also relies on the United States Supreme Court’s decision in *Rahimi*,⁵ which was issued subsequent to the trial court’s decision in this matter, arguing he has never had a restraining order entered against him or been found to present a credible threat to another’s safety in conjunction with the use, attempted use, or threatened use of physical force. He argues that because the court did not make findings as required under *Rahimi* for even temporary disarmament, due process requires reversal.

The State counters petitioner’s religious or political beliefs were not the issue before the trial court. Rather, the hearing involved “whether the police chief had properly denied him a gun-carry permit on the grounds it was contrary to the public health, safety and welfare.” It contends the statutory disqualifiers in N.J.S.A 2C:58-3(c) “relate to the State’s regulation of firearms, not speech.” It argues petitioner’s speech was not chilled because he “was not deterred from engaging in protected activity

5. *United States v. Rahimi*, 602 U.S. 680, 144 S. Ct. 1889, 219 L. Ed. 2d 351 (2024).

Appendix B

by virtue of a government regulation or the threat of prosecution thereunder.”

The State contends this court’s decision in *M.U.*⁶ defeats petitioner’s *Bruen* claims, and *Rahimi* supports the trial court’s decision. The State asserts the court’s denial of petitioner’s permit—“based on concern for public safety”—was well-founded, as petitioner’s emails show he “failed to not only appreciate the eccentric nature of those communications, but that [he] lacked the ability to engage in coherent thought.” It maintains the court’s finding that petitioner lacked capacity for “coherent and rational[] thinking” is entitled to deference. It further contends that disqualifying petitioner from carrying a firearm in public is consistent with *Rahimi*, where the Supreme Court stated “the Second Amendment permits the disarmament of individuals who pose a credible threat to the physical safety of others.” 602 U.S. at 693. The State further argues petitioner’s psychiatric report, “even if marginally relevant, had no weight” because the psychiatrist never mentioned the email correspondence in his report.

N.J.S.A. 2C:58-4 governs permits to carry a handgun. When petitioner applied for a carry permit in August 2022, and through the SPD’s denial of the application, N.J.S.A. 2C:58-4(c) stated:

No application shall be approved by the chief police officer . . . unless the applicant

6. *In re M.U.’s Application for a Handgun Purchase Permit*, 475 N.J. Super. 148, 173, 291 A.3d 827 (App. Div. 2023).

Appendix B

demonstrates that he is not subject to any of the disabilities set forth in [N.J.S.A. 2C:58-3(c)], that he is thoroughly familiar with the safe handling and use of handguns, and that he has a justifiable need to carry a handgun.

In June 2022, after the Supreme Court’s decision in *Bruen* was issued, the New Jersey Attorney General issued Law Enforcement Directive No. 2022-07, eliminating the “justifiable need” requirement under N.J.S.A. 2C:58-4(c), but clarified “law enforcement agencies must consider all other mandatory requirements for obtaining a carry permit before granting an application,” including the disqualifications in N.J.S.A. 2C:58-3(c). Off. of the Att’y Gen., L. Enf’t Directive No. 2022-07, *Directive Clarifying Requirements for Carrying of Firearms in Public* 1-2 (June 24, 2022).

At the time of petitioner’s application in August 2022, and subsequent denial by the SPD in September 2022, N.J.S.A. 2C:58-3(c) stated:

Who may obtain. No person of good character and good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in this section or other sections of this chapter, shall be denied a permit . . . except as hereinafter set forth. No . . . permit . . . shall be issued:

. . . .

Appendix B

(5) To any person where the issuance would not be in the interest of the public health, safety or welfare.

As stated, N.J.S.A. 2C:58-3(c)(5) was amended in December 2022. It now reads:

Who may obtain. Except as hereinafter provided, a person shall not be denied a permit . . . unless the person is known in the community . . . as someone who has engaged in acts or made statements suggesting the person is likely to engage in conduct, other than justified self-defense, that would pose a danger to self or others, or is subject to any of the disabilities set forth in this section or other sections of this chapter. A . . . permit . . . shall not be issued:

. . . .

(5) To any person where the issuance would not be in the interest of the public health, safety or welfare because the person is found to be lacking the essential character of temperament necessary to be entrusted with a firearm.

