

STATE OF NORTH CAROLINA

File No.

Originating Co. File No.

In The General Court Of Justice
District Court Division

_____ County

IN THE MATTER OF:

PETITION AND ORDER FOR REMOVAL OF DISABILITY PROHIBITING THE PURCHASE, POSSESSION OR TRANSFER OF A FIREARM

G.S. 14-409.42

Name And Current Mailing Address Of Petitioner

Name And Address Of Attorney For Petitioner

Race

Sex

Date Of Birth

NOTE TO PETITIONER:

1. This petition must be filed in the district court of the county where you were the subject of the most recent judicial determination that either inpatient or outpatient treatment was appropriate or in the district court of the county of your residence.
2. Upon request, you must sign a release for the district attorney to receive your mental health records.
3. You must serve a copy of this petition on the director of the relevant inpatient and/or outpatient treatment facility and the district attorney in your current county of residence.

I. PETITION

The petitioner named above hereby moves, pursuant to G.S. 14-409.42, for the removal of the petitioner's mental commitment bar to purchase, possess, or transfer a firearm from the National Instant Criminal Background Check System, and in support of this petition states the following:

1. I am over the age of 18.
 2. I am a resident of _____ County.
 3. I have never been involuntarily committed.
- OR**
4. The most recent judicial determination that I needed inpatient outpatient treatment was made in _____ County, North Carolina.
 5. I am not likely to act in a manner dangerous to public safety and granting the relief that I am seeking is not contrary to the public interest.
 6. My most recent inpatient outpatient mental commitment expired on (date) _____.
 7. If applicable, previously, I filed a petition in district court for the removal of the mental commitment bar, which was denied on (date) _____, in (name of county) _____.
 8. If applicable, previously, I appealed the district court decision to the superior court on (date) _____, and my petition was denied. One year or more has passed since the date of the denial.

Date

Name Of Petitioner (type or print)

Signature Of Petitioner

NOTE TO CLERK:

1. Calendar the hearing for a session of district court when the court regularly hears commitment matters. (G.S. 14-409.42). If your county does not have a regular commitment hearing calendar, schedule the hearing before a district court judge at a time when the petition can be heard in a closed session of court. **HEARING IS CONFIDENTIAL. DO NOT PLACE ON A REGULAR DISTRICT COURT CALENDAR.**
2. Complete AOC-G-180 (Notice Of Hearing), attach a copy of this petition and send to the Petitioner and the attorney who represented the State in the underlying case, or that attorney's successor.

II. CERTIFICATE OF SERVICE: SERVICE ON DIRECTOR OF THE INPATIENT/OUTPATIENT TREATMENT FACILITY

I certify that a copy of this petition was served by:

- delivering a copy personally to the director of the inpatient/outpatient treatment facility that provided mental health treatment to me based on a judicial determination that I needed mental health treatment.
- depositing a copy of the enclosed in a postpaid properly addressed envelope in a post office or official depository under the exclusive care and custody of the U.S. Postal Service directed to the director of the inpatient/outpatient treatment facility that provided mental health treatment to me based on a judicial determination that I needed mental health treatment.
- leaving a copy with an employee at the office of the director of the inpatient/outpatient treatment facility that provided mental health treatment to me based on a judicial determination that I needed mental health treatment.

Name Of Person With Whom Copy Left (type or print)

Date

Name (type or print)

Signature

III. CERTIFICATE OF SERVICE: SERVICE ON DISTRICT ATTORNEY

I certify that a copy of this petition was served by:

- delivering a copy personally to the district attorney of my county of residence.
- depositing a copy of the enclosed in a postpaid properly addressed envelope in a post office or official depository under the exclusive care and custody of the U.S. Postal Service directed to the district attorney of my county of residence.
- leaving a copy at the office of the district attorney of my county of residence.

Name Of Person With Whom Copy Left (type or print)

Date	Name (type or print)	Signature
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IV. FINDINGS OF FACT

This matter was heard before the undersigned judge upon the petition of the person named on the reverse. Having considered the petition, and after hearing the evidence, the Court finds by a preponderance of the evidence that:

1. The petitioner is over the age of 18.
2. The petitioner is a resident of _____ County.
3. The petitioner's most recent judicial determination that the petitioner needed inpatient outpatient treatment was made in _____ County, North Carolina.
4. The petitioner is is not likely to act in a manner dangerous to public safety and granting the relief requested would would not be contrary to the public interest. (State reasons; G.S. 14-409.42 requires the court to make "specific findings of fact on which it bases its decision." G.S. 14-409.42 also requires the court to consider the circumstances regarding the firearms disabilities from which relief is sought, the petitioner's mental health and criminal history, the petitioner's reputation, and changes in the petitioner's condition or circumstances since the original determination.)
5. The petitioner's most recent inpatient outpatient mental commitment expired on (date) _____.
6. If the petitioner has filed a previous petition for removal of the mental commitment bar that was denied, one year or more has passed since the date of the denial.
7. The petitioner was was not committed for mental health treatment based on a finding of not guilty by reason of insanity.
8. The petitioner has never been involuntary committed.

V. CONCLUSIONS OF LAW

After a hearing on this petition, and based on the foregoing findings, the Court concludes as follows: (check one)

- 1. The petitioner is not likely to act in a manner dangerous to public safety and granting the relief requested would not be contrary to the public interest. Therefore, the petitioner is entitled to the relief requested.
- 2. The petitioner is likely to act in a manner dangerous to public safety and granting the relief requested would be contrary to the public interest. Therefore, the petitioner is **not** entitled to the relief requested.
- 3. The petitioner has never been involuntarily committed.

VI. ORDER

It is hereby ordered that: (check one)

- 1. The relief requested by the petitioner is granted. The record of the petitioner's involuntary commitment transmitted to the National Instant Criminal Background Check System (NICS) shall be removed. The clerk will transmit a copy of this Order to NICS.
- 2. The relief requested by the petitioner is **NOT** granted. The record of the petitioner's involuntary commitment shall remain in NICS.

Date	Name Of Judge (type or print)	Signature Of Judge
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