

No. 21889 -- In re: Application of Wesley W. Metheney for State License to Carry a Deadly Weapon

Workman, Justice, dissenting:

This case should not be about Wesley Metheney.¹ It is a case about concealed deadly weapons, whether the state legislature really intended for almost everyone to have the right to carry a concealed handgun, and whether the circuit courts have any discretion in the regulation of concealed gun permits.

The majority opinion obliterates the circuit court's discretion in the matter of concealed deadly weapons and has the potential of permitting almost everybody in West Virginia to pack a concealed weapon, effectively making West Virginia another Dodge City.

The majority opinion (Metheney III) is also inconsistent with Metheney II. In Metheney II, this Court said that a circuit court had the discretion to examine assertions made by applicants to determine if the reasons are valid. Here the circuit court did examine the applicant's assertions and determined that under all

¹It is doubtful, however, that the majority would have reached the same result if Mr. Metheney were a laborer instead of a successful lawyer.

the circumstances existing in Monongalia County the applicant had not demonstrated a need for a concealed deadly weapon permit.

We have previously recognized that "[t]he State, through exercise of its police power, is vested with the authority to enact laws, within constitutional limits, to promote the general welfare of its citizenry." City of Princeton v. Buckner, 180 W. Va. 457, 464, 377 S.E.2d 139, 146 (1988).

In enacting Chapter 61, Article 7, the legislature specifically enunciated an "obligation of the state to reasonably regulate the right of persons to keep and bear arms for self- defense." W. Va. Code § 61-7-1 (1992).

Mr. Metheney focused on self-defense as the basis for his need for a concealed weapon. However, individuals already have the right to keep a weapon on one's premises and to carry a weapon to and from places where they may be lawfully used, and such actions are not regulated by statute. See Buckner, 180 W. Va. at 465-66, 377 S.E.2d at 146.

In this case, the circuit court examined each of Mr. Metheney's assertions and found that he failed to demonstrate a need for a

concealed deadly weapon for self-defense. The circuit court determined that in the incidents described by Mr. Metheney, his ability to carry a concealed deadly weapon would either have had no effect or would have increased the likelihood of a violent response.

The circuit court held two hearings on Mr. Metheney's application. The circuit court heard the evidence and knows first hand the surrounding facts and circumstances, and the necessity (or lack thereof) for a concealed weapon in Monongalia County and surrounding parts of West Virginia. Therefore, as the presiding judge, the circuit court is in a better position than this appellate court, examining a cold record and being far removed from Monongalia County, to determine whether an applicant's assertions demonstrate a need for a concealed weapon. This Court should not disturb the circuit court's findings merely because it would have reached a different result.

The last thing we need in West Virginia is carte blanche distribution of concealed handgun permits.