

Judicial Communications Office

Thursday 1 December 2011

COURT QUASHES MINISTER'S DECISION TO REVOKE FIREARMS LICENCE

Summary of Judgment

Mr Justice Treacy, sitting in the High Court today, quashed a decision of the Minister of Justice to revoke a firearms certificate because of a flaw in the procedure.

The application was brought by a person referred to as DGD ("the applicant"). He had held a firearms certificate for 20 years. In July 2007 the police were asked to go to his home about an unrelated matter and to remove his firearms and ammunition. The applicant advised the police that three of his firearms were being stored in a secure gun cabinet at his father's house. He claimed he did this while he was on a short holiday as his home would have been unoccupied. On his return from holiday he had taken only one gun from his father's house as there was no more space in the car and it had been his intention to collect the remaining firearms the following day.

In February 2009 the applicant was subsequently notified by the PSNI's Firearms and Explosives Branch (FEB) that he was in breach of his Firearms Certificate (FAC) conditions as he had not been authorised to store his firearms at his father's house and had, therefore, allowed another person to have illegal access to them. The FEB indicated that they were minded to revoke his FAC as they were not satisfied that he was a fit person to possess firearms and ammunition without danger to public safety or the peace and invited him to make representations. In response, the applicant claimed he was told by the local PSNI Firearms Officer that it was acceptable for him to store his firearms at this father's home for a short period as long as he told no-one. The FEB considered the applicant's comments but revoked his licence.

The applicant appealed against the revocation to the Minister of Justice. While the Department of Justice recommended that the Minister allow the appeal, the Minister declined to follow the recommendation on the ground that he was not satisfied that the applicant had properly secured his guns and was not persuaded that all necessary steps were taken to prevent unauthorised access to the guns.

The applicant claimed that the determination that he was not a fit person within the meaning of the firearms legislation, the consequent revocation of his certificate and the requirement to surrender his guns was a profound shock to him. It had a substantial impact not least because of his inability to pursue his legitimate sporting interests. He challenged the decision by way of judicial review on the grounds that the Minister's decision was procedurally flawed.

Mr Justice Treacy said that the Department of Justice had been conspicuously assiduous in the gathering of information about the matter, making relevant enquiries and obtaining representations from the applicant. The Department's submission to the Minister was balanced, fair and favourable recommending the appeal be allowed. The judge noted,

Judicial Communications Office

however, that one aspect of the case troubled him from the outset. This arose from a “procedural misdemeanour of which the Minister is unlikely to have been conscious and which I have absolutely no doubt was entirely inadvertent”. The judge said that the submission to the Minister contained an allegation that the PSNI suspected that the applicant *permanently* stored his firearms at his father’s address.

Mr Justice Treacy said that the Minister may not have appreciated that this allegation had never been put to the applicant or that he had not been furnished with a copy of the letter from the FEB which contained this allegation. He commented that whilst the applicant was given the opportunity to comment on all other matters of relevance he was not made aware of the contents of this letter nor that the submission to the Minister contained the allegation and exhibited the letter. When he did become aware of the letter, the applicant expressed particular concern and categorically refuted it.

Mr Justice Treacy said he could not exclude the possibility that this allegation materially influenced the Minister’s decision. He noted that as a matter of procedural fairness the applicant ought to have been informed of this “striking allegation” and given a full opportunity of meeting it:

“He wasn’t. This was inadvertent and the Minister had no reason to be alert to the point. The difference between an allegation of temporary storage ... by the applicant is one case but the allegation of permanent storage is a materially more serious accusation of which the applicant was never made aware and never given the opportunity to contribute by way of representation.”

The judge considered this to be procedurally unfair and ordered that the decision must, on that account, be quashed. He said that the decision must be retaken following a fair procedure.

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Court Service website (www.courtsni.gov.uk).

ENDS

If you have any further enquiries about this or other court related matters please contact:

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