The amendment was to be effective upon the date of passage.

In *M.U.*, we noted the “substantial change[.]” in the statute and determined the law should be applied

Appendix B

prospectively. 475 N.J. Super. at 195. Thus, petitioner's application is governed by the prior version of the statute. *Ibid.*

The public health, safety, and welfare disqualification in N.J.S.A. 2C:58-3(c)(5) "has largely been applied in conjunction with the specific disabilities identified under various subsections of N.J.S.A. 2C:58-3(c), but where the facts do not quite rise to the level of those disabling conditions." *M.U.*, 475 N.J. Super. at 179-80. When an applicant's permit is denied by the chief police officer, the applicant can "request a hearing in the Superior Court." N.J.S.A. 2C:58-4(e); *State v. Wade*, 476 N.J. Super. 490, 504, 301 A.3d 393 (App. Div. 2023). A police chief's denial of an application for a permit to carry is subject to the Law Division's de novo review. *In re Osworth*, 365 N.J. Super. 72, 77, 838 A.2d 465 (App. Div. 2003). "The Chief has the burden of proving the existence of good cause for the denial by a preponderance of the evidence." *Ibid.* "[I]n evaluating the facts presented by the Chief, and the reasons given for rejection of the application, the court should give appropriate consideration to the Chief's investigative experience and to any expertise he appears to have developed in administering the statute." *Weston v. State*, 60 N.J. 36, 46, 286 A.2d 43 (1972).

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." *U.S. Const.* amend. II. The Supreme Court has "recognized that the Second and Fourteenth Amendments protect the right of an ordinary, law-abiding citizen to possess a handgun in the home for self-defense." *Bruen*, 597 U.S. at 8 (first citing *D.C. v.*

Appendix B

Heller, 554 U.S. 570, 128 S. Ct. 2783, 171 L. Ed. 2d 637 (2008); and then citing *McDonald v. Chicago*, 561 U.S. 742, 130 S. Ct. 3020, 177 L. Ed. 2d 894 (2010)). The “core” of the Second Amendment is “the right of law-abiding, responsible citizens to use arms in defense of hearth and home.” *Heller*, 554 U.S. at 634-35.

The Supreme Court in *Bruen* expanded *Heller*’s holding when it found the “Second and Fourteenth Amendments protect an individual’s right to carry a handgun for self-defense outside the home.” *Bruen*, 597 U.S. at 10. The Court in *Bruen* noted:

[W]hen the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct falls outside the Second Amendment’s “unqualified command.”

[*Id.* at 17 (quoting *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50, 81 S. Ct. 997, 6 L. Ed. 2d 105 (1961)).]

“Like most rights, the right secured by the Second Amendment is not unlimited.” *Heller*, 554 U.S. at

Appendix B

626. History shows “longstanding prohibitions on the possession of firearms by felons and the mentally ill.” *Ibid.* The Court in *Heller* “did not cast doubt on such longstanding regulatory measures.” *McDonald*, 561 U.S. at 786. Nor did the Court’s decision in *Bruen*. See *Bruen*, 597 U.S. at 81 (Kavanaugh, J., concurring).

We rejected a facial challenge to N.J.S.A. 2C:58-3(c)(5) in *M.U.* 475 N.J. Super. at 190-93. We found the historical record showed “legislatures traditionally imposed status-based restrictions” that were “not limited to individuals who demonstrated a propensity for violence” but “also applied to entire categories of people due to the perceived threat they posed to an orderly society.” *Id.* at 189. We concluded N.J.S.A. 2C:58-3(c)(5) was constitutional on its face. *Id.* at 190-94. We observed:

Our Supreme Court has explained that the challenged language of “to any person where the issuance would not be in the interest of the public health, safety or welfare” “was intended to relate to cases of individual unfitness, where, though not dealt with in the specific statutory enumerations, the issuance of the permit . . . would nonetheless be contrary to the public interest.”

[*Id.* at 190-91 (quoting *Burton v. Sills*, 53 N.J. 86, 90-91, 248 A.2d 521 (1968)).]

“The Legislature’s goal was to keep guns out of the hands of unfit persons,” “noncriminal as well as criminal.” *Id.* at 179 (quoting *Burton*, 53 N.J. at 91, 94).

