

19-156

New York State Rifle & Pistol Association, Inc. v. Beach

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York on the 26th day of August, two thousand twenty.

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

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC.,
ROBERT NASH, BRANDON KOCH,

Plaintiffs-Appellants,

v.

19-156-cv

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.

Appearing for Appellants: John P. Sweeney, Bradley Arant Boult 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.*

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**.

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, 2020 WL 4590250, at *14 (2d Cir. Aug. 11, 2020). Appellants' argument that *Kachalsky* was wrongly decided fails under this Court's precedents.

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.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk

 Catherine O'Hagan Wolfe