

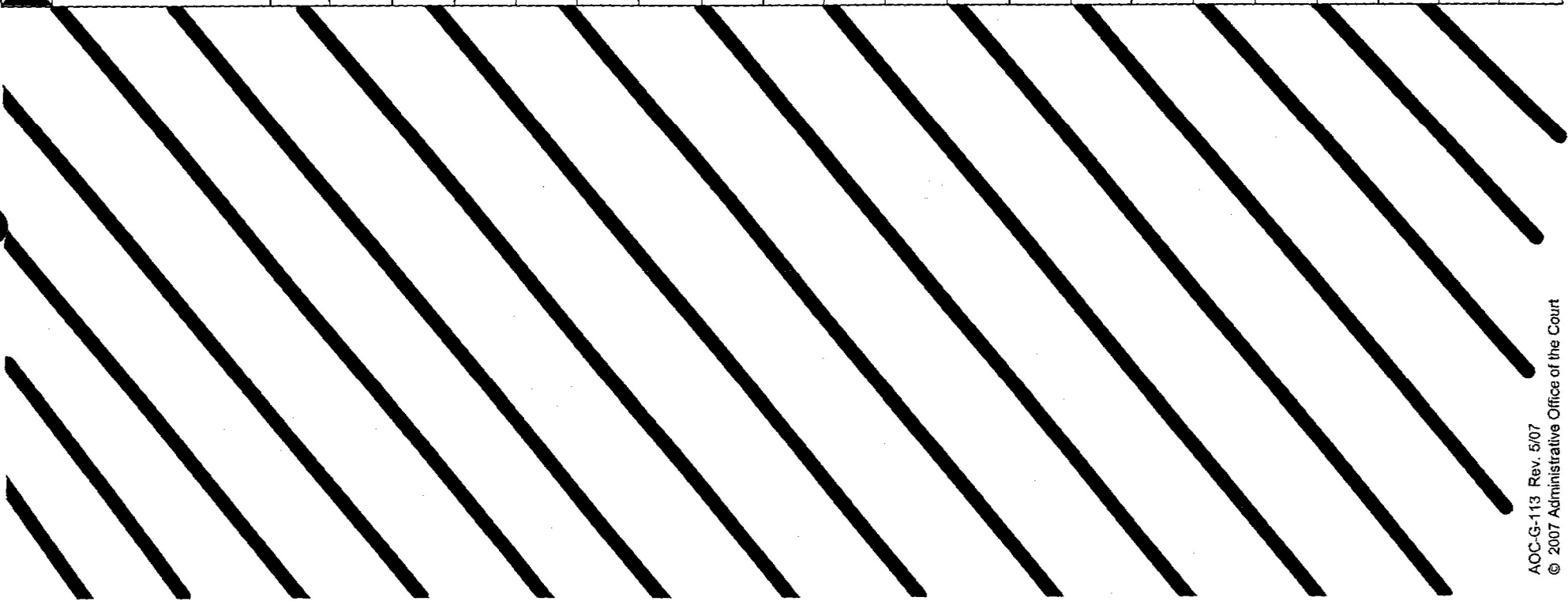
File No.

08 CND 568

LEAD DOCUMENT FOR
SCANNING/MICROFILMING

AUDIT TRAIL

Date Filmed	Description	Film No.
6-2-08	DVPO / ID	08-12
11-6-08	Order Return of Weapons 08-21-	





STATE OF NORTH CAROLINA

Haywood County

FILED

File No.

08-CV-D-568

In The General Court Of Justice
District Court Division

Name Of Plaintiff (Person Filing Complaint)

09 NOV -4 PM 3:17

~~Steven Mark Pless~~ Rebecca Pless
VERSUS

ORDER UPON MOTION TO RETURN WEAPONS
SURRENDERED UNDER
DOMESTIC VIOLENCE PROTECTIVE ORDER

Name Of Defendant

Steven Mark Pless BY

FINDINGS

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

A hearing was held before the district court judge named below pursuant to a motion to return weapons surrendered pursuant to a domestic violence protective order.

