

04-56-CD
JAMES R. MILCHAK, v. COMMONWEALTH OF PENNSYLVANIA

James Milchak vs. Commonwealth of Penna.
2004-56-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JAMES R. MILCHAK
Petitioner

vs.

COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA STATE POLICE
Respondent

No. 04- 56 -CD

PETITION TO EXPUNGE

Filed on behalf of Petitioner
James R. Milchack

Counsel of Record for this
party:

Timothy E. Durant, Esquire
I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

FILED

JAN 13 2004

William A. Shaw
Prothonotary-Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JAMES R. MILCHAK
Petitioner

vs.

COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA STATE POLICE
Respondent

No. 04- 56 -CD

PETITION TO EXPUNGE

RULE

AND NCW, this 15th day of January, 2004, upon consideration of the petition of **JAMES R. MILCHAK** a RULE is hereby entered on the Pennsylvania State Police and Commonwealth of Pennsylvania to show cause why the records pertaining to the 302 petition issued against him should not be expunged and destroyed.

NOTICE

A Petition has been filed against you in Court. If you wish to defend against the claims set forth in the following pages, you must take action on or before February 25, 2004, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the matters set forth against you. You are warned that if you fail to do so, the case may proceed without you, and an order may be entered against you by the Court without further notice for relief requested by the petitioner or movant. You may lose rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

FILED

JAN 15 2004

William A. Shaw
Prothonotary

By the Court:

Judith J. Ammerman
J.

FILED

0 2:13 PM 400 City Street

JAN 15 2004

3
22

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JAMES R. MILCHAK	*		
Petitioner	*		
	*		
	*	No. 04-	-CD
vs.	*		
	*	PETITION TO EXPUNGE	
	*		
COMMONWEALTH OF PENNSYLVANIA,	*		
PENNSYLVANIA STATE POLICE	*		
Respondent	*		

TO THE HONORABLE, THE JUDGES OF THE COURT:

The petitioner, JAMES R. MILCHAK, by his attorney, TIMOTHY E. DURANT, ESQUIRE, respectfully represents:

1. Petitioner, James R. Milchak, is a competent 47 year old adult residing at 1607 Ridge Road, Hastings, Clearfield County, Pennsylvania 16546

2. Respondent is an agency of the Commonwealth of Pennsylvania with authority over records as they may pertain to firearms possession with offices located at 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110-9758.

3. On May 2, 2002, Petitioner was taken to DRMC West for an evaluation under Section 302 of the Mental Health Procedures Act (Act of July 9, 1976 (P.L. 817, No. 143) based upon information received from the Petitioner's wife Rosella E. Milchak who alleged that Petitioner was a suicide risk and a danger to her.

4. Subsequent to admission Petitioner was physically examined and mentally evaluated whereupon it was determined; that he was

only suffering from adjustment disorder and marital conflict problems; it was further determined that he was not suffering from any major mental illness and that he posed no imminent danger.

5. On May 3, 2003 Petitioner was discharged to go home with his wife and scheduled for outpatient follow up appointments to receive individual counseling and psychiatric evaluation. After his discharge from DRMC the Petitioner received but a single evaluation from Dr. Malahorta and was thereupon discharged from further treatment.

6. The Petitioner avers and believes that there has never been any certificate issued which states that he committable or that inpatient care is necessary for him. For this reason denial of license to carry a firearm pursuant to 18 Pa.C.S. §6105(c)4 does not apply to him.

7. On July 29, 2002 and again on October 2, 2003 the Petitioner was informed by Chester Hawkins, Sheriff of Clearfield County, Pennsylvania that his application for a license to carry a firearm was denied pursuant to 18 Pa.C.S. §6105(c)(4).

8. Petitioner has never been arrested.

9. On August 1, 2002 the Pennsylvania State Police sent a letter to Petitioner in response to his challenge request form SP4-137 stating that the denial was confirmed for the reason set out in 18 Pa.C.S. §6105(c)(4) i.e., in his case a §302 commitment. A true and correct copy of said letter is attached hereto, marked as Exhibit "A", and incorporated herein as if set out in full.

