

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	:	No. MD-258-2015
	:	
vs.	:	
	:	
	:	
ALEXANDER PELLETIER, Defendant	:	Petition for Return of Property

OPINION AND ORDER

Before the Court is a Petition for Return of Property filed by Defendant.

On February 18, 2015, Defendant pled guilty to the summary offense of disorderly conduct.

On December 6, 2014, Jordan Mahosky, a police officer with the Tiadaghton Valley Regional Police Department was dispatched to the UniMart on Bridge Street in Jersey Shore for a domestic dispute. The complaining party told Officer Mahosky that her boyfriend, the Defendant, was going crazy at their house and at one point fired a round from his handgun. Officers gathered and confronted the Defendant at his house. Defendant began yelling very loud and stated that he had a gun to his head. The Defendant would not cooperate and kept saying that he wanted to hurt himself by shooting himself. Eventually, the Defendant threw the gun down and surrendered. He was taken into custody.

The Defendant was taken by ambulance to the Williamsport Hospital. The crisis line was called and Officer Mahosky completed and signed a Petition for Involuntary Commitment pursuant to § 302 of the Mental Health Procedures Act.

The Defendant was admitted from the Williamsport Hospital emergency room to Divine Providence Hospital on an involuntary basis pursuant to § 302. He was admitted

for observation and stabilization. He was involuntarily held until December 10, 2014 and then discharged as no longer meeting involuntary care criteria.

When Defendant was taken into custody on December 6, 2014, officers seized a handful of firearms including a FIE Corp .22 Revolver, a Makarov 9mm, a Ruger model 10/22 .22 long rifle, a Ruger M77 270 Winchester and a Mauser 30-06.

Defendant filed a Petition for Return of Property on March 23, 2016. Previously, the Defendant had filed a Petition for Return of Property. That Petition was disposed of by Order dated July 10, 2015. The hearing was continued for the purpose of Defendant obtaining verification that he was an eligible person under the Uniform Firearms Act to have the items returned to him.

At the hearing in this matter on April 4, 2016, Defendant contended that he was an eligible person and was not precluded from possessing the firearms. The Commonwealth countered that because the defendant was involuntarily committed, he was not an eligible person.

The parties stipulated that 18 Pa. C.S.A. § 6105 governs the eligibility of individuals to possess firearms. Pursuant to § 6105 (c) (4), a person who has been involuntarily committed to a mental institution for inpatient care and treatment under § 302 of the Mental Health Procedures Act is prohibited from possessing a firearm in this Commonwealth.

Defendant argues however that said prohibition does not apply when “the examining physician has [not] issued a certification that inpatient care was necessary or that the person was committable.”

Defendant is correct that the statute exempts from its prohibition an individual who was involuntary committed under § 302 unless the examining physician has in fact issued a certification that inpatient care was necessary or that the person was committable. 18 Pa. C.S. § 6105 (c) (4).

The Court reviewed the records from Divine Providence hospital including the discharge summary, the admitting summary and the psychiatric evaluation which were all electronically signed by Defendant's treating psychiatrist. Clearly, the records support the conclusion that the examining physician certified that inpatient care was necessary and that the Defendant was committable pursuant to § 302.

Accordingly, Defendant is legally precluded from possessing the firearms and his Petition for Return of Property shall be denied.

ORDER

AND NOW, this 8th day of April 2016, following a hearing and argument, Defendant's Petition for Return of Property is **DENIED**.

By The Court,

Marc F. Lovecchio, Judge

cc: Eric Linhardt, Esquire, (DA)
Ravi Marfatia, Esquire, (APD)
Gary Weber, Esquire, Lycoming Reporter
Work file