

State of New Hampshire Supreme Court

NOTICE OF MANDATORY APPEAL

This form should be used for an appeal from a final decision on the merits issued by a superior court, district court, probate court or family division court except for a decision from: (1) a post-conviction review proceeding; (2) a proceeding involving the collateral challenge to a conviction or sentence; (3) a sentence modification or suspension proceeding; (4) an imposition of sentence proceeding; (5) a parole revocation proceeding; (6) a probation revocation proceeding; (7) a landlord/tenant action or a possessory action filed under RSA chapter 540; (8) from an order denying a motion to intervene; or (9) a domestic relations matter filed under RSA chapters 457 to 461-A, except that an appeal from a final divorce decree or from a decree of legal separation shall be a mandatory appeal.

1. COMPLETE CASE TITLE AND DOCKET NUMBERS IN TRIAL COURT

S. Rebecca Carmody v. Craig T. Carmody
No. 2005-DM-0244

2. COURT APPEALED FROM AND NAME OF JUDGE(S) WHO ISSUED DECISION(S)

9th Circuit - Family Division - Manchester (*John C. Emery, J.*)

3A. NAME & ADDRESS OF APPEALING PARTY

Craig T. Carmody
636 Spencer Hollow Rd.
Springfield, Vermont 05156

3B. NAME, FIRM, ADDRESS & TELEPHONE
NUMBER OF APPELLANT'S COUNSEL

Joshua L. Gordon
New Hampshire Bar No. 9046
Law Office of Joshua Gordon
75 South Main Street #7
Concord, N.H. 03301
(603) 226-4225
www.AppealsLawyer.net

4A. NAME & ADDRESS OF OPPOSING PARTY

S. Rebecca Carmondy
address unknown

4B. NAME, FIRM, ADDRESS, & TELEPHONE
NUMBER OF OPPOSING COUNSEL

Attorney Suzanne D. Decker
Law Office of Suzanne Decker, PLLC
2 Henniker Street, PO Box 838
Hillsboro, NH 03244
(603) 464 - 0113

5. NAMES OF ALL OTHER PARTIES AND COUNSEL IN TRIAL COURT

John J. Cronin, III, Esq. (for appellant below)
388 Greenfield Rd.
Benington, NH 03442
(603) 588 - 3000

Brian Giammarino , Police Chief (in possession of subject firearms)
Greenfield Police Department
PO Box 165, 7 Sawmill Road
Greenfield ,NH 03047
(603) 547 - 2525

6. DATE OF CLERK'S NOTICE OF DECISION
OR SENTENCING

Clerk's Notice of Final Order,
December 22, 2011

DATE OF CLERK'S NOTICE OF DECISION
ON POST-TRIAL MOTION

January 28, 2012

7. CRIMINAL CASES: DEFENDANT'S
SENTENCE AND BAIL STATUS

n/a

8. APPELLATE DEFENDER REQUESTED?

No.

9. IS ANY PART OF CASE CONFIDENTIAL? IDENTIFY WHICH PART AND CITE AUTHORITY

None known.

10. IF ANY PARTY IS A CORPORATION, NAMES OF PARENTS, SUBSIDIARIES & AFFILIATES

n/a

11. DO YOU KNOW ANY REASON WHY ONE OR MORE SUPREME COURT JUSTICE WOULD BE DISQUALIFIED FROM THIS CASE?

There is no known basis for recusal.

IF YES, FILE MOTION FOR RECUSAL, SUPREME COURT RULE 21A

12. IS A TRANSCRIPT OF TRIAL COURT PROCEEDINGS NECESSARY?

Yes

IF YES, COMPLETE TRANSCRIPT ORDER FORM

13. LIST SPECIFIC QUESTIONS TO BE RAISED ON APPEAL, EXPRESSED IN TERMS AND CIRCUMSTANCES OF THE CASE, BUT WITHOUT UNNECESSARY DETAIL. STATE EACH QUESTION IN A SEPARATELY NUMBERED PARAGRAPH.

I. RSA 173-B:5, X provides that “[w]ithin 15 days prior to the expiration of the protective orders, the defendant may request, by motion to the court, the return of any and all firearms and ammunition.” The court understood this to mean that the window for requesting return of firearms is strictly limited to the 15 day period prior to the expiration of the order; whereas the plain meaning of the statutory language is that the window in which the claimant can request return is only restricted by the earliest date when such request can be made. Did the court err in its interpretation of the statute?

II. Did the court err by failing to order the return of the claimant’s firearms?

III. By barring the claimant here from requesting return of his firearms, which were confiscated under the authority of a domestic violence order which was then withdrawn, did the court deprive the claimant of his property without due process of law?

14. CERTIFICATIONS

I hereby certify that, upon information and belief, every issue specifically raised has been presented to the court below and has been properly preserved for appellate review by a contemporaneous objection or, where appropriate, by a properly filed pleading.

Joshua L. Gordon, Esq.

I hereby certify that on or before the date below copies of this notice of appeal were served on all parties to the case and were filed with the clerk of the court from which the appeal is taken in accordance with Rule 26(2).

February 25, 2012

Joshua L. Gordon, Esq.

ATTACHMENTS

1. CLERK’S NOTICE (of denial of motion to reconsider) (Jan. 28, 2012) 7

2. CLERK’S NOTICE (of order) (Dec. 22, 2011) 8

3. ORDER (Dec. 14, 2011) 9

TRANSCRIPT ORDER FORM

INSTRUCTIONS:

1. If a transcript is necessary for your appeal, you must complete this form.
2. List each portion of the proceedings that must be transcribed for appeal, e.g., entire trial (see Superior Court Administrative Rule 3-1), motion to suppress hearing, jury charge, etc., and provide information requested.
3. Determine the amount of deposit required for each portion of the proceedings and the total deposit required for all portions listed. Do not send the deposit to the Supreme Court. You will receive an order from the Supreme Court notifying you of the deadline for paying the deposit amount to the trial court. Failure to pay the deposit by the deadline may result in the dismissal of your appeal.

LIST EACH PORTION OF CASE PROCEEDINGS TO BE TRANSCRIBED						
Date of Proceeding	Type of Proceeding	Length of Proceeding	Name of Judge(s)	Steno/Recorded	Previously Prepared?*	Deposit
12/12/11	Hearing	10 min.	<i>Emery, J.</i>	Recorded	no	\$175
DO NOT SEND DEPOSIT AT THIS TIME						TOTAL DEPOSIT: \$175

SCHEDULE OF DEPOSITS

<u>Length of Proceeding</u>	<u>Deposit Amount</u>
Hearing or trial of one hour or less	\$ 175
Hearing or trial up to ½ day	\$ 450
Hearing or trial of more than ½ day	\$ 900/day
Previously prepared portions	Number of pages x \$.50 per page per copy if additional copies are needed

NOTE: The deposit is an estimate of the transcript cost. After the transcript has been completed, you may be required to pay an additional amount if the final cost of the transcript exceeds the deposit. Any amount paid as a deposit in excess of the final cost will be refunded. The transcript will not be released to the parties until the final cost of the transcript is paid in full.

* For portions of the transcript that have been previously prepared, indicate number of copies that were prepared.