10. The information regarding the §302 admission is still in

the files of the Pennsylvania State Police and possibly duplicates were transmitted to the Federal Bureau of Investigation and may be in their respective files.

11. Petitioner is married and has 7 children. Until August 24, 2003 he resided with his wife Rosella E. Milchak and their children but on aforesaid date Rosella left the marital home with the children to avoid her obligations to the Clearfield County Children and Youth Services and due to no fault of Petitioner.

12. Petitioner has recently been employed as a truck driver, a farmer and a gun shop owner.

13. The presence of these records in the files of the agencies is unjustified, and will be harmful to your petitioner's reputation and calling, and is likely to interfere with his earnings and livelihood.

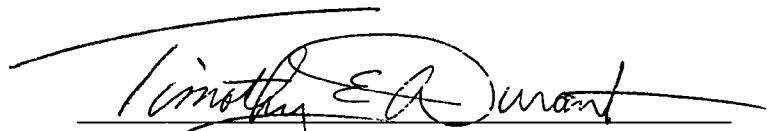
14. The Commonwealth of Pennsylvania will not be harmed by the granting of this petition.

15. Certified copies of the order should be served upon the Pennsylvania State Police, Firearms Division and copies forwarded to any agency to whom the information to be expunged has been provided by them.

WHEREFORE, your petitioner respectfully requests that this Court enter a Rule on the Commissioner of the Pennsylvania State Police to show cause why the relief sought in this petition should not be granted. And thereafter this Court is asked to enter an order directing the Commissioner of the Pennsylvania State Police to destroy or cause to be destroyed, in the presence of your

petitioner or his attorney, any and all records in the files of the Pennsylvania State Police Department pertaining to petitioner and further, that the Commissioner of the Pennsylvania State Police be directed to obtain any such records from any offices of the Pennsylvania State Police and from the Federal Bureau of Investigation, and upon receipt to destroy such records in the presence of the petitioner or his attorney.

Jan. 13, 2004


Timothy E. Durant, Esquire
Attorney for Petitioner

VERIFICATION

I, **JAMES R. MILCHAK**, Petitioner, do verify that the statements made in this Petition To Expunge are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.


James R. Milchak, Petitioner

Dated: 1-13-04



PENNSYLVANIA STATE POLICE

1800 ELMERTON AVENUE
HARRISBURG, PENNSYLVANIA 17110-9758

August 1, 2002

File Number:02-08-02709

JAMES R MILCHAK
1607 RIDGE RD
HASTINGS PA 16646

Dear Mr. Milchak:

We are in receipt of your challenge request form SP4-197, which you submitted in response to a Pennsylvania Instant Check System (PICS) denial for a license to carry a firearm dated August 1, 2002.

Please be advised that at this time your denial is confirmed. Attached is a listing of the information or record that identifies the reason for the denial. This information is confidential and to be used only if you decide to continue with the challenge procedure.

Please be advised that the basis for your denial can be found under 13 Pa. C. S. § 6105 (c) 4, which prohibits a person who has been adjudicated incompetent or has been involuntarily committed to a mental institution for inpatient care under Section 302, 303, or 304 of the Mental Health Procedures Act from possessing a firearm. Also, Federal Law 18 U.S.C. § 922, restricts any person adjudicated as a mental defective or involuntarily committed to any mental institution.

Should the attached information NOT pertain to you, please call the number listed below. Pennsylvania law provides that any person who knowingly and intentionally obtains or furnishes information collected or maintained pursuant to the Uniform Firearms Act for any purpose other than compliance with the Act, or who knowingly or intentionally disseminates, publishes or otherwise makes available such information to any person, commits a felony of the third degree.

Questions about the PICS Denial and Challenge Process may be directed to the following PICS Legal Assistant: Andy Shicora at (717) 705-4545 or (717) 705-4682 or by writing to the above address ATTN: PICS Legal. You may appeal this decision to the Office of Attorney General, Regulatory Compliance & Intelligence Section, at 610-631-6592 in accordance with the provisions of the Uniform Firearms Act.

