

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY RECEIVED-CLERK
U.S. DISTRICT COURT

2006 JAN 27 P 1:45

GREGG C. REVELL)
)
 and)
)
 ASSOCIATION OF NEW JERSEY RIFLE &)
 PISTOL CLUBS, INC.)
)
 Plaintiffs)
)
 v.)
)
 PORT AUTHORITY OF)
 NEW YORK AND NEW JERSEY)
)
 and)
)
 SCOTT ERICKSON)
)
 Defendants)

CIVIL ACTION

 COPY

COMPLAINT

This is an action pursuant to 42 U.S.C. § 1983 for damages and injunctive relief.

Parties

1) Plaintiff Gregg C. Revell is a 57 year old citizen of the United States who resides at 2625 S. Oakwood Drive, Bountiful, Utah 84010. Prior to the charges which are the basis of the instant action, Revell had never been charged with or convicted of any crime.

2) Plaintiff Association of New Jersey Rifle & Pistol Clubs, Inc. ("Association") is a non-profit membership corporation incorporated in the State of New Jersey in 1936 and represents its members. Its address is P.O. Box 353, Pompton Plains, NJ 07444. Among the Association's purposes is aiding individual shooters in every way within its powers and supporting and defending the people's right to keep and bear arms, including the right of its members and the public to possess and carry firearms and ammunition.

3) Defendant Port Authority of New York and New Jersey is an authority created by a compact entered into by the States of New York and New Jersey in 1921, which was consented to by Congress pursuant to the Constitution's Interstate Compact Clause. The Port Authority is a financially independent entity, with funds primarily derived from private investors. Debts and other obligations of the Port Authority are not liabilities of the States of New York and New Jersey and the States do not appropriate funds to the Authority. The Port Authority may not draw on state tax revenue, pledge the credit of either State, or otherwise impose any charge on either State. Kenneth J. Ringler, Jr. is the Executive Director, whose address is 15th Floor, 225 Park Avenue South, New York, NY 10003.

4) Defendant Scott Erickson was a police officer for the Port Authority of New York and New Jersey at all times relevant hereto and is named as a defendant in his personal and official capacity. His address is Building 1, Conrad Road, Newark International Airport, Newark, NJ 07114.

Jurisdiction and Venue

5) This court has jurisdiction pursuant to 28 U.S.C. § 1331 as this is a civil action arising under the Constitution and laws of the United States.

6) Venue is proper in the District of New Jersey under 28 U.S.C. § 1391(b) as all the events and omissions giving rise to the claims herein occurred in this district.

Facts

7) On March 31, 2005, at the Salt Lake City, UT airport, Plaintiff Gregg C. Revell checked his luggage with Northwest Airline for flights

from Salt Lake City to Minneapolis/St. Paul to Newark, NJ to Allentown, PA. Revell declared that, inside his bag to be checked through to his final destination, Allentown, PA, he had an unloaded firearm in a locked hard case container and ammunition in a separate locked hard case container. He signed an orange firearm declaration tag, which was put inside the locked hard case with the firearm.

8) At the TSA x-ray area, Revell again declared that he had a firearm and ammunition in locked containers inside the bag. The bag was x-rayed.

9) The flight to Newark from Minneapolis/St. Paul on Continental Airlines was 45 minutes late, so Revell missed his connection to Allentown. As the next connection would not leave until 8 p.m. that night, he booked that connection and waited five hours at the Newark airport without leaving the secure area of the airport.

10) When it was near 8 p.m., Revell gave the attendant his ticket at the gate and went through the door to enter the airplane. To his surprise, he boarded a bus which was to drive him and other passengers to the Allentown airport. After being seated on the bus, he discovered from the driver that his bag was not on board. Revell got off the bus and went to the Continental Airlines lost baggage area, outside of the secure area, to retrieve his bag.

11) At the lost baggage area, Revell was informed that his luggage had not been placed on the bus going to Allentown, PA because the tag on the bag showed that the bag was only checked to Newark. Revell went to the Northwest Airlines booth, where he was informed by an employee of Northwest Airlines that the computer showed that his bag was checked to Allentown, PA, although the tag on the bag showed that the bag was

only checked to Newark. The employee stated that Northwest Airlines had made a mistake.

12) After retrieving his bag, because there were no more connections to Allentown until 9:45 a.m. the following morning (April 1, 2005), Revell went directly to, and stayed the night at, the Airport Sheraton Hotel.

13) On the morning of April 1, 2005, Revell went directly to the airport from the Airport Sheraton Hotel. He arrived back at the airport at 8:30 a.m. and went to the ticket counter to check his bag; he again declared that he had a firearm and ammunition in the bag, that the firearm was unloaded and in a locked hard case, and that the ammunition was in a separate locked hard case.