Appendix B

The United States Supreme Court subsequently considered a facial challenge to 18 U.S.C. § 922(g)(8), which under subsection (C)(i) barred a person from possessing a firearm if a restraining order concluded the person posed “a credible threat to the physical safety” of another. *Rahimi*, 602 U.S. at 693. The defendant had been involved in multiple violent incidents involving guns, was issued a restraining order against him where the court found he posed a credible threat to another’s physical safety, violated the restraining order, and ultimately was indicted for possessing a firearm while subject to a domestic violence restraining order. *Id.* at 686-89. The “Court did not ‘undertake an exhaustive historical analysis,’” and concluded “only” that “[a]n individual found by a court to pose a credible threat to the physical safety of another may be temporarily disarmed consistent with the Second Amendment.” *Id.* at 702 (quoting *Bruen*, 597 U.S. at 31). “Since the founding, our Nation’s firearm laws have included provisions preventing individuals who threaten physical harm to others from misusing firearms.” *Id.* at 690. The right to bear arms “was never thought to sweep indiscriminately.” *Id.* at 691.

The Court found 18 U.S.C. § 922(g)(8), including subsection (C)(i), was not only facially constitutional, but was also “constitutional as applied to the facts of [the defendant]’s own case.” *Id.* at 693. It concluded that while it was not suggesting states cannot enact “laws banning the possession of guns by categories of persons thought by a legislature to present a special danger of misuse,” the statute at issue applied “only once a court has found that the defendant ‘represents a credible threat to the physical

Appendix B

safety’ of another.” *Id.* at 698-99 (quoting 18 U.S.C. § 922(g)(8)(C)(i)). The Court also pointed out 18 U.S.C. § 922(g)(8) had a “limited duration . . . only prohibit[ing] firearm possession so long as the defendant ‘is’ subject to a restraining order.” *Ibid.* (quoting 18 U.S.C. § 922(g)(8)).

We affirm substantially for the reasons expressed by the trial court. Although the Supreme Court’s decision in *Rahimi* was issued subsequent to the trial court’s decision, we are satisfied the court’s opinion here was not inconsistent with *Rahimi*, as the court considered the public safety implications of granting petitioner’s application. Moreover, *Rahimi* did not address the issues confronted by the trial court in this matter. The trial court deemed petitioner’s email correspondence⁷ with Sayreville “concerning,” “incomprehensible[,] and incoherent.” It was unconvinced based on those communications—coupled with petitioner’s testimony—that petitioner “could formulate the kind of rational thinking expected of individuals permitted to publicly carry firearms.” It further held petitioner’s “ability to engage in coherent and rational[] thinking” had “lessened or been compromised to the extent that his ability to publicly carry a firearm is rightfully a health and safety concern for both [petitioner] and the public.” We conclude the court appropriately

7. We observe petitioner’s emails also contained references to: the “Use of the Period After the ‘S’ in Harry S. Truman’s Name”; excerpts from Charles Dickens’ novel *David Copperfield*; the Encyclical of Pope Leo XIII on Capital and Labor; and an article noting the “[t]he CIA ha[d] been taken over by [the] NSA. Basically, everything created by the UK Royals/Crown/Rothschilds was now null [and] void.”

Appendix B

analyzed petitioner’s communications and testimony, and it did not err in finding that granting petitioner’s application was not in the best interest of the public health, safety, and welfare under N.J.S.A. 2C:58-3(c)(5). The court’s decision was amply supported by credible evidence in the record, and we discern no basis to disturb those findings on appeal.

We next address petitioner’s argument the court erred by ignoring the “unrebutted” findings of his psychiatrist. Although petitioner presented a report from Dr. Ilardi, who opined petitioner was “psychiatrically stable” and “an appropriate candidate” for a concealed carry permit, the court was not compelled to follow the conclusions of petitioner’s expert. Factfinders may use their common sense when determining the weight to give expert testimony. *See Torres v. Schripps, Inc.*, 342 N.J. Super. 419, 430, 776 A.2d 915 (App. Div. 2001) (citing *In re Yaccarino*, 117 N.J. 175, 196, 564 A.2d 1184 (1989)). “[A] factfinder is not bound to accept the testimony of an expert witness, even if it is unrebutted by any other evidence.” *Id.* at 431 (citing *Johnson v. Am. Homestead Mortgage Corp.*, 306 N.J. Super. 429, 438, 703 A.2d 984 (App. Div. 1997)).

