

**To Carry a Concealed Weapon as an “Honorably Retired Peace Officer” You Must
Actually Retire from Active Duty as a Peace Officer,
Not Quit or Leave Your Job Early**

by Tamara Rider

On February 28, 2013, the California Court of Appeal held that a person is not an “honorably retired peace officer” as defined by former Penal Code section 12027 - currently Penal Code section 16690 - unless that person has honorably retired from active duty as a peace officer. (*Gore v. Yolo County District Attorney’s Office* (2013) 213 Cal.App.4th 1487.)

In *Gore*, the Yolo County District Attorney and District Attorney’s Office appealed a trial court ruling which required them to hold a hearing for Rick Gore to determine if there was good cause to deny issuing Mr. Gore an identification certificate authorizing him to carry a concealed weapon. Mr. Gore began working as an investigator for the District Attorney’s Office in 1997, a position which classified him as a peace officer under Penal Code section 830.1 and permitted him to carry a concealed firearm.

In 2008 Mr. Gore allegedly made false accusations against the District Attorney’s Office and other individuals, effectively resulting in his termination in 2008 after the discovery of his violations of office policies, off-duty misconduct, and insubordination. Mr. Gore appealed his termination and an arbitrator agreed with the District Attorney’s investigations. Although the arbitrator reduced Mr. Gore’s termination to a long suspension and ordered his statements to be retracted, a settlement agreement was reached among the parties which required Gore to retract his statements and submit his resignation.

Gore began collecting his retirement pension in 2010 and also requested to receive a carry concealed weapon identification certificate. That request was denied. Pursuant to Penal Code section 12027.1, Gore requested to have a hearing take place to determine whether the agency should revoke or deny the identification certificate, but the District refused to hold such hearing. That refusal resulted Gore suing the District Attorney’s Office.

Appellants argued that Gore was not a retired peace officer within the meaning of Penal Code section 12027, nor was he an “honorably retired peace officer.” As such, he was not entitled to a hearing to consider his good cause for a retired officer identification certificate.

Penal Code section 12027 provides:

Section 12025 [making it a crime to carry a concealed firearm] does not apply to, or affect, any of the following:

(a)(1)(A) Any peace officer ... whether active or honorably retired.... Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has retired.... As used in this section ... the term ‘honorably retired’ includes all

peace officers who have qualified for, and have accepted, a service or disability retirement. For purposes of this section ... the term 'honorably retired' does not include an officer who has agreed to a service retirement in lieu of termination."

Appellants claimed that the "Yolo County District Attorney's Office is not a law enforcement agency from which Gore retired because he resigned from the office, rather than retiring from the office." After reviewing an opinion of the Attorney General, the Court agreed that Gore's election was to resign, not retire, so he could not be qualified as an "honorably retired peace officer." "We conclude that a person must enter retirement from active service as a peace officer to be considered a peace officer who is honorably retired, and the interpretation the Attorney General has given the statute is consistent with this conclusion."

The Court further agreed with Appellants that "honorably retired" relates to the nature in which the employee separated from the his employer, not the age at which the employee left. The Court stated:

The only persons entitled under the statute to carry a concealed and loaded weapon are retired employees, i.e., those employees who are no longer employed because they reached retirement age working as peace officers, and accepted retirement upon leaving employment. In other words, someone who quits or is fired before retirement age is not an honorably retired peace officer, even when they later reach retirement age and are entitled to collect their pension.

If you are an active peace officer who wishes to continue carrying a concealed weapon after you retire under former section 12027, ensure that you do not quit or resign early to be qualified as an "honorably retired peace officer."