

818 Fed.Appx. 99 (Mem)

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United States Court of Appeals, Second Circuit.

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., Robert Nash,

Brandon Koch, Plaintiffs-Appellants,

v.

George P. BEACH, II, in His Official Capacity as Superintendent of the New York State Police, Richard J. McNally, Jr., in His Official Capacity as Justice of the New York Supreme Court, Third Judicial District, and Licensing Officer for Rensselaer County, Defendants-Appellees.

19-156-cv

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August 26, 2020

Appeal from the United States District Court for the Northern District of New York (*Sannes, J.*).

ON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of said District Court be and it hereby is **AFFIRMED**.

Attorneys and Law Firms

Appearing for Appellants: *John P. Sweeney*, Bradley Arant Boulton Cummings, LLP, Washington, DC.

Kathleen M. Baynes, Albany, NY (on the brief). *David H. Thompson*, *Peter A. Patterson*, *John D. Ohlendorf*, Cooper & Kirk, PLLC, Washington, DC (on the brief).

Appearing for Appellees: *Anisha S. Dasgupta*, Deputy Solicitor General, New York, NY (*Jennifer L. Clark*, Assistant Solicitor General, *Andrea Oser*, Deputy Solicitor General, *Barbara D. Underwood*, Solicitor General, on the brief), for *Letitia James*, Attorney General of the State of New York, Albany, NY.

Amicus Curiae: *Mark D. Selwyn*, Wilmer Cutler Pickering Hale and Dorr LLP, Palo Alto, CA, *Nicholas G. Purcell*, Wilmer Cutler Pickering Hale and Dorr LLP, Los Angeles, CA, on behalf of Professors of History and Law, amici curiae in support of Defendants-Appellees *George P. Beach, II*, et al.

Antonio Perez-Marques, *Sushila R. Pentapati*, Davis Polk & Wardwell LLP, New York, NY, on behalf of Prosecutors Against Gun Violence, amici curiae in support of Defendants-Appellees *George P. Beach, II*, et al.

Simon J. Frankel, Covington & Burling LLP, San Francisco, CA, on behalf of Giffords Law Center to Prevent Gun Violence, amici curiae in support of Defendants-Appellees *George P. Beach, II*, et al.

Present: *JON O. NEWMAN*, *ROSEMARY S. POOLER*, *PETER W. HALL*, Circuit Judges.

***100 SUMMARY ORDER**

New York State Rifle & Pistol Association, Inc., Robert Nash, and Brandon Koch appeal from the December 17, 2018 judgment of the United States District Court for the Northern District of New York (*Sannes, J.*) dismissing for failure to state a claim their Section 1983 action alleging that New York's requirement that an applicant for a license to carry a concealed handgun outside of the home show that "proper cause exists for the issuance thereof," *N.Y. Penal Law § 400.00(2)(f)*, violates the Second Amendment. We assume the parties' familiarity with the underlying facts, procedural history, and specification of issues for review.

As this Court has recently reaffirmed, New York's proper cause requirement does not violate the Second Amendment. *Kachalsky v. County of Westchester*, 701 F.3d 81, 83, 100-01 (2d Cir. 2012); *Libertarian Party of Erie County v. Cuomo*, No. 18-386, 970 F.3d 106, 126-127 (2d Cir. Aug. 11, 2020).

Appellants' argument that *Kachalsky* was wrongly decided fails under this Court's precedents.

All Citations

We have considered the remainder of Appellants' arguments and find them to be without merit. Accordingly, the judgment of the district court hereby is AFFIRMED.

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