Here, the court admitted Dr. Ilardi’s report into evidence. Despite Dr. Ilardi’s conclusions, the court observed the illogical, convoluted emails—containing references to irrelevant historical, biological, and literary topics—together with petitioner’s testimony, demonstrated petitioner was unable to “engage in coherent and rational[] thinking.” These emails were not addressed in Dr. Ilardi’s report. Therefore, the court did

27a

Appendix B

not err in concluding the State had good cause for denying petitioner's application for a permit to carry a handgun because it was not in the best interest of the public health, safety, and welfare.

To the extent we have not specifically addressed any of petitioner's remaining arguments, we conclude that they are without sufficient merit to warrant discussion in a written opinion. *R. 2:11-3(e)(1)(E)*.

Affirmed.

**APPENDIX C — ORDER AND DECISION
OF MIDDLESEX SUPERIOR COURT,
FILED SEPTEMBER 11, 2023**

HONORABLE PEDRO J. JIMENEZ, JR., J.S.C.
SUPERIOR COURT OF NEW JERSEY
MIDDLESEX VICINAGE
Criminal Division

ORDER OF THE COURT

DOCKET NO. GPA-MID-021-2022

IN THE MATTER OF THE APPEAL OF THE
DENIAL OF AN APPLICATION FOR A PERMIT
TO CARRY A HANDGUN BY APPLICANT, R.R.

DATE: August 7, 2023

ORDER

THIS MATTER, having come before the Court by way of an appeal of a denial of an application of R.R., Applicant, for a Permit to Carry a Handgun by the Borough of Sayreville Police Department, and Louis Nappen, Esq., appearing on behalf of the applicant R.R., and Brian Shevlin, Esq., Deputy First Assistant Prosecutor, appearing for the State, and the Court having conducted a plenary hearing pursuant to N.J.S.A. 2C:58-3d., and having reviewed the submissions and heard oral argument, and for good cause shown;

IT IS HEREBY ORDERED this 7th day of August, 2023:

29a

Appendix C

The appeal is DENIED WITHOUT PREJUDICE
for the reasons stated within the decision to which this
Order is attached.

/s/ Pedro J. Jimenez, Jr.
Hon. Pedro J. Jimenez, Jr., J.S.C.
Superior Court of New Jersey

30a

Appendix C

SUPERIOR COURT OF NEW JERSEY

HONORABLE PEDRO J. JIMENEZ, JR., J.S.C.
CRIMINAL DIVISION

Middlesex County Courthouse • P.O. Box 964 •
New Brunswick, NJ 08903-0964

njcourts.gov • Tel: 732-645-4300 x88926 •
Fax: 732-435-8377

August 7, 2023

Brian Shevlin, Esq.
Deputy First Assistant Prosecutor
Middlesex County Prosecutor's Office
25 Kirkpatrick Street, 3rd Floor
New Brunswick, New Jersey 08901

Louis P. Nappen, Esq.
21 Throckmorton Avenue
Eatontown, New Jersey 07724

Re: In the Matter of R.R.
GPA-MID-021-22

Dear Counsellors:

As it relates to Mr. R.'s application for a Permit to Carry a Handgun which was denied by Chief John J. Zebrowski of the Sayreville Police Department via correspondence from Detective Jeremy Berry dated

Appendix C

September 29, 2022, I write to advise that I am denying Mr. R.'s application.

