

**THIS EXAMINATION CONSISTS OF FOUR (4) PAGES (INCLUDING THIS PAGE)  
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER**

THE UNIVERSITY OF BRITISH COLUMBIA  
FACULTY OF LAW

FINAL EXAMINATION – DECEMBER 2021

LAW 509  
ADMINISTRATIVE LAW

Section 4  
Russo

TOTAL MARKS: 100

**TIME ALLOWED: Two (2) Hours**

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NOTES:

1. This is an open-book examination. Candidates may have with them any **hard-copy written material** they wish. **Laptops are only permitted for the use of ExamSoft.**
2. **Use of other electronic or communication devices such as mobile phones, tablets, smartwatches, etc. are not permitted.** Smartwatches are turned off or in airplane mode.
3. **Read the questions carefully and understand** what you are being asked to do before you begin your answer.
4. You may refer to cases in short form (e.g. “*Baker*” or “*Vavilov*”).

**BE SURE TO ANSWER ALL QUESTIONS FOLLOWING THE FACT PATTERN**

**GOOD LUCK!**

**READ THE FACTS AND ANSWER THE QUESTIONS THAT FOLLOW.****Background**

Mr. Laporte is a self-employed commercial helicopter pilot who applied under s. 20 of the *Firearms Act*, SC 1995 c 39 (the *Act*) for an Authorization to Carry (ATC) a handgun while operating in the Northwest Territories (NWT). In the summer months, Mr. Laporte is based in Yellowknife, and transports guides and hunters by helicopter to and from remote areas in the Northwest Territories.

Mr. Laporte has a licence under the *Firearms Act* to possess a restricted firearm. But he needs an ATC under the *Act* and *Regulations* to carry a restricted firearm in his helicopter while on the job. He intends to keep the restricted firearm locked in a case and stowed under his seat in the helicopter in a compartment where passengers cannot see it or access it.

In his application for the ATC, Mr. Laporte stated that he needs his restricted firearm to ensure the safety of himself and his passengers when they are on the ground in case of a grizzly bear attack. If he “land[s] or crash[es]” and is isolated in the bush, “hunters and meats and hides...attract grizzly bears” and so he needs his restricted firearm to deal with them.

Mr. Laporte says his concern about being isolated in the bush, vulnerable to attacks from bears, is a real one: he has crashed twice over thirty years. At the time of application, he was 65.

As well, he says the threat from bears is very real. In his view, “guides and outfitters in the NWT Mackenzie [Mountains] have plenty of stories of problems with grizzly bears” and “every year people are killed or attacked on this job”. In his application, he recounted one specific incident of a hunter killed by a bear and added that there are “lots of stories of grizzly problems that do not make the news”.

In his application, Mr. Laporte suggested that other means of protection were neither available nor effective. When his small helicopter is packed with guides, hunters and their belongings, unrestricted weapons are too long and too heavy but his restricted firearm, a .460 calibre revolver, is more compact. As well, bear spray cannot be stowed in the helicopter because “it may discharge accidentally”, incapacitate everyone, and “cause the helicopter to crash”. Also bear spray “is not effective” when the bear is 150 yards away. And at close range, if the bear is charging, it may be too late. In the words of Mr. Laporte, due to the speed of the bear, at 10 yards “you are already dead”.

After receiving Mr. Laporte’s application, the Firearms Officer interviewed him. At the end of the interview, he informed Mr. Laporte that he would deny his application. At that time, he did not provide reasons.

After the interview the Firearms Officer consulted for advice on his decision with government officials from Transport Canada and from Environment and Natural Resources in the Government of the Northwest Territories. The government officials provided facts and assessments concerning the merits of Mr. Laporte’s application.

The Firearms Officer did not put these facts and assessments to Mr. Laporte for his response. Instead, he prepared and issued his written reasons for their decisions.

The Firearms Officer's decision noted that Mr. Laporte did not need a handgun to work as a helicopter pilot in remote areas and that the request was based on his personal preference. The officer sought advice from a Superintendent with the Environment and Natural Resources and an investigator with Transport Canada and concluded that a handgun was not needed in this case. The officer noted that Transport Canada does not have any requirement for pilots operating over wilderness areas to carry a firearm on board, and that doing so is thus a matter of personal choice. The officer concluded that failing to meet the need requirement was "good and sufficient reason" within the meaning of the *Act* to deny the ATC application.

From Mr. Laporte's perspective, these facts and assessments in the reasons came as a surprise. He never had an opportunity to offer further evidence, explanation, or arguments in response.

There is also the question of when the Firearms Officer made his decision. The only evidence in the record is clear. While the Firearms Officer did tell Mr. Laporte after his interview that his application would be denied, this was - according to the officer - "before I finally determined my decision." The Firearms Officer finally decided the matter when he signed and issued his written reasons after consulting with the government officials.

Mr. Laporte is now asking this Court for relief from the Firearm Officer's decision to deny Mr. Laporte's application for an authorization to carry a restricted firearm in his helicopter.

#### QUESTIONS:

#### **[RELEVANT EXCERPTS FROM FIREARMS ACT AND REGULATIONS ON NEXT PAGE]**

1. What kind of procedural fairness, if any, is Mr. Laporte entitled to and was it adequate here?  
[40 MARKS]
2. What is the standard for reviewing the Firearms Officer's substantive decision and does the decision meet that standard?  
[50 MARKS]
3. Assuming Mr. Laporte was successful, what remedy would be appropriate for him in this case and why?  
[10 MARKS]

**Firearms Act - S.C. 1995, c. 39 (Section 72)****Carrying Restricted Firearms**

**20** An individual who holds a licence authorizing the individual to possess restricted firearms or handguns referred to in subsection 12(6.1) (pre-December 1, 1998 handguns) may be authorized to possess a particular restricted firearm or handgun at a place other than the place at which it is authorized to be possessed if the individual needs the particular restricted firearm or handgun

- (a) to protect the life of that individual or of other individuals; or
- (b) for use in connection with his or her lawful profession or occupation.

...

**Licences and Authorizations**

**68** A Firearms Officer shall refuse to issue a licence if the applicant is not eligible to hold one and may refuse to issue an authorization to carry or authorization to transport for any good and sufficient reason.

...

**Notice of Refusal to Issue or Revocation**

**72 (1)** If a Firearms Officer decides to refuse to issue or to revoke a licence or authorization to transport or the Registrar decides to refuse to issue or to revoke a registration certificate, authorization to export or authorization to import, the Firearms Officer or Registrar shall give notice of the decision in the prescribed form to the applicant for or holder of the licence, registration certificate or authorization.

...

**Reference to Provincial Court Judge of Refusal to Issue or Revocation, etc.**

**74 (1)** Where a Firearms Officer or the Registrar refuses to issue or revokes a licence, registration certificate, or authorization to transport, the applicant for or holder of the licence, registration certificate, authorization or approval may refer the matter to a provincial court judge in the territorial division in which the applicant or holder resides.

**Firearms Regulations (SOR/98-207)****Lawful Profession or Occupation**

**3** The circumstances in which an individual needs restricted firearms or prohibited handguns for use in connection with his or her lawful profession or occupation are where

...

- (b) the individual is working in a remote wilderness area and firearms are required for the protection of the life of that individual or of other individuals from wild animals; or
- (c) the individual is engaged in the occupation of trapping in a province and is licensed or authorized and trained as required by the laws of the province.