

IN THE CIRCUIT COURT OF COOK COUNTY, STATE OF ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

JOSE RODRIGUEZ,

Plaintiff,

vs.

CASE NO.: 09-CH-01737

ANITA ALVAREZ, Office of the State's  
Attorney of Cook County, Illinois;  
ILLINOIS STATE POLICE, Firearms  
and Information Resources Bureau;  
LARRY GRUBBS, Assistant Bureau Chief;  
PAT QUINN, Governor of Illinois; and  
LARRY G. TRENT, Director of State Police,

Defendants.

AFFIDAVIT of JOSE RODRIGUEZ

JOSE RODRIGUEZ, Affiant herein, on oath states, that the statements set forth below are true and correct, except as to matters therein stated to be on information and belief and/or stated as "on or about," and, as to such matters, as aforesaid sworn, I verily believes the same to be true.

1. I am a resident of Cook County, State of Illinois.
2. I reside with my family at 2520 North Avers, Chicago, Illinois 60647-1016, where my father and mother have lived since February, 1978.
3. I was born in Belmont Hospital, Chicago, Cook County, State of Illinois, on December 30, 1970.
4. I am of legal age, and I am suffering no disabilities.
5. From 1990 to 2001, I was employed by People's Gas, Light & Coke Company, Chicago, Illinois. During my employment, I held four positions of increasing responsibility: [1] Laborer; [2] Chauffeur; [3] Mechanic No. 1; and [4] Crew Leader. Because, during my employment I suffered escalating chronic back pain

- caused by two spinal S-curve low-elasticity herniated disks and one slipped disk, My doctor advised me that I needed to seek other employment, or I would suffer permanent, irreparable damage to my back. Since that time, I have suffered chronic back pain.
6. From 2003 to the present time, I have been employed and I am employed by the Chicago Transit Authority, Chicago, Illinois, as a CTA bus operator.
  7. For the past ten years, I have owned a four-flat apartment building at 3858 West Wrightwood, Chicago, Illinois 60647-1051, for which I receive rent from four tenants.
  8. On August 10, 1988, when I was seventeen years old, I was convicted of Burglary [Class 2], “a forcible felony,” in the First Municipal District of Cook County, Illinois, in Case No. 88-C1-15407, at which time I was placed on Probation for eighteen months. My Chicago Police Department Criminal History Report shows the date of arrest as “09-AUG-1988.”
  9. On February 10, 1990, because I had successfully complied with all conditions of my probation, as specified in Illinois Revised Statutes, Chapter 38, the Honorable Judge Gillespie, in Branch 65 of the Cook County Criminal Courts, Room 1100, 1121 South State Street, Chicago, Illinois, at approximately 1:30 p.m., satisfactorily terminated my felony probation in 88-C1-115407. Ms. Johnita Williams, my Probation Officer, memorialized this event by sending me a written notice of my successful termination of probation.  
  
NOTE: My Chicago Police Department Criminal History Report Shows “21-MAY-1990” as the Disposition Date for my “PROBATION – TERMINATED – SATISFACTORY.”
  10. On or about June 4, 1988, when I seventeen years old, it appears from the information presented on my Chicago Police Department Criminal History Report, that I was allegedly arrested and allegedly charged with Unlawful Use Weapon [after Jan 1995]. On June 30, 1988, the disposition “SOL” was entered for the alleged charge, and no Case Number appears to have been assigned. I have no memory of these events.
  11. On or about September 8, 1988, when I was seventeen years old, it appears from the information presented on my Chicago Police Department Criminal History Report, that I was arrested and allegedly charged with Criminal Damage to Property. On October 21, 1988, the disposition “SOL” was entered for the alleged charge, and no Case Number appears to have been assigned.

12. **On or about July 13, 1994, following a marital spat, my wife called the Chicago Police Department. When I turned myself in to the police, I was arrested for an alleged Class A, Domestic Battery, pursuant to 720 ILCS 5/12-3.2-A, in Case # 94120805501. On July 29, 1994, the charge in Case # 94120805501 was Stricken from Docket with Leave to Reinstate.**
  
13. **On or about May 7, 2005, a marital spat prompted a call to the Chicago Police Department, which resulted in my arrest for an alleged Class A, Domestic Battery, pursuant to 720 ILCS 5/12-3.2-A-1, in Case # 05143914401. On May 9, 2005, the charge in Case # 05143914401 was Nolle Prosequi.**
  
14. **Upon information and belief, at some time during 1993 or 1994, I received a letter from the Illinois State Police informing me that, because the law had been changed requiring a person convicted of “forcible felony” to wait at least ten years after the date of conviction of the “forcible felony” -- rather than the previous statutorily-required five years -- I would not be eligible to apply for a FOID card for another five years.**
  
15. **On or about April 3, 2003, I received a letter from Larry A. Grubb, FOID Program Manager, denying my application for a Firearm Owner’s Identification (FOID) Card. Upon information and belief, Mr. Grubb’s letter informed me that, because the law had been changed requiring a person convicted of a “forcible felony” to wait at least twenty years after the date of conviction of the “forcible felony” -- rather than the previous statutorily-required ten years -- I would not be eligible to apply for a FOID card for another five years.**
  
16. **On or about November 13, 2007, I received a letter from Larry A. Grubb, Assistant Bureau Chief of the Illinois State Police, Information & Technology Command, Firearms & Information Resources Bureau, informing me that on August 10, 2008, I “may be eligible for the review process,” regarding my application for a Firearm Owner’s Identification (FOID) Card, which the Firearms & Information Resources Bureau had received. Furthermore, in the first paragraph of his letter, Mr. Grubb stated that “The Illinois Compiled Statutes, 430 ILCS 65/8, grants authority to the department to deny a FOID card to any individual who has been convicted of a felony. Department records indicated you were convicted of Burglary, a forcible felony, on August 10, 1988.”**
  
17. **On or about December 26, 2008, I received a letter from Larry A. Grubb, Assistant Bureau Chief of the Illinois State Police, Information & Technology Command, Firearms & Information Resources Bureau, informing me that:**

**Paragraph One:**

**“Your application for a Firearm Owner’s Identification (FOID) Card has been received. The Illinois Compiled Statutes, 430 ILCS 65/8, grants authority to the**

department to deny a FOID card to any individual who has been convicted of a felony. Department records indicated you were convicted of Burglary, a forcible felony, on August 10, 1988.”

