

STATE OF NEW HAMPSHIRE

HILLSBOROUGH COUNTY
SOUTHERN DISTRICT

SUPERIOR COURT

STATE OF NEW HAMPSHIRE
V.
GERARD BELOIN

Docket No.: O9-S-O851-O853
And
Docket No.: 09-S-0850

MOTION FOR BAIL REDUCTION TO PERSONAL RECOGNISANCE

Now comes Gerard Beloin, Pro Se, and respectfully requests that this Honorable Court grant this MOTION FOR BAIL REDUCTION TO PERSONAL RECOGNISANCE.

STATEMENTS OF FACTS

1.

This Defendant has never committed a violent act and has never missed a hearing or court date in 5 years.

2.

On December 13, 2004, Mr. John Janigan, “a close personal friend” of **Prosecutor Kerry Steckowych** informed me on tape that “*these guys*” said “*Oh, they can get at you. He (Steckowych) is getting at you now through your landlord. Next thing they can do is set up all kinds of barriers to watch for your car coming into Goffstown where they can grab you... and when they grab you, I’m sorry to have to tell you, they (will) treat you like a criminal*”.

GB: “*I’ve done nothing wrong...so.*”

JJ: “No, they can dream it up that you didn’t stop when they told you stop.... whatever???”

GB: “*That’s extortion John!!*”

JJ: “*I know. That’s why I’m trying to protect you by having him (Steckowych) stop chasing you because your precious body, your precious moments of this life on earth are more important (than) the few advantages you’re going to create for other people.*”

This excerpt of the recordings details how agents for the State, specifically, agents for Hillsborough County and the Town of Goffstown, stalk people like me who dare to exercise their 1st Amendment rights. They arrest them and “**dream up**” charges against them in order to discredit them by treating them like criminals.

According to their own statements, “these guys” are agents for the State “**dreaming up**” charges against me.

3.

In April of 2006 two police officers claimed I threatened them with a firearm in a public parking lot. They were committing perjury, suborning perjury, and conspiring to commit perjury in order to frame me on gun threatening charges. The State filed motions based on the sworn testimony of these two Peterborough Police Officers who, according to their own sworn statements, consulted with **Prosecutor Kerry Steckowych** prior to filing their police report. When I informed the State that I had a surreptitious recording of the encounter, **all the charges were dropped. None of “these guys” were investigated or prosecuted for the aforementioned felony crimes of “dreaming up” charges against me.**

4.

In March of 2006, several law enforcement officials, politicians and judges claimed that I threatened them with a firearm at a Goffstown Town meeting. According to the State, they were all lining up to testify to that fact under oath. That is perjury, suborning perjury and conspiring to commit perjury by at least a dozen law enforcement officers, judges and politicians in an attempt to frame me on gun threatening charges. One of them was **Prosecutor Kerry Steckowych**. When I informed the State that I had a surreptitious recording of the meeting, **all the charges were dropped. None of “these guys” were investigated or prosecuted for “dreaming up” charges against me. A video of that meeting has disappeared.**

5.

In November of 2008 this Defendant was convicted of a nonviolent misdemeanor of recording a member of organized crime masquerading as an agent for the State threatening to kill me like they did Dr. Hieber. I have recently filed a PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF UNDER RSA 159:6-E. This PETITION clearly shows that, according to NH law, **felons not likely to harm another’s life or property are not forbidden from owning or possessing firearms. (EXHIBIT A)**

Also, in two MOTIONS TO DISMISS COMPLAINT filed on October 15, 2009 with this court, this Defendant clearly proves that the State violated my 2nd Amendment rights by **“dreaming up”** a law that claims people convicted of a nonviolent misdemeanor can have their 2nd Amendment rights revoked while felons convicted of nonviolent felonies like perjury can retain their right to own and possess firearms. That MOTION TO DISMISS COMPLAINT proves that I have a right to own and possess firearms and that the State created a criminal out of thin air just as they claimed they would on the tapes. They would **“dream up”** charges against me.

The second MOTION TO DISMISS COMPLAINT clearly shows that this Defendant did not violate courthouse security.

Argument

The probation violation charges are being seriously challenged by the PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF and my appeal at the NH Supreme Court. My win at the NH Supreme Court is very likely because Judge James Barry Jr. is the most overturned jurist in NH court history.

The facts so far prove that the State has attempted to frame this Defendant on gun threatening charges 3 times before by **“dreaming up”** charges against me. In the process the State and its agents have committed approximately 68 counts of perjury, suborning perjury and conspiracy to commit perjury that are not being investigated or prosecuted.

This Defendant has never committed a violent act.

