

PINKIE T. TOOMER, JUDGE  
FULTON COUNTY PROBATE COURT  
136 Pryor Street, S.W.  
Suite C-230  
Atlanta, Georgia 30303

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Writer's Direct No.: 730-4676

Delivered by Fax (770) 552-9318

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John R. Monroe, Esq.  
9640 Coleman Road  
Roswell, GA 30075

Re: Firearms License for Thaddeus Piatkowski

Dear Mr. Monroe:

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Judge Toomer received your e-mail concerning Mr. Piatowski and, since I am the one who met with him, suggested that I respond. First of all, the tenor of your correspondence seems to imply that you got the impression that your client left in a huff and I challenged him to sue us. What actually happened was he asked to see me when our staff told him he had to get a money order in the sum of \$24.00 for FBI for his fingerprinting before a replacement license would be issued. He did not seem upset that he had to be fingerprinted, only that he had to pay \$24.00 because he read the law and it said that he would receive a replacement license for \$5.00. After I explained the reasoning behind requiring fingerprints even on replacements, which I will detail below, I told him he would have to sue us if he wanted to challenge the procedure. Advising people to sue if they are not happy is not new to me; one of the worst laws on the books is the fact that a person convicted of a misdemeanor possession of less than an ounce of marijuana cannot ever get a firearms license while a convicted murderer can get a felony pardoned and receive a firearms license. That is absurd and I have for years tried to get someone to challenge that law. At any rate, your client and I continued discussing the money order and how it was an imposition on him and there was nothing in the law about a \$24.00 money order. Finally, he asked me what I would do and I told him I would probably just pay the \$24.00 because was easier. He asked me where he could get a money order and I told him that at any of the banks at Five Points; he left saying he was going to get a money order and take it to the Police Department to pay for fingerprinting.

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For background on the procedures, Georgia law requires that an applicant be fingerprinted for a criminal history check upon an initial application, but it did not require fingerprinting for renewals. Only computer criminal history checks were made on renewal applications; replacement licenses never had a specific procedure provided in the code, so the procedures adopted were the same as a renewal which was only a computer background check. After the Reagan assassination attempt, in 1993 the federal Brady Act was passed, requiring a criminal history background check on persons seeking to buy handguns and the National Crime Information Center of the FBI was charged with

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collecting every bit of information possible on every person charged with a criminal offense anywhere in the United States. A part of the Brady Act provided that the individuals who had valid firearms licenses from states whose law complied with federal law were exempt from the background check before being allowed to purchase a handgun. Georgia law complied with federal law and thus individuals who were issued Georgia firearms licenses could purchase handguns without the background check. Then came 9/11 and as an aftermath of the Homeland Security Act, the FBI began requiring a fingerprint check on every individual who was applying for a firearms license. The procedure applied to initial applications, renewals and replacements. Georgia law at that time did not meet the federal requirements and Georgia was dropped as an approved state and individuals with Georgia firearms licenses could no longer purchase a handgun without another background check. At the behest of someone, the Georgia legislature revised Georgia law to meet the requirements of the federal law so that Georgia could again be an approved state. The FBI conducted seminars for probate judges to insure that Georgia was following the required procedures to keep Georgia as an approved state. Those procedures were that before any firearms license was issued, the individual applying must submit to fingerprinting and that applied to initial, renewal and replacement. The justification is that no terrorist, or anyone else, could steal the identity of another person and get a valid firearms license, and thus the ability to purchase handguns, because the fingerprints would match the real person, assuming that the person had been fingerprinted before. In the case of a renewal or replacement, the person's fingerprints would be on file. I told your client that we would not voluntarily cause the State of Georgia to be removed from the approved list by not requiring fingerprinting before issuing any license even though I personally see no harm in requiring a background check before a person buys a handgun even if they have a firearms license, but that is just my opinion and certainly not the opinion of the State of Georgia. A replacement is not simply a copy of the original license because once the original is reported as lost, it must be voided and a new license with a new license number must be issued. Your client pointed out that his license was still valid if he never reported it missing and I agreed with him that it was valid until voided, but that the law provided that the failure to have the license with the firearms was a prima-facie violation of the code section concerning carrying a firearms without a license.

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The code section which provides for replacement does not say that fingerprinting is necessary, but it never said any computer background check was necessary before. Computer background checks were done primarily to insure that the applicant had not been charged with a crime after issuance of a license. Fingerprinting is now done to insure that the applicant has not been charged with a crime after issuance of a license and that the applicant is the same person to whom the original license was issued.

Judge Toomer does not wish to be the one to cause Georgia to be removed from the FBI's approved list of states, but she can informally present this issue to the Attorney General, FBI and GBI for a re-evaluation if you wish. If you want to make it formal, instead of having to file a new action in Superior Court, you can simply file, without charge, a motion in the Probate Court for issuance of a replacement license and state your position and if you ultimately get an unfavorable decision, the issues will be framed and

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you can appeal. I would suggest that your client go ahead and get fingerprinted and get his license because I think that would be quicker, but we would agree that his receiving his license did not render the case moot because it could apply to other people. Unless the FBI relents and lets Georgia issue replacements without fingerprinting, you can be sure the law will be changed to make it absolutely clear that fingerprinting is necessary.

Although this matter appears to be adversarial on its face, we have no personal interest in it and will gladly forward anything you wish to include in the request to the AG, FBI & GBI. You can contact me directly at (404) 730-4676 or at james.brock@fultoncountyga.gov.

Sincerely yours,



James Brock  
Clerk of Probate Court

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