The Court finds

- 1. A copy of the Motion and Notice Of Hearing was served on the plaintiff and the plaintiff was was not present.
- 2. The defendant third-party owner filed a motion to return weapons surrendered pursuant to a domestic violence protective order entered on (date) 4/24/08.
- 3. The domestic violence protective order under which the defendant surrendered weapons expired on (date) 5/01/08 and has not been renewed.
- 4. A motion to renew is is not pending.
- 5. The defendant is not currently subject to any domestic violence protective order.
- 6. a. The defendant is disqualified from owning or possessing a firearm pursuant to 18 USC § 922 or any state law in that (state facts indicating why disqualified under federal or state law, i.e., convicted of a misdemeanor domestic violence crime or possession of a weapon of mass destruction, etc.)

b. There was no evidence presented that the defendant is disqualified from owning or possessing a firearm pursuant to 18 USC § 922 or any State law.

7. a. The defendant has pending criminal charges in state or federal court alleged to have been committed against the person protected by the current protective order in that (state charges and person who is alleged victim)

b. There was no evidence presented that the defendant has pending criminal charges in state or federal court committed against the person protected by the current protective order.

8. The third-party filing the motion is the owner of the weapons described below (describe surrendered weapons owned by third-party claimant)

9. a. The third-party claimant is disqualified from owning or possessing a firearm pursuant to 18 USC § 922 or any state law in that (state facts indicating why disqualified under federal or state law, i.e., convicted of a misdemeanor domestic violence crime or possession of a weapon of mass destruction, etc.)

b. There was no evidence presented that the third-party claimant is disqualified from owning or possessing a firearm pursuant to 18 USC § 922 or any state law.

10. Other:

CONCLUSIONS

Based on these facts, the Court makes the following conclusions of law:

- 1. The defendant is is not entitled to the return of all firearms, ammunition and gun permits surrendered to the sheriff pursuant to the domestic violence protective order entered in this case.
- 2. The third-party owner is entitled to the return of all firearms, ammunition and gun permits listed in Finding 7 of this Order.
- 3. The third-party claimant is not entitled to the return of firearms, ammunition and gun permits surrendered by the defendant.
- 4. Other:

ORDER

It is ORDERED that:

- 1. The sheriff return to the defendant the firearms, ammunition and gun permits surrendered under the domestic violence protective order issued in this case upon payment of all fees owed for storage of the firearms and ammunition.
- 2. The sheriff return to the third-party owner the firearms, ammunition and gun permits listed in Finding 7 of this Order upon the payment of all fees owed for storage of the firearms and ammunition.
- 3. The motion is denied.
- 4. *(Check only when motion is by third-party, court finds property is owned by third-party but return is prohibited because third-party is prohibited by federal or state law from owning or possessing a firearm.)* The sheriff is ordered to dispose of the weapons listed in Finding 7 of this Order by
 - a. destroying all of the items the items listed below and is ordered to maintain a record of destruction.*(List specific items to be destroyed only if all of the items listed in Finding 7 are not to be destroyed)*

- b. keeping the firearms listed below for its official use and maintaining a record of receipt.
- c. turning the firearms listed over to *(name of local law enforcement agency)* _____
 the State Bureau of Investigation. the North Carolina Justice Academy.
 The agency receiving the firearms must maintain a record of receipt.
(Describe firearms to be turned over to law enforcement agency)

Date 11/04/08 Name Of Judge (Type Or Print) Richard K. Walker Signature Of Judge [Signature]

STATE OF NORTH CAROLINA

Haywood County

File No.

08 CVD 568

In The General Court Of Justice
District Court Division

Name Of Plaintiff

Steven Mark Pless Reperra Pless

VERSUS

Name And Address Of Defendant

Steven Mark Pless
79 Osborne Ridge Rd
Canton, NC 28716

AM 9:50

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

HAYWOOD COUNTY C.S.C.