Sincerely,

Lieutenant Joseph G. Elias
Director, Firearms Division

Enclosure(s)

FILED

4cc Atty Dussant

01/21/2004

Atty pd 85.00

JAN 13 2004

William A. Shaw

Prothonotary/Clerk of Courts

In The Court of Common Pleas of Clearfield County, Pennsylvania

MILCHAK, JAMES R.

Sheriff Docket # 15100

VS.

04-56-CD

COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA STATE POLICE

PETITION TO EXPUNGE & RULE

SHERIFF RETURNS

NOW JANUARY 23, 2004, JACK LOTWICK, SHERIFF OF DAUPHIN COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PETITION TO EXPUNGE & RULE ON COMMONWEALTH OF PENNSYLVANIA and PENNSYLVANIA STATE POLICE, DEFENDANTS.

NOW JANUARY 29, 2004 SERVED THE WITHIN PETITION TO EXPUNGE & RULE ON PENNSYLVANIA STATE POLICE, DEFENDANT BY DEPUTIZING THE SHERIFF OF DAUPHIN COUNTY. THE RETURN OF SHERIFF LOTWICK IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED DARRYL ADAMS, SECURITY OFFICER.

NOW JANUARY 29, 2004 SERVED THE WITHIN PETITION TO EXPUNGE & RULE ON COMMONWEALTH OF PENNSYLVANIA, DEFENDANT BY DEPUTIZING THE SHERIFF OF DAUPHIN COUNTY. THE RETURN OF SHERIFF LOTWICK IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED CATHY STEHMAN, RECPT.

Return Costs

Cost	Description
36.00	SHERIFF HAWKINS PAID BY: ATTY CK# 5042
20.00	SURCHARGE PAID BY: ATTY CK# 5043
35.25	DAUPHIN CO. SHFF PAID BY: ATTY

Sworn to Before Me This

9 Day Of February 2004
William A. Shaw

So Answers,

Chester A. Hawkins
My Master's Honor
Chester A. Hawkins
Sheriff

FILED

0 2:54 PM

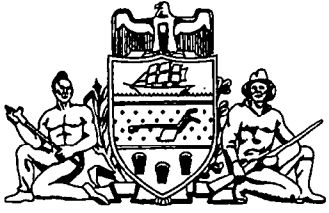
FEB 06 2004

William A. Shaw
Prothonotary

Office of the Sheriff

Mary Jane Snyder
Real Estate Deputy

William T. Tully
Solicitor



J. Daniel Basile
Chief Deputy

Michael W. Rinehart
Assistant Chief Deputy

Dauphin County
Harrisburg, Pennsylvania 17101
ph: (717) 255-2660 fax: (717) 255-2889

Jack Lotwick
Sheriff

Commonwealth of Pennsylvania : MILCHAK JAMES
vs
County of Dauphin : OFFICE OF THE ATTORNEY GENERAL

Sheriff's Return

No. 0300-T - - -2004
OTHER COUNTY NO. 04 56 CD

AND NOW: January 29, 2004 at 9:25AM served the within

PETITION TO EXPUNGE & RULE upon
PENNSYLVANIA STATE POLICE by personally handing
FIREARMS DIVISION
to DARRYL ADAMS (SECURITY OFFICER) 1 true attested copy(ies)
of the original PETITION TO EXPUNGE & RULE and making known
to him/her the contents thereof at 1800 ELMERTON AVENUE
HARRISBURG, PA 17110-9758

Sworn and subscribed to
before me this 29TH day of JANUARY, 2004
Stephen C. (Harina)

PROTHONOTARY

So Answers,
J R Lotwick

Sheriff of Dauphin County, Pa.