14) The agent asked Revell to sign a white sheet of paper (Police Form #FS508), which he did; no orange tag was produced or placed into the firearm container. The agent then told Revell to take his bag over to the TSA area to have it x-rayed. Revell again declared the firearm and ammunition.

15) After the bag went through the x-ray machine, the agent on the other end of the machine opened the bag, took out the two locked hard case containers, and asked for the keys to the containers, which Revell gave him. The agent opened the cases and took out the firearm and ammunition. The orange firearm declaration tag from the check-in counter in Utah was in the firearm case.

16) After about 20 minutes, several police officers asked Revell to come to the back of the TSA area, away from the other passengers, where they questioned him about the firearm and ammunition. Revell told them that he had declared the items and was just passing through

NJ en route to Allentown. He showed them his Utah concealed firearm permit and driver's license.

17) Revell was arrested by Port Authority Police Officer Scott Erickson (Shield # 2217) for possession of a handgun without a permit (N.J.S. § 2C:39-5(b)) and possession of hollow point ammunition (N.J.S. § 2C:39-3(f)) pursuant to the policy of the Port Authority, handcuffed, and escorted through the airport by several unidentified Port Authority police officers to a police car. The firearm, holster, locks, hard case containers, and ammunition were seized by the Port Authority Police.

18) While being transported in the police car to the Port Authority Jail, the handcuffs bruised Revell's wrists. Revell's shoes would only fit into the car if they were sideways as there was only 5 or 6 inches of legroom; he was not restrained with a seat belt. He had previously suffered severe injuries in an automobile accident so that he experienced excruciating pain as he was being pushed into, while riding in, and as he was being pulled out of, the police car.

19) Revell spent one night at the Port Authority Jail and was then taken to the Essex County Jail, where he stayed until April 5, 2005 when he was released on bond. Revell spent a total of four (4) days and three (3) hours incarcerated, a total of 99 hours.

20) When Revell was being transferred to the Essex County Jail by the Port Authority Police, he was placed into the back seat of a police car without a seat belt restraint and driven in a reckless manner.

21) At the Essex County Jail, there were 28 inmates in the small holding cell in which he remained for eight hours. The holding cell had only one open toilet, which was clogged and not usable, and

entirely covered with vomit. Revell slept on a thin, vomit-smelling mattress; he was not given a blanket or sheet until the last two nights when he was given a thin sheet. He was subjected to a strip search in full view of other detainees and jail personnel, denied his blood pressure medication and pain medication for a migraine headache which lasted 30 hours, inoculated against his will, and given inedible food; he lost 10 lbs. while incarcerated.

22) The Essex County Prosecutor administratively dismissed the charges on August 2, 2005. The firearm, holster, locks, hard case containers, and ammunition have not been returned to Mr. Revell; requests for return of the property have been ignored.

COUNT I
(Damages/18 U.S.C. § 926A/Revell)

23) The allegations contained in the foregoing paragraphs are incorporated by reference.

24) 18 U.S.C. § 926A provides in pertinent part:

Notwithstanding any other provision of any law . . . of a State . . . , any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle

25) Revell was not prohibited by Chapter 44 of Title 18 of the United States Code from transporting, shipping, or receiving a firearm.

26) Revell was transporting a firearm for a lawful purpose from Utah, where he could lawfully possess and carry such firearm, to Pennsylvania, where he could lawfully possess and carry such firearm.

27) During the transportation of the firearm, the firearm was

unloaded.

28) During the transportation of the firearm, neither the firearm nor the ammunition were readily accessible or directly accessible from the passenger compartment of the aircraft or the bus.

29) Revell was entitled to transport a firearm and ammunition through New Jersey, notwithstanding N.J.S. § 2C:39-5(b) and N.J.S. § 2C:39-3(f).

30) 42 U.S.C. § 1983 provides in pertinent part:
Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . , subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress

31) Defendants Port Authority of New York and New Jersey and Scott Erickson are "persons" within the meaning of 42 U.S.C. § 1983.

32) Defendants Port Authority of New York and New Jersey and Scott Erickson acted under color of New Jersey statutes, to wit, N.J.S. § 2C:39-5(b) and N.J.S. § 2C:39-3(f), in depriving Revell of the rights, privileges, or immunities secured by 18 U.S.C. § 926A.

33) Defendants Port Authority of New York and New Jersey and Scott Erickson are liable to Revell for damages in an amount to be determined at trial, but not less than \$3,000,000, for depriving him of the rights, privileges, or immunities secured by 18 U.S.C. § 926A.

Count II
(Damages/Due Process/Revell)

34) The allegations contained in the foregoing paragraphs are incorporated by reference.