On June 22, 2009 this Court under this Bench reduced this Defendant’s bail to personal recognizance because I “have no history of violence”. The bail was then raised to \$25,000 on the case #s 09-S-0851-0852-0853 and another \$25,000 on case #0850. Events have since transpired that show a pattern and practice by the State to **“dream up”** charges against this Defendant just as they claimed they would do on the tapes in order to discredit me.

My family and I have put up \$50,000 cash to post bail. This cash is negatively affecting our finances and is in effect acting like a fine for a crime that I did not commit on charges **“dreamed up”** by the State.

CONCLUSION

Since this Defendant has never missed a hearing or court date in the last 5 years and has never committed a violent act and for the reasons stated above questioning the legality of the States position, I’m asking this Honorable Court to reduce this Defendant’s bail to personal recognizance in order to better be able to defend myself with the \$50,000 tied up by the bail bondsman.

Wherefore: Gerard Beloin, Pro Se, respectfully requests that this Honorable Court:

- A. Grant this MOTION TO REDUCE BAIL TO PERSONAL RECOGNISANCE.
- B. Schedule a HEARING on this MOTION
- C. Grant such other relief as this Court deems fair and just.

Respectfully submitted,

October 24, 2009



Gerard Beloin

CERTIFICATE OF SERVICE

I Gerard Beloin, Pro Se, hereby certify that a copy of the foregoing has been sent to Attorney Kenneth Perkes at 300 Chestnut Street, Manchester, NH 03101

October 24, 2009

Gerard Beloin

STATE OF NEW HAMPSHIRE

COUNTY OF HILLSBOROUGH

HILLSBOROUGH SUPERIOR COURT, N.

DOCKET # _____

EXHIBIT A

GERARD BELOIN V. TOWN OF NEW BOSTON POLICE DEPARTMENT

GERARD BELOIN V. JUSTICE ROBERT J. LYNN, NH SUPERIOR COURT

GERARD BELOIN V. GILL PROVOST, STATE OF NH DEPARTMENT OF CORRECTIONS

PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF UNDER RSA 159:6-E

NOW COMES the Petitioner, Gerard Beloin, 31 Dane Road, PO Box 304, New Boston, NH 03070, by and through his attorney, Paula J. Werme, Esq., and hereby PETITIONS this honorable Court for declaratory and injunctive relief pursuant to the provision of RSA 159-6-E.

In addition, the Petitioner requests that this Court give the matter priority on the calendar as the statute requires. In particular in this case, the person responsible for rescinding the concealed carry license of the Petitioner is Chief Christopher Krajenka, New Boston Police Department, 116 Old Coach Rd., New Boston, NH 03070; the person responsible for enforcing the conditions of Petitioner's probation is Gill Provost, Division of Field Services, NH Dept. of Corrections, 60 Rogers St., Manchester, NH 03103; the entity responsible for administering the NH Superior Court Rules is the Chief Justice Robert Lynn, Administrative Office of the Superior Court, 17 Chenell Drive, Suite 1, Concord, NH 03301.

In support of this Petition, Petitioner states:

1. The NH Constitution, [Art.] 2-a. [The Bearing of Arms.] states:

All persons have the right to keep and bear arms in defense of themselves, their families, their property and the state.

December 1, 1982

The Federal Constitution, Amendment II states:

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

The U.S. Supreme Court recently ruled that this amendment protects the right of individuals to keep and bear arms in their own defense. Parker v. District of Columbia, 128 S.Ct. 2994 (2008)

2. The NH Legislature has enacted various restrictions on the right to carry. RSA 159:3, the possession of firearms by convicted felons, RSA 159:4, the carrying of a weapon without a license, and RSA 159:5, regarding the **mandatory** licensing of persons to carry upon a finding that they have a proper purpose and are “suitable person[s] to be licensed.”

3. There is no NH statute regarding prohibitions on the right of persons convicted of misdemeanors to carry weapons, concealed or otherwise. Had the legislature wanted to include persons convicted of misdemeanors in the category of “person’s not suitable to be licensed,” they would have done so.

4. The petitioner was convicted in 2008 of violating RSA 570-A, a non-violent misdemeanor conviction. The conviction is currently on appeal before the NH Supreme Court. He has no other qualifying conviction that would vacate his right to carry pursuant to RSA 159:3, to wit: “(1) A felony against the person or property of another; or (2) A felony under RSA 318-B; or (3) A felony violation of the laws of any other state, the District of Columbia, the United States, the Commonwealth of Puerto Rico or any territory or possession of the United States relating to controlled drugs as defined in RSA 318-B.

5. Although the prosecution recommended a 30 day jail sentence, the Court sentenced the Petitioner to time served (3 days), and a year of probation. Clearly the court, at the time of sentencing, did not consider the Petitioner a threat to society.