By *[Signature]*

Deputy Sheriff

Sheriff's Costs: \$35.25 PD 01/28/2004
RCPT NO 187236

Office of the Sheriff

Mary Jane Snyder
Real Estate Deputy

William T. Tully
Solicitor



J. Daniel Basile
Chief Deputy

Michael W. Rinehart
Assistant Chief Deputy

Dauphin County
Harrisburg, Pennsylvania 17101
ph: (717) 255-2660 fax: (717) 255-2889

Jack Lotwick
Sheriff

Commonwealth of Pennsylvania : MILCHAK JAMES

vs

County of Dauphin : OFFICE OF THE ATTORNEY GENERAL

Sheriff's Return

No. 0300-T - - -2004

OTHER COUNTY NO. 04 56 CD

AND NOW: January 29, 2004 at 1:35PM served the within

PETITION TO EXPUNGE & RULE

upon

OFFICE OF THE ATTORNEY GENERAL

by personally handing

to CATHY STEHMAN (RECPT)

1 true attested copy(ies)

of the original

PETITION TO EXPUNGE & RULE

and making known

to him/her the contents thereof at 16TH FLOOR

STRAWBERRY SQUARE

HARRISBURG, PA 17104-0000

Sworn and subscribed to
before me this 29TH day of JANUARY, 2004

Stephen C. (Marina)

PROTHONOTARY

So Answers,

J R Lotwick

Sheriff of Dauphin County, Pa.

By

James D. Sullivan

Deputy Sheriff

Sheriff's Costs: \$35.25 PD 01/28/2004

RCPT NO 187236

GM/LV



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

ROBERT SNYDER
CHIEF DEPUTY
CYNTHIA AUGHENBAUGH
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK
PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 15000

JAMES R. MILCHAK

TERM & NO. 04-56-CD

VS

DOCUMENT TO BE SERVED:

COMMONWEALTH OF PENNSYLVANIA *al*

PETITION TO EXPUNGE & RULE

SERVE BY: ASAP
RULE: 2/25/04

MAKE REFUND PAYABLE TO: TIMOTHY E. DURANT, ESQ.

SERVE: COMMONWEALTH OF PENNSYLVANIA *and* PENNSYLVANIA STATE POLICE

ADDRESS: COMM.- Office of Atty. Gen., 16th Fl., Strawberry Square, Harrisburg, Pa. 17120
P.S.P.--Firearms Division, 1800 Elmerton Ave., Harrisburg, Pa. 17110-9759

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of
CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF
DAUPHIN COUNTY, Pennsylvania to execute this writ. This
Deputation being made at the request and risk of the Plaintiff this 23rd Day of
JANUARY 2004

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

DEPUTY SHERIFF'S EDUCATION & TRAINING ACCT. 1343

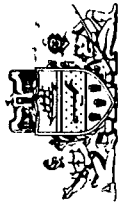
COURT No. 04-56-40
DATE JAN 23 200 4
RECEIVED OF Mitchak \$ 20.00

Vs. Comp
COMPLAINT _____
SUMMONS _____
EXECUTION /
PETITIONS _____
OTHER _____

P A 1 Dated at # 5043

JAN 22 2004

Myers
CHESTER A. HAWKINS, SHERIFF
CLEARFIELD COUNTY, PENNSYLVANIA



COUNTY OF DAUPHIN
HARRISBURG, PA.

J. R. LOTWICK
SHERIFF OF DAUPHIN COUNTY
OFFICIAL RECEIPT

RECEIPT NUMBER...187036
RECEIVED FROM...TIMOTHY E DRUANT ESO
DESCRIPTION...CIVIL ACTION-NOTICE
DOCKET NUMBER...03001 2004
DEFENDANT...PENNA STATE POLICE

RECEIPT DATE...01/28/2004
OPERATOR...HRH

COUNTY...*****32.75
STATE...*****00
AGENCY...*****2.50
TOTAL...*****35.25

CASH...*****00
CHECK...*****35.25

RECD. BY

J. R. Lotwick



PENNSYLVANIA STATE POLICE

DEPARTMENT HEADQUARTERS

1800 ELMERTON AVENUE

HARRISBURG, PENNSYLVANIA 17110

04-56-CD

February 23, 2004

THE HONORABLE FREDRIC J. AMMERMAN
COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD PENNSYLVANIA 16830

Re: Application of James R. Milchak
No. 04-56 (Civil Division)

FILED

FEB 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

*Filed per Judge
Ammerman's direction*

Dear Judge Ammerman:

This office has received notice of a petition filed pursuant to section 6105(f)(1) of the Uniform Firearms Act (UFA), seeking relief from a firearms disability imposed at 18 Pa. C.S. § 6105(c)(4). Please be advised that section 6105(f)(1) states that, "The court may grant such relief as it deems appropriate if the court determines that the applicant may possess a firearm without risk to the applicant or any other person."

