

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D20262  
Y/kmg

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Submitted - June 10, 2008

DAVID S. RITTER, J.P.  
HOWARD MILLER  
MARK C. DILLON  
WILLIAM E. McCARTHY, JJ.

2008-01863

DECISION & JUDGMENT

In the Matter of John P. Fortuniewicz,  
petitioner, v Jeffrey A. Cohen, respondent.

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Charles A. Giulini, Jr., New York, N.Y., for petitioner.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Susan Anspach of counsel),  
for respondent.

Proceeding pursuant to CPLR article 78, inter alia, to review a determination of the respondent Jeffrey A. Cohen, dated February 25, 2008, which, upon renewal, adhered to his prior determination dated October 31, 2007, denying the petitioner's application for a pistol permit.

ADJUDGED that the petition is denied and the proceeding is dismissed on the merits, with costs.

Penal Law § 400.00(1) provides, inter alia, that no firearm license shall be issued until after an investigation and a finding that all statements on the application are true. A county licensing officer has broad discretionary authority in determining whether to issue a permit (*see Matter of Denora v Safir*, 274 AD2d 478; *Matter of Parker v Nastasi*, 97 AD2d 547, *affd* 62 NY2d 714). Here, the petitioner undisputedly failed to disclose a prior arrest and prior conviction in his application for a pistol permit. As such, the respondent Jeffrey A. Cohen, a County Court Judge acting in his administrative capacity as the county licensing officer (*see* Penal Law § 265.00[10]), did not act arbitrarily or capriciously in denying the petitioner's application based on those untruths (*see* Penal Law § 400.00[1]; *Matter of Gonzalez v Lawrence*, 36 AD3d 807; *Matter of Papineau v Martusewicz*, 35 AD3d 1214; *Matter of Hanna v Police Dept. of County of Nassau*, 205 AD2d 689;

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*Matter of Conciatori v Brown*, 201 AD2d 323; *Matter of Westfall v Lange*, 175 AD2d 290; *Matter of Willis v Treder*, 127 AD2d 667).

The petitioner's remaining contentions are without merit.

RITTER, J.P., MILLER, DILLON and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer  
Clerk of the Court