6. The probation agreement, which is based on Superior Court Rule # 107, states, in relevant part:

The terms and conditions of probation, unless otherwise prescribed, shall be as follows:
... (f) Not receive, possess, control or transport any weapon, explosive or firearm, or simulated weapon, explosive, or firearm;

It is significant that the Court Rule existed before the enactment of Article 2-a of the Constitution in 1982, and has not been amended since.

7. In-so-far as Superior Court Rule 107(f) rescinds Petitioner's rights under the 2nd Amendment of the US Constitution, Article 2-a of the NH Constitution, the 14th Amendment of the United States Constitution, and Article 15 of the NH Constitution, in that it deprives him of his right to carry a weapon in his own defense without due process of law, Petitioner states that NH Superior Court Rule 107(f) is unconstitutional under both the US. Constitution and the NH Constitution, to wit:

There is a presumption that following conviction of a non-violent misdemeanor violation, a person is no longer "a proper person" with all the rights to carry as every other citizen of this state. There is further no administrative or judicial method to make said determination, nor is there an administrative or judicial process by which one can challenge said determination by a probationer once made. The only relief is pursuant to RSA 159:6-E.

8. The NH legislature has already made the determination that once convicted of a felony, that a person's right to carry firearms in their own defense is lost. RSA 159:3. This statute has been held constitutional by the NH Supreme Court. *State v. Smith*, 132 N.H. 756 (1990). In *State v. Smith*, the NH Supreme Court stated:

[2] The statute narrowly serves this interest by prohibiting a category of persons likely to be dangerous from possessing dangerous weapons. Included in the category are only those who have committed a felony against the person or property of another, or who have committed a felony under the controlled substance act, RSA chapter 318-B. **Other felons, such as habitual offenders and perjurers, are not as likely to harm another's life or property, and therefore are not included in the category of felons forbidden to possess or own a firearm.** Conceivably some felons falling within the reach of RSA 159:3 (Supp. 1988) are not potentially dangerous. However, on the standard we apply here, the statute need not be perfectly tailored, simply narrowly tailored. We hold that RSA 159:3 (Supp. 1988) **narrowly serves a significant governmental interest** in protecting the general public and is therefore constitutional.

Absent a determination that he is not a proper person to carry because there is no history of aggressive or violent behavior, and no felony conviction that would put him under the provisions of RSA 159:3. It is not the province of the Judicial Branch to determine who can and cannot exercise their constitutional rights in NH absent express authorization from the legislature

NH Superior Court rule is NOT similarly narrowly tailored to serve a significant government interest in protecting the public. The Court rule presumes that any person convicted of ANY misdemeanor who receives probation in lieu of

sentencing is automatically deemed potentially dangerous without any due process protections. While it may serve the government interest in protecting the public from potentially dangerous persons, it violates the NH Constitution by presuming that people who have no history of violence are potentially dangerous. It therefore violates both Article 2-a and Article 15 of the NH Constitution, as well as corresponding federal constitutional provisions.

10. Alternatively, even if a person is prohibited from carrying a firearm by the terms of a probation order, his right to carry under RSA 159:3 should not be rescinded, because its provisions are MANDATORY as per the legislative wording.

WHEREFORE, Petitioner respectfully requests the following relief:

A. A determination that NH Superior Court Rule 107(f) is unconstitutional under the Federal Constitution, Amendment II, the NH Constitution, Art. 2-a, the 14th Amendment of the U.S. Constitution, and Article 15 of the NH Constitution.

B. That this Court ORDER Judge Robert J. Lynn to immediately cease enforcement of Rule 107(f) of the Rules of Superior Court, and

C. In the alternative, that if this Court determines that the Court constitutionally has the right to deny a probationer the right to carry a gun, there remains no statutory reason to rescind the probationer's carry license, because that may only be denied based on qualifying felony convictions, domestic violence convictions, or qualifying domestic violence orders outstanding against him.

C. That if this Court determines that Court Rule 107(f) is unconstitutional as an improper exercise of the Court's discretion, for an ORDER Gill Provost, the Petitioner's probation officer, to immediately cease enforcing the Petitioner's condition of probation that is not permitted to carry a firearm under his TERMS OF PROBATION.

D. That this Court ORDER the Town of New Boston Police Chief Christopher Krajenska to immediately re-issue the Petitioner's Concealed Carry License.

E. That this Court give the matter priority on its calendar pursuant to the terms of RSA 159:6-e.

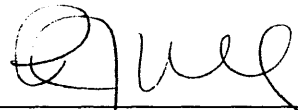
F. For other and such relief as may be just.

Respectfully submitted,

Date: 10-14-2009


Gerard Beloin

Date: 10-15-09

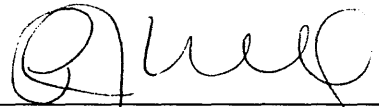


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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this PETITION on the NH Attorney General's Office, 33 Capitol St., Concord, NH 03301.

Date: 10-15-09



Paula J. Werme, Esq