

STATE OF NORTH CAROLINA

File No.

_____ **County**

In The General Court Of Justice
District Court Division

Name Of Plaintiff

VERSUS

Name And Address Of Defendant

**MOTION FOR RETURN OF WEAPONS
SURRENDERED UNDER
DOMESTIC VIOLENCE PROTECTIVE ORDER
AND NOTICE OF HEARING**

G.S. 50B-3.1(f), (g)

MOTION BY DEFENDANT FOR RETURN

As required by the Court in the domestic violence protective order in this case, I surrendered the following property to the Sheriff of _____ County: *(check all that apply)*

- firearms.
- ammunition.
- permit to purchase firearms.
- permit to carry a concealed weapon.

The domestic violence protective order that required the surrender of the property listed above expired on the date listed below and has not been renewed. There is is not a pending motion to renew. As indicated by the affidavit on Pages 2 and 3, I am not precluded by any state or federal law from owning or possessing a firearm and I have no pending criminal charges in state or federal court alleged to have been committed against the person who is protected by the domestic violence protective order. I request the court to order the sheriff to return the items I surrendered.

Date Protective Order Expired

Date

Signature Of Defendant

MOTION BY THIRD-PARTY OWNER FOR RETURN

Pursuant to the domestic violence protective order entered in this case, the defendant surrendered to the Sheriff of _____ County the firearms, ammunition, and gun permits on the date listed below. I, and not the defendant, am the owner of the surrendered property described below. I request the Court to return this property to me. I am not precluded by any state or federal law from owning or possessing a firearm as indicated by the affidavit on Pages 2 and 3. This motion is filed not later than 30 days after the surrender of the items.

(Describe firearms, ammunition, gun permits that belong to person filing motion)

Name And Address Of Third-Party Owner (Type Or Print)

Date Weapons Surrendered

Date

Signature Of Third-Party Owner

(See Reverse)

AFFIDAVIT

WARNING: This affidavit must be filled out completely and truthfully. False statements may result in criminal prosecution.

Name (Last, First, Middle)		Maiden Name, Nickname, Alias		
Current Residence	Street	Apartment No.	Street	Apartment No.
	City, State, Zip Code		Previous Residence	City, State, Zip Code
Other States Of Residence				
Are You A U.S. Citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No			If No, List Country Of Citizenship	
Home Telephone			Work Telephone	
Social Security Number			Drivers License/ID No.	State
Employer			Occupation	
Employer Address (Street, City, State, Zip Code)				
Race	Sex	Date Of Birth	Place Of Birth	
Height	Weight	Hair Color	Eye Color	

Distinguishing Scars, Piercings, Tattoos, Etc. (describe):

1. Do you have any criminal charges in state or federal court, including traffic offenses, pending against you? Yes No
What type of charge and where is it pending? _____
Name alleged victim and relationship to you _____

2. Have you ever been convicted of a misdemeanor crime of violence (including domestic violence) in either a state or federal court? Yes No
What was the crime? _____
When and where were you convicted? _____
Who was the victim of the crime? _____

3. Have you ever been convicted of a felony in either a state or federal court? Yes No
What was the crime? _____
When and where were you convicted? _____

4. Have you ever been convicted of driving while impaired in either a state or federal court? Yes No
When and where were you convicted? _____

5. Are there any outstanding warrants for your arrest? Yes No
Where and for what reason? _____

6. Are you under indictment for a crime at this time? Yes No
Where and for what reason? _____

7. Are you currently subject to a domestic violence protective order or any other order that restrains you from harassing, stalking, threatening or engaging in any conduct that would place anyone in reasonable fear of bodily injury? Yes No
What court issued the order? _____

IMPORTANT: You must attach a copy of the protective/restraining order to this affidavit.

8. Were you ever a member of the military? Yes No
If yes, what kind of discharge did you receive? _____

9. Are you currently using or are you addicted to any controlled substance, including marijuana, cocaine, methamphetamine or heroin? Yes No

Name Of Defendant File No.

10. Have you ever been a patient in any mental institution or hospital? Yes No
When and where? _____

11. Have you ever been adjudicated incompetent by a court? Yes No
When and where? _____

VERIFICATION

I, the undersigned being duly sworn, verify that the information submitted above is true, correct and complete to the best of my knowledge and belief.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date

Signature Of Person Authorized To Administer Oaths

Signature Of Applicant

Name Of Person Authorized To Administer Oaths

Name Of Applicant Type Or Print)

Deputy CSC Assistant CSC Clerk Of Superior Court

Notary

Date My Commission Expires

SEAL

County Where Notarized

NOTICE OF HEARING

Pursuant to a motion made by the defendant a third-party a hearing will be held before a district court judge at the date, time and location indicated below to determine whether

to return the weapons surrendered to the defendant.

the third-party claiming the weapons surrendered is the owner of the items listed in the motion and is entitled to have the items returned to him/her.

The plaintiff has a right to appear and be heard at this hearing.

Date Of Hearing

Time Of Hearing

AM PM

Location Of Hearing

Date

Signature Of Clerk

Deputy CSC

Assistant CSC

Clerk Of Superior Court

NOTE TO CLERK: You must give a copy of this notice of hearing to the defendant or third-party when the motion is filed and you must mail a copy by first class mail to the plaintiff and give a copy to the sheriff. If the motion is filed by a third person, you must also mail notice of the hearing to the defendant.

CERTIFICATION

I certify that on the date of mailing shown below a copy of this Motion And Notice Of Hearing was served on the plaintiff at the address listed below by depositing a copy in a postpaid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

On the same date a copy was served on the defendant at the address listed on this motion by the same method.

Address Of Plaintiff (Type Or Print)

Date Of Mailing

Date Of Certification

Signature Of Clerk

Deputy CSC

Assistant CSC

Clerk Of Superior Court

(See reverse for Federal firearm restrictions)

18 U.S.C. § 922 provides:

(g) It shall be unlawful for any person --

- (1)** who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- (2)** who is a fugitive from justice;
- (3)** who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
- (4)** who has been adjudicated as a mental defective or who has been committed to a mental institution;
- (5)** who, being an alien --
 - (A)** is illegally or unlawfully in the United States; or
 - (B)** except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26))) *[means those aliens not admitted for permanent residence; does not prohibit aliens who possess "green card" from possessing guns or ammunition];*
- (6)** who has been discharged from the Armed Forces under dishonorable conditions;
- (7)** who, having been a citizen of the United States, has renounced his citizenship;
- (8)** who is subject to a court order that--
 - (A)** was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
 - (B)** restrains such person from harassing, stalking, or threatening an intimate partner of such person or
 - (C)(i)** includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
 - (ii)** by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
- (9)** who has been convicted in any court of a misdemeanor crime of domestic violence

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

18 U.S.C. § 922 (k), (o) and (v) and **26 U.S.C. § 5861** make it unlawful to possess a machine gun, fully automatic firearm, semiautomatic assault weapon, sawed off shotgun, or firearm with altered or obliterated serial number except under certain specified circumstances.