It is the position of the Pennsylvania State Police (PSP) that, at this time, this agency is not in a position to offer evidence or argue a position regarding Petitioner's fitness to possess a firearm without risk to himself or others. The PSP trusts Your Honor's sound discretion in holding the Petitioner to the burden of proving that he no longer poses that risk or that there was insufficient evidence on which the involuntary commitment was based. Moreover, perhaps the county mental health administrator would be the appropriate party to address the issues raised by the Petitioner.

Therefore, we will not appear at the hearing in this matter. However, please be advised that this office has been provided with a certified copy of Petitioner's Involuntary Emergency Examination And Treatment Order, dated May 2, 2002, from the Clearfield/Jefferson Counties MH/MR Program that is the basis for Petitioner's firearm disqualification.

I trust you understand our position on this matter. Please be assured of our continued cooperation in matters of mutual concern. If you have any questions concerning this matter, please feel free to contact Mr. Mick Kelly, Pennsylvania State Police Firearms Division-Legal Unit, at 717-705-4541.

Very truly yours,

Lieutenant Joseph G. Elias
Director, Firearms Division

cc: Clearfield County District Attorney's Office
Clearfield/Jefferson Counties MH/MR
Timothy E. Durant, Esquire



PENNSYLVANIA STATE POLICE
DEPARTMENT HEADQUARTERS
FIREARMS DIVISION - LEGAL SECTION
1800 ELMERTON AVENUE
HARRISBURG, PENNSYLVANIA 17110



FAX TRANSMISSION COVER SHEET

TO: Judge Fredric Ammerman - Attn: Judy
Fax: 814-765-7649 Phone: 814-765-2641

FROM: PA State Police -- Firearms Division ATTN: MICK KELLY, Supervisor
FAX: 717-705-5539 Phone: 717-705-4541

RE: Rule to Show Cause Response regarding Milchak v. PSP

MEMO: See Attached Information -
Per our conversation, please find PSP's response regarding our appearance
and position in this matter.

Thank you for your consideration

FAX DATE: 24 February 2004

YOU SHOULD RECEIVE 2 PAGES, INCLUDING THIS COVER SHEET.

CONFIDENTIALITY NOTE: The documents accompanying this facsimile transmission contain information that is confidential and privileged and is intended only for the use of the addressee designated above. If you are not the intended recipient, you are hereby notified that disclosure, copying, distribution or taking of any action in reliance on the documents contained in this transmission is strictly prohibited.

If you receive this facsimile in error, please notify the Pennsylvania State Police at 717-705-4541 and return the original message by mail to the above-listed address.



An Internationally Accredited Law Enforcement Agency



PENNSYLVANIA STATE POLICE
DEPARTMENT HEADQUARTERS
1800 ELMERTON AVENUE
HARRISBURG, PENNSYLVANIA 17110

February 23, 2004

RECEIVED
PROTHONOTARY'S OFFICE
3-5-04
WILLIAM A. SHAW
PROTHONOTARY/CLERK OF COURTS

THE HONORABLE FREDRIC J. AMMERMAN
COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD PENNSYLVANIA 16830

Re: Application of James R. Milchak
No. 04-56 (Civil Division)

Dear Judge Ammerman:

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It is the position of the Pennsylvania State Police (PSP) that, at this time, this agency is not in a position to offer evidence or argue a position regarding Petitioner's fitness to possess a firearm without risk to himself or others. The PSP trusts Your Honor's sound discretion in holding the Petitioner to the burden of proving that he no longer poses that risk or that there was insufficient evidence on which the involuntary commitment was based. Moreover, perhaps the county mental health administrator would be the appropriate party to address the issues raised by the Petitioner.

Therefore, we will not appear at the hearing in this matter. However, please be advised that this office has been provided with a certified copy of Petitioner's Involuntary Emergency Examination And Treatment Order, dated May 2, 2002, from the Clearfield/Jefferson Counties MH/MR Program that is the basis for Petitioner's firearm disqualification.