35) The Fourteenth Amendment to the United States Constitution prohibits a State from "depriv[ing] any person of . . . property,

without due process of law"

36) Defendants Port Authority of New York and New Jersey and Scott Erickson deprived Revell of property without due process of law by retaining, without notice and opportunity for a hearing, the firearm, holster, locks, hard case containers, and ammunition seized from him.

37) 42 U.S.C. § 1983 provides in pertinent part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . , subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress

38) Defendants Port Authority of New York and New Jersey and Scott Erickson are "persons" within the meaning of 42 U.S.C. § 1983.

39) Defendants Port Authority of New York and New Jersey and Scott Erickson acted under color of New Jersey statutes, to wit, N.J.S. § 2C:39-5(b) and N.J.S. § 2C:39-3(f), in depriving Revell of the right not to be deprived of property without due process of law.

40) Defendants Port Authority of New York and New Jersey and Scott Erickson are liable to Revell for damages in an amount to be determined at trial, but not less than \$100,000, for depriving him of the right not to be deprived of property without due process of law.

Count III
(Injunction/Due Process/Revell)

41) The allegations contained in the foregoing paragraphs are incorporated by reference.

42) The Fourteenth Amendment to the United States Constitution prohibits a State from "depriv[ing] any person of . . . property, without due process of law"

43) Defendants Port Authority of New York and New Jersey and Scott

Erickson deprived Revell of property without due process of law by retaining, without notice and opportunity for a hearing, the firearm, holster, locks, hard case containers, and ammunition seized from him.

44) 42 U.S.C. § 1983 provides in pertinent part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . , subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress

45) Defendants Port Authority of New York and New Jersey and Scott Erickson are "persons" within the meaning of 42 U.S.C. § 1983.

46) Defendants Port Authority of New York and New Jersey and Scott Erickson acted under color of New Jersey statutes, to wit, N.J.S. § 2C:39-5(b) and N.J.S. § 2C:39-3(f), in depriving Revell of the right not to be deprived of property without due process of law.

47) Defendants Port Authority of New York and New Jersey and Scott Erickson are liable to Revell for depriving him of the right not to be deprived of property without due process of law and should be ordered to return the firearm, holster, locks, hard case containers, and ammunition seized from him.

Count IV
(Injunction/18 U.S.C. § 926A/Association)

48) The allegations contained in the foregoing paragraphs are incorporated by reference.

49) 42 U.S.C. § 1983 provides in pertinent part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . , subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress

50) Defendants Port Authority of New York and New Jersey and Scott Erickson are "persons" within the meaning of 42 U.S.C. § 1983.

51) Non-resident members of the Association who are entitled to transport a firearm and ammunition through New Jersey pursuant to 18 U.S.C. § 926A intend to transport firearms and hollow point ammunition through New Jersey and are subject to arrest and prosecution pursuant to N.J.S. § 2C:39-5(b) and N.J.S. § 2C:39-3(f).

52) There exists a credible threat of prosecution for violation of N.J.S. § 2C:39-5(b) and N.J.S. § 2C:39-3(f) for non-resident members of the Association who intend to transport firearms and hollow point ammunition through New Jersey and who are entitled to transport a firearm and ammunition through New Jersey pursuant to 18 U.S.C. § 926A.

53) Under color of N.J.S. § 2C:39-5(b) and N.J.S. § 2C:39-3(f), Defendants Port Authority of New York and New Jersey and Scott Erickson are depriving non-resident members of the Association who are entitled to transport a firearm and ammunition through New Jersey pursuant to 18 U.S.C. § 926A of rights, privileges, or immunities secured by 18 U.S.C. § 926A.

54) The Association is entitled to an injunction enjoining Defendants Port Authority of New York and New Jersey (and its agents and employees) and Scott Erickson from enforcing N.J.S. § 2C:39-5(b) and N.J.S. § 2C:39-3(f) against its non-resident members who are entitled to transport a firearm and ammunition through New Jersey pursuant to 18 U.S.C. § 926A.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

1) Award damages in an amount to be determined at trial, but not

less than \$3,100,000, to Plaintiff Revell.

2) Order Defendants Port Authority of New York and New Jersey (and its agents and employees) and Scott Erickson to return the firearm, holster, locks, hard case containers, and ammunition seized from him.

3) Enjoin Defendants Port Authority of New York and New Jersey and Scott Erickson from enforcing N.J.S. § 2C:39-5(b) and N.J.S. § 2C:39-3(f) against its members who are entitled to transport a firearm and ammunition through New Jersey pursuant to 18 U.S.C. § 926A.

4) Award attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

4) Grant such other relief as the interests of justice require.

TRIAL BY JURY IS DEMANDED.

Respectfully submitted,

GREGG C. REVELL

and

ASSOCIATION OF NEW JERSEY
RIFLE & PISTOL CLUBS, INC.
(Scott L. Bach, President)

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