A de novo hearing was held on August 2, 2023, on this appeal, at which time the testimony of Detective Berry was presented by the State in the support of the denial. Mr. R. subsequently testified in support of his application. The ultimate issue to be resolved was whether the State proved by a preponderance of the evidence that Chief Zebrowski had good cause for denying Mr. R.'s application, consistent with our Supreme Court's decision in *Weston v. State*, 60 N.J. 35 (1972):

Accordingly, in our view, the existence of good cause for the denial must represent a burden to be carried by the Police Chief, and to be established by a fair preponderance of the evidence. Of course, in evaluating the facts presented by the Chief, and the reasons given for rejection of the application, the court should give appropriate consideration to the Chief's investigative experience and to any expertise he appears to have developed in administering the statute. *Weston v. State*, 60 N.J. 36, 46 (1972)

As per the testimony of Detective Berry, documented by Mr. R.'s actual application for a permit to carry a handgun, the application was filed in August of 2022. The September 29, 2022, letter rejecting the application, authored by Detective Berry on behalf of the Borough provided:

Appendix C

[M]y investigation revealed that you have had some concerning correspondence, via email, with employees of the [b]orough. Specifically, on 9/29/22, you sent an email to the Sayreville Police Dept. where you were demanding information and you named each member of the Chief's family. I have informed the prosecutors of my finding and WE have decided to REJECT your application to carry a firearm for 2C:58-3 (c), public health, safety and welfare ...

During Detective Berry's testimony, the State introduced emails dated between 04/07/2020 (marked as State's exhibit S-11) through 09/29/2022 (marked as State's Exhibit S-37) which document nearly two (2) years-worth of correspondence between Mr. R. and the Borough of Sayreville. While initially referencing a tax issue which Mr. R. raised, these emails ultimately gave way to what can only be characterized charitably as the incomprehensible and incoherent musings of an individual who seemingly failed to appreciate both the peculiar and eccentric nature of those communications. A review of these emails, coupled with the testimony provided by Mr. R. during the de novo hearing leave little doubt that they are concerning and most certainly a valid basis for denying his application to carry a handgun. Mr. R. presented himself as a polite and respectable gentleman who was articulate and professional in his attempts to respond to the State's cross examination questions. However, his testimony was consistent with his email correspondence in that it was incoherent and non-sensical, thus making it difficult for this court to support a finding that Mr. R.

Appendix C

could formulate the kind of rational thinking expected of individuals permitted to publicly carry firearms. This remains true despite having been originally issued, more than a decade ago, firearms identification cards for several handguns registered to Mr. R. Whatever his mental status was when these permits were originally issued, during the de novo hearing, and through his email correspondence with the Borough of Sayreville, Mr. R. illustrated in clear format that his ability to engage in coherent and rationale thinking has lessened or been compromised to the extent that his ability to publicly carry a firearm is rightfully a health and safety concern for both Mr. R. and the public. To be clear, when weighed together, Mr. R.'s testimony and his email correspondence support a conclusion that granting Mr. R.'s application was not in the best interest of the public health safety, and welfare, and remains so.

Accordingly, I do find that the State has met its burden by proving by a preponderance of the evidence that Chief Zebrowski had good cause for denying Mr. R.'s application. An Order reflecting same accompanies this decision.

Respectfully submitted,

/s/ Pedro J. Jimenez, Jr.

Honorable Pedro J. Jimenez, Jr., J.S.C.

Superior Court of New Jersey

34a

**APPENDIX D — DENIAL LETTER,
DATED SEPTEMBER 29, 2022**

CHIEF JOHN J. ZEBROWSKI
1000 MAIN STREET, SAYREVILLE NJ 08872

September 29, 2022

R.R.
85 Standiford Ave
Sayreville, N.J
08872

Re: Permit to Carry a Handgun

Dear Mr. R.,

My investigation revealed that you have had some concerning correspondences, via email, with employees of the borough. Specifically, on 9/29/22, you sent an email to the Sayreville Police Dept. where you were demanding information and you named each member of the Chief's family. I have informed the prosecutors of my finding and WE have decided to REJECT your application to carry a firearms for 2C:58-3(c), public health, safety and welfare. I will be forwarding all documents to the prosecutor's office for review.

Further, be advised that you can appeal this rejection within 90 days of receipt of this letter. Appeals should be addressed to the Middlesex County Superior Court, Bayard Street, New Brunswick, NJ, 08901.

35a

Appendix D

Yours truly,

/s/ Jeremy J. Berry #143

Det. Jeremy J. Berry
Identification Bureau
(792) 525-5469

SAYREVILLE POLICE DEPARTMENT
[www sayrevillepolice.org](http://www.sayrevillepolice.org)