I trust you understand our position on this matter. Please be assured of our continued cooperation in matters of mutual concern. If you have any questions concerning this matter, please feel free to contact Mr. Mick Kelly, Pennsylvania State Police Firearms Division-Legal Unit, at 717-705-4541.

Very truly yours,

Lieutenant Joseph G. Elias
Director, Firearms Division

cc: Clearfield County District Attorney's Office
Clearfield/Jefferson Counties MH/MR
Timothy E. Durant, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JAMES R. MILCHAK

Petitioner

vs.

**COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA STATE POLICE**

Respondent

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No. 04-56-CD

**MOTION REQUESTING
HEARING ON PETITION TO
EXPUNGE**

Filed on behalf of Petitioner
James R. Milchak

Counsel of Record for this
party:

Timothy E. Durant, Esquire
I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(314) 765-1711

FILED

APR 22 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JAMES R. MILCHAK
Petitioner

vs.

**COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA STATE POLICE**
Respondent

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No. 04- 56 -CD

MOTION REQUESTING HEARING ON PETITION TO EXPUNGE

AND NOW comes the Petitioner, James R. Milchak, by his attorney, and files this Motion requesting that this Honorable Court schedule an evidentiary hearing to determine whether the Petitioner's mental health record should be expunged, averring as follows:

1. On May 2, 2002, Petitioner was taken to DRMC West for an evaluation under Section 302 of the Mental Health Procedures Act (Act of July 9, 1976 (P.L. 817, No. 143) based upon information received from the Petitioner's wife Rosella E. Milchak who alleged that Petitioner was a suicide risk and a danger to her.

2. On May 3, 2003 Petitioner was discharged to go home with his wife and scheduled for outpatient follow up appointments to receive individual counseling and psychiatric evaluation. After his discharge from DRMC the Petitioner received but a single evaluation from Dr. Malahorta and was thereupon discharged from further treatment.

3. On July 29, 2002 and again on October 2, 2003 Petitioner was denied a License to Carry a Firearm by the Sheriff of Clearfield County based on information obtained through the

Pennsylvania Instant Checks System a/k/a PICS.

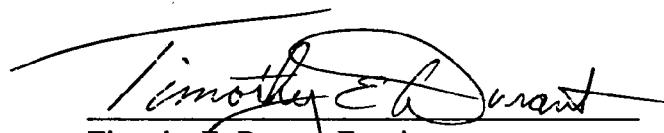
4. On January 13, 2004 the Petitioner filed a Petition To Expunge the 302 Order of May 2, 2002, having copies served on the above Respondent.

5. By letter dated February 23, 2004 the Respondent replied, by a letter to The Honorable Frederic J. Ammerman, to the Rule issued with regard to the afore mentioned Petition stating that they would not appear at any hearing scheduled on this matter.

WHEREFORE, it is respectfully requested that this Honorable Court schedule an evidentiary hearing to inquire as to why the record of the Petitioner's 302 commitment of May 2, 2002 should not be expunged from the records of the Pennsylvania State Police and any other agency that may be in possession of the same.

Respectfully submitted,

Dated: April 22, 2004


Timothy E. Durant, Esquire
Attorney For Petitioner

FILED

2cc

9/8:22 AM
APR 22 2004

Atty. Nysant

William A. Shaw
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JAMES R. MILCHAK

Petitioner

vs.

**COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA STATE POLICE**

Respondent

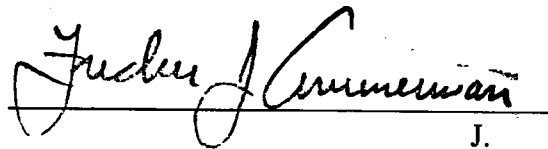
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No. 04- 56 -CD

ORDER OF COURT

AND NOW, to-wit, this 23rd day of April, 2004, upon consideration of Petitioner's Motion Requesting an Evidentiary Hearing on his Petition To Expunge, it is hereby:

ORDERED, ADJUDGED and DECREED that an evidentiary hearing is scheduled for the 13 day of May, 2004 at 2:00 ~~am~~ p.m. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania..