BY

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 Haywood 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 not a pending motion to renew. As indicated on 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 Current Protective Order Expired

5/22/08

Date

10-23-08

Signature Of Defendant

Steven Mark Pless

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 weapons described below. I request the Court to return these weapons 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) Pless Steven Mark		Maiden Name, Nickname, Alias _____	
Current Residence Street 79 Osborne Ridge Rd.	Apartment No. _____	Previous Residence Street _____	Apartment No. _____
City, State, Zip Code Canton, NC 28716		City, State, Zip Code _____	
Other States Of Residence _____			

Are You A U.S. Citizen? Yes No

If No, List Country Of Citizenship _____

Home Telephone (828) 421-8156	Work Telephone (704) 748-1320
Social Security Number 238-39-5504	Drivers License/ID No. 5732994
Employer Metrolina Fire and Rescue Inc	Occupation Sales rep.
Employer Address (Street, City, State, Zip Code) _____	State NC

Race White	Sex M	Date Of Birth 05-02-67	Place Of Birth Buncombe County
Height 6'4"	Weight 230lbs	Hair Color Brown	Eye Color Brown

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

- 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? _____
- 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? _____
- 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? _____
- Have you ever been convicted of driving while impaired in either a state or federal court? Yes No
 When and where were you convicted? _____
- Are there any outstanding warrants for your arrest? Yes No
 Where and for what reason? _____
- Are you under indictment for a crime at this time? Yes No
 Where and for what reason? _____
- 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 domestic violence protective/restraining order to this affidavit.

- Were you ever a member of the military? Yes No
 If yes, what kind of discharge did you receive? _____
- Are you currently using or are you addicted to any controlled substance, including marijuana, cocaine, methamphetamine or heroin? Yes No

AFFIDAVIT

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

Name (Last, First, Middle) Pless Steven Mark		Maiden Name, Nickname, Alias	
Street 79 Osborne Ridge Rd	Apartment No.	Street	Apartment No.
City, State, Zip Code Canton, NC 28716	City, State, Zip Code	City, State, Zip Code	
Other States Of Residence			
Are You A U.S. Citizen? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		If No, List Country Of Citizenship	
Home Telephone (828) 421-8156		Work Telephone (704) 748-1320	
Social Security Number 238-39-5504		Drivers License/ID No. 5732994	
Employer Metroline Fire and Rescue Inc.		Occupation Sales Rep	
Employer Address (Street, City, State, Zip Code)			
Race White	Sex M	Date Of Birth 05-02-67	Place Of Birth Buncombe County
Height 6'4"	Weight 230lbs	Hair Color Brown	Eye Color Brown
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



11

12

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Name Of Defendant
Pless, Steven Mark

File No.
08CVD568

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

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

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 10/23/08	Signature Of Person Authorized To Administer Oaths <i>Susan Rongey</i>
Name Of Person Authorized To Administer Oaths	Name Of Applicant Steven Mark Pless
<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court	Name Of Applicant Type Or Print STEVEN MARK PLESS
<input type="checkbox"/> Notary	Date My Commission Expires
SEAL	County Where Notarized

Date **10-23-08**
Signature Of Applicant
Steven Mark Pless
Name Of Applicant Type Or Print
STEVEN MARK PLESS

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 11/04/08	Time Of Hearing 9:30	AM <input checked="" type="checkbox"/> PM <input type="checkbox"/>	Location Of Hearing New Justice Center
Date 10/23/08	Signature Of Clerk <i>Susan Rongey</i>	<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court	<input type="checkbox"/> Assistant CSC

