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## Frawley v. Police Com'r of Cambridge

**Supreme Judicial Court of Massachusetts, Middlesex - March 4, 2016 - N.E.3d - 2015 WL 10401419**

Retired police officer brought action against police commissioner for declaratory and injunctive relief, seeking declaration that commissioner breached his duty by refusing to issue officer replacement retired officer identification card, which allows the retired officer to carry a concealed firearm across state lines. The Superior Court Department granted summary judgment to officer. Commissioner appealed, and the case was transferred to the Supreme Judicial Court.

As matters of first impression, the Supreme Judicial Court held that:

- There is no private cause of action to compel a commissioner to issue a replacement card;
- Appropriate avenue to challenge decision to deny application for card was in nature of certiorari;
- A reviewing court will examine whether commissioner's decision was an abuse of discretion;
- Commissioner could reopen officer's case; and
- Commissioner abused his discretion in denying officer's application.

Appropriate avenue of relief for retired police officer's challenge to police commissioner's decision to deny officer's application for replacement retired officer identification card was in nature of certiorari, rather than declaratory judgment action. Commissioner's legal obligation under regulations was not in dispute, proceeding after officer completed application included professional standards review, which was quasi judicial, officer did not have private cause of action, and denial of card rendered officer ineligible to exercise federal right to carry concealed firearm across state lines.

Supreme Judicial Court would decide retired police officer's challenge to police commissioner's decision to deny officer's application for replacement retired officer identification card that allowed retired officers to carry concealed firearms across state lines, which was in nature of action for certiorari and which was improperly brought to trial court as action for declaratory relief. Even though officer's challenge would have been untimely if brought as certiorari action, judicial review of commissioner's decision proceeded under same standard whether conducted by Supreme Judicial Court or on remand, review under certiorari action was limited, and no appellate court had previously decided whether aggrieved party could challenge denial of identification card.

Police commissioner abused his discretion in deciding that retired police officer had not met standard set by police department for retiring in good standing, as required to obtain replacement retired officer identification card that allowed officer to carry concealed firearm across state lines. Department had cleared officer of any wrongdoing with respect to citizen complaint at time of retirement, charges that officer failed to tell truth during investigation were effectively closed, and officer's prior suspension for insubordination and misconduct were not pending at time of retirement.

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