J.

FILED

APR 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

200

012-00334

Attly Durant

APR 26 2004

23

Western Union
P.O. Box 10000, Omaha, NE 68110

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JAMES R. MILCHAK
Petitioner

v.

No. 04-56-CD

COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA STATE POLICE
Respondent.

AND NOW THIS 27 day of May, 2004 it is the ORDER of this Court that Clearfield-Jefferson Mental Health-Mental Retardation provide to the Court certified copies of the contents of its file pertaining to the evaluation of James R. Milchak performed pursuant to Section 302 of the Mental Health Procedures Act, 50 P.S. § 7302, on or about May 2, 2002. Said certified copies shall be forwarded to the Court no later than 10 business days from receipt of this ORDER.

Pertinent identifying information is as follows:

1. Name: James R. Milchak
2. Date of Birth: 12/12/56
3. Social Security Number: 200-46-5265
4. Date of Evaluation: May 2, 2002

FILED

MAY 27 2004

William A. Shaw
Prothonotary

By the Court,


President Judge

FILED

O 10:00 AM

MAY 27 2004

William A. Shaw
Prothonotary

- ✓ 2 certified copies to Timothy Durant, Esquire
- 1 copy to President Judge Ammerman
- 1 LEFT TO BROOKLYN ~~NEW~~ JEFFERSON MENTAL HEALTH

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JAMES R. MILCHAK
Petitioner

vs.

COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA STATE POLICE
Respondent

No. 04- 56 -CD

FILED

JUN 03 2004

ORDER OF EXPUNGEMENT

William A. Shaw
Prothonotary

NOW, this 3rd day of June, 2004 and upon motion of Timothy E.

Durant, Esquire, attorney for petitioner, and after considering the testimony and evidence presented, and unopposed by the Pennsylvania State Police, it is ordered and decreed that the Commissioner of the Pennsylvania State Police shall destroy all the records in the files of the Pennsylvania State Police Department pertaining to the petitioner, and shall direct the Pennsylvania State Police and/or the Federal Bureau of Investigation (through the Pennsylvania State Police), to return all records of the petitioner held by them, and, upon receipt the Commissioner will also destroy these records in the presence of the petitioner and/or his attorney or this Court.

In Accordance with Rule 722 of the Rules of Criminal Procedure
The Petitioner's identifying information is as follows:

1. Name- James R. Milchak;
2. Date of Birth- 12/12/56;
3. Social Security Number- 200-46-5265;
4. Pennsylvania Driver's License Number- 17-576-236;
5. OTN- None;
6. District Justice Docket Number- None;
7. Court of Common Pleas Docket Number- None;

8. Specific Charges- Committed in Clearfield County on May 2, 2002, pursuant to §302 of the Mental Health Procedures Act;

9. Date of arrest- None;

10. Disposition- Released to home the following day;

11. The reason for the expungement-

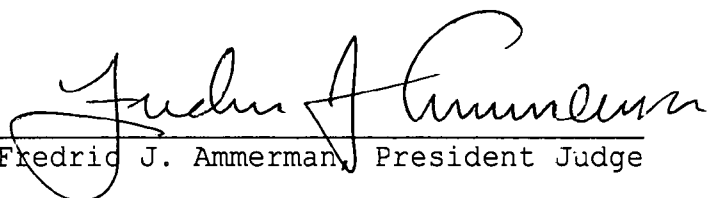
A. No record of the §302 Commitment exists in the Clearfield County Prothonotary's Office and therefore there is no proof that the examining physician has issued a certification that inpatient care was necessary or that the person (petitioner here) was committable. Consequently the involuntary commitment under §302 does not subject this petitioner to the prohibition of subsection (A) of §6105 [per Title 18 §6105(c.) (4)];

B. The petitioner/applicant has persuaded this court that he may possess a firearm without risk to the petitioner/applicant or any other person [per Title 18 §6105(F) (1)];

C. The §302 Commitment of applicant was not supported by the evidence