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

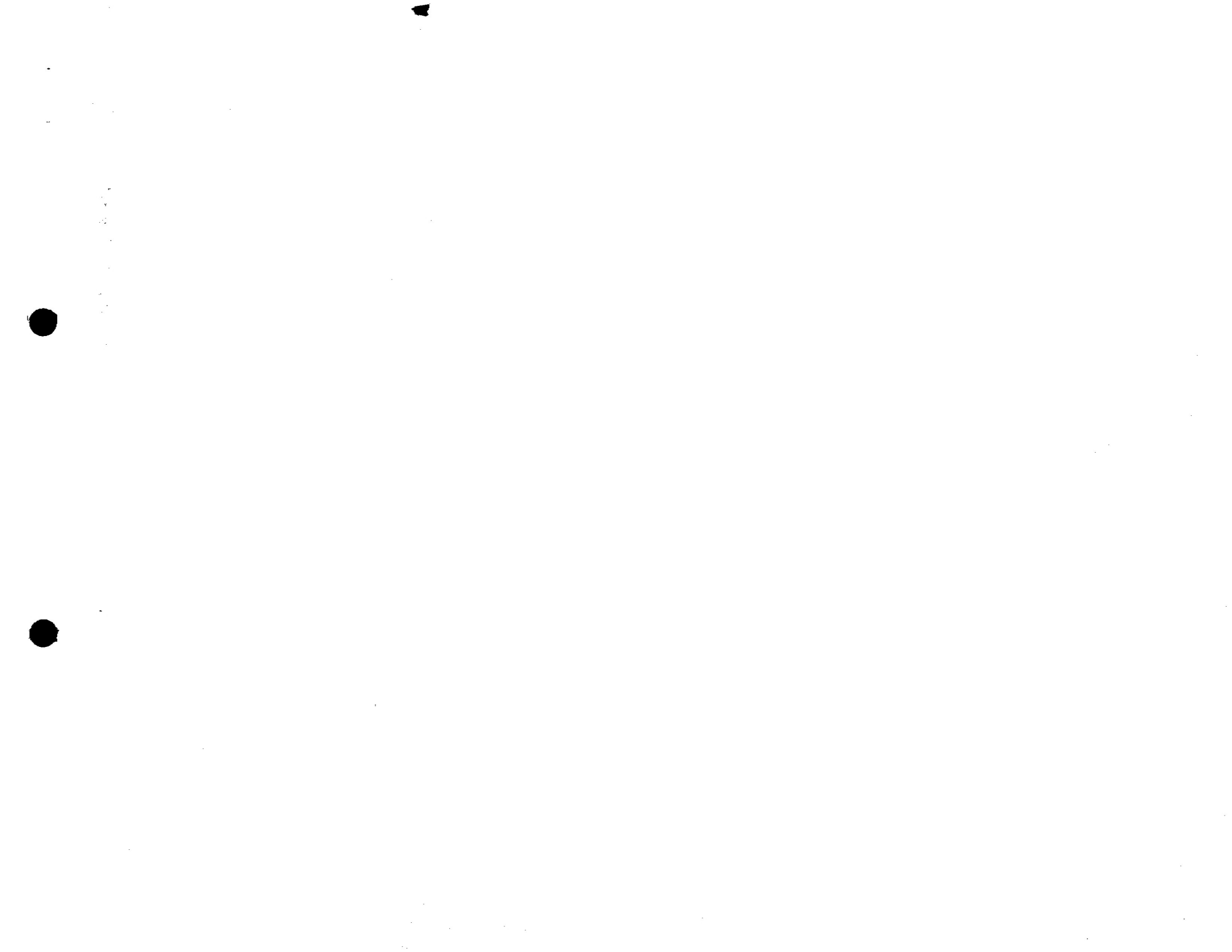
I certify that on the date of mailing shown below a copy of this Motion And Notice Of Hearing was served on the plaintiff at the address listed below by depositing a copy in a postpaid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United 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)
**REBECCA PLESS
79 OSBERNO RIDGE RD
CANTON MI 48716**

Date Of Mailing
10-24-08 Date Of Certification **10/23/08** || Signature Of Clerk *Susan Rongey* | Deputy CSC Assistant CSC |
| | Clerk Of Superior Court |

(See reverse for Federal firearm restrictions)



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.

