

STATE OF MICHIGAN
COURT OF APPEALS

JOSEPH A. DITZHAZY, JR.,

Plaintiff-Appellant,

v

OAKLAND COUNTY CONCEALED WEAPON
LICENSING BOARD,

Defendant-Appellee.

UNPUBLISHED

April 4, 1997

No. 190776

Oakland Circuit Court

LC No. 94-475069-AS

Before: Wahls, P.J., and Hood and Jansen, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order dismissing his complaint for superintending control. We affirm.

Plaintiff applied for a concealed gun permit because he sold alarms in Metropolitan Detroit areas for an alarm company. The Board denied his application based upon inconsistencies with the resume he provided, his interview at the hearing, and the information obtained during its investigation. Plaintiff filed a complaint for superintending control, claiming that the Board's decision exceeded its jurisdiction because the statutory criteria for granting a permit was not met. The trial court dismissed plaintiff's complaint for superintending control when it was brought to the court's attention that plaintiff was no longer employed with the alarm company. The court determined that plaintiff's claim was moot.

Plaintiff first argues that the trial court erred in holding that the issue was moot because justiciable issues still existed. We disagree.

For superintending control to lie, a plaintiff must establish the absence of an adequate legal remedy and that a defendant failed to perform a clear legal duty. The nature and extent of the legal duty is reviewed de novo. *Lockhart v Thirty-Sixth Dist Court Judge*, 204 Mich App 684, 688; 516 NW2d 76 (1994). In reviewing a case for superintending control, review is limited only to questions of law. *Czuprynski v Bay Circuit Judge*, 166 Mich App 118, 121; 420 NW2d 141 (1988).

MCL 28.426; MSA 28.93 requires an applicant for a concealed weapons license to have a good reason to fear injury to his or her person or property, or have other proper reasons, and is a suitable person to be licensed. On his application plaintiff indicated that his reason for wanting the license was “Fmr Police Ofcr, Chief, MI Agent and related business.” Since plaintiff was no longer employed by the alarm company, the trial court correctly determined that the issue was moot. Further, plaintiff’s contention that the issue was not moot because he could be denied a permit at a later time based on this denial is without merit. Nothing in the statute indicates that a prior denial of an application precludes an applicant from obtaining a permit in the future. Thus, whether plaintiff will be denied in a future attempt to obtain a concealed weapon permit is an abstract question of law that we will not decide. *East Grand Rapids School Dist v Kent Co Tax Allocation Bd*, 415 Mich 381, 390; 330 NW2d 7 (1982).

Moreover, we reject plaintiff’s argument that defendant violated his due process rights. Plaintiff does not possess a property interest in obtaining a concealed weapon permit because he does not have a legitimate claim of entitlement to it. *Williams v Hofley Mfg Co*, 430 Mich 603, 610; 424 NW2d 278 (1988). Moreover, defendant conducted a hearing before denying plaintiff’s request. Therefore, plaintiff was not denied due process. *Bundo v City of Walled Lake*, 395 Mich 679, 696; 238 NW2d 154 (1976) (citing *Sponick v Detroit Police Dep’t*, 49 Mich App 162, 189; 211 NW2d 674 (1973)).

Finally, plaintiff contends that the concealed weapons statute is unconstitutional because it is over broad and vague. We disagree. First, there is no reason apparent in the record why plaintiff must protect himself by obtaining a concealed gun permit. Plaintiff may not be heard to assert that the statute is over broad because it precludes self-defense when he gives no indication as to why he needs such self-protection. *People v Lynch*, 410 Mich 343, 352; 301 NW2d 796 (1981). In regard to plaintiff’s void for vagueness argument, this Court has held that the statute is constitutional and not void for vagueness. *People v McFadden*, 31 Mich App 512, 515-516; 188 NW2d 141(1971).

Affirmed.

/s/ Myron H. Wahls

/s/ Harold Hood

/s/ Kathleen Jansen