**Paragraph Two:**

Mr. Grubb provided instructions for correcting incorrect information, if any, re my felony conviction.

**Paragraph Three:**

“If the information concerning your felony conviction is correct, Public Act 92-442 amended the FOID Act regarding granting of relief by the Illinois State Police. As a result, the Director of State Police can no longer grant relief for denials based on particular listed offenses. Your conviction is one of the identified offenses, therefore, the Illinois State Police is unable to consider your appeal.”

**Paragraph Four:**

“The amended Act does provide that the aggrieved party may petition the circuit court in the county of his or her residence in writing for a hearing upon such denial, revocation, or seizure. (430 ILCS 65/101) of his or her FOID card. If you choose to pursue this matter, you should contact the circuit court in the county where you reside.”

18. On January 15, 2009, representing myself as a Pro-Se Attorney in the above-captioned matter, I filed my *Complaint for Administrative Review* [hereinafter “*Complaint*”], pursuant to 735 ILCS 5/3-101, et seq. I served a summons and a *Complaint*, with all requisite filing documents, on each Defendant. Because for the past twenty years all communications regarding my FOID card applications had been with the Illinois State Police, which agency and its agents I logically concluded were the proper party Defendants for my *Complaint*, I named as Defendants Illinois State Police; Firearms & Information Resources Bureau; Larry A. Grubb, Assistant Bureau Chief; Rod R. Blagovich, Governor; and Larry G. Trent, Director. My *Complaint* requested judicial review of the December 26, 2008, final administrative decision rendered by the Illinois State Police regarding my application for a Firearm Owner’s Identification [FOID] card -- because the decision by the Illinois State Police was not in accordance with the law and because I had exhausted all administrative remedies, leaving me with no further plain, speedy, adequate remedy in the ordinary course of law.
19. Upon information, on or about February 19, 2009, Michael Feinberg, Assistant Attorney General, Law Bureau, representing Lisa Madigan, Attorney General of Illinois, filed an Appearance as “Attorney for Defendant” on behalf of defendants Illinois State Police, Larry Grubbs, and Larry G. Trent. Furthermore, the Attorney

General filed the requisite filing documents with its *Defendants' Motion to Dismiss Pursuant to 735 ILCS 5/2-619* [hereinafter, "*Defendants' Motion to Dismiss.*"] Said *Defendants' Motion to Dismiss* based its request for dismissal of Plaintiff's *Complaint on 430 ILCS 65/10(b)*, which states:

At least 30 days before any hearing in the circuit court, the petitioner shall serve the relevant State's Attorney with a copy of the petition. The State's Attorney may object to the petition and present evidence. At the hearing the court shall determine whether substantial justice has been done. Should the court determine that substantial justice has not been done, the court shall issue an order directing the Department of State Police to issue a Card. 430 ILCS 65/10(b) Firearm Owners Identification Act.

The Attorney General concluded that "Because 430 ILCS 65/10(b) specifically names the State's Attorney as the party-in-interest for FOID Card appeals relating to Class 2 felonies, Plaintiff's *Complaint in Administrative Review* – inasmuch as it names the Illinois State Police and its officers as Defendants – should be dismissed."

20. On February 26, 2009, at approximately 9:30 a.m., Tina J. Cohen, an Assistant Attorney General, representing the Attorney General's Office, and I appeared before the Honorable Judge Mary K. Rochford in Courtroom 2308, the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602-1325, at the time, date, and place set for the hearing on *Defendants' Motion to Dismiss*. At that time, an Order was entered that granted a continuance of *Defendants' Motion to Dismiss* to April 8, 2009, so that I could retain an attorney.
21. Upon Information and Belief, on April 8, 2008, Patricia Ann Roets, Attorney-At-Law, whom I had retained to represent me as my Attorney in the above-captioned matter, entered her *Appearance*, and, as we had agreed, requested leave of this Honorable Court to amend my *Complaint* to add the State's Attorney of Cook County, Illinois, as a Defendant, to file an amended complaint, and to issue summons. An *Order* was entered granting additional time for my attorney to amend my *Complaint* to add the State's Attorney of Cook County, Illinois, as a Defendant, to file an amended complaint, and to issue summons. The *Order* continued the hearing on *Defendants' Motion to Dismiss* to June 8, 2009, at 9:30 a.m., before the Honorable Judge Mary K. Rochford in Courtroom 2308, the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602-1325.
22. I have close familial relations with my family members, including my father and my brother. The repeated denials of my FOID card applications have prevented me from joining my father and my brother in sporting adventures and in shooting-range activities. Substantial justice was not done by the December 26, 2008, denial of my FOID card application.

**FURTHER AFFIANT SAYETH NOT.**

**Date:** \_\_\_\_\_  
**April 29, 2009**

**By:** \_\_\_\_\_  
**Jose Rodriguez**  
**Affiant**

**Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.**

\_\_\_\_\_  
**Notary Public**

**PREPARED BY:**

**Attorney No: 41773**  
**Patricia Ann Roets**  
**Attorney-for-Plaintiff**  
**3651 West Diversey Avenue**  
**Chicago, Illinois 60647-1161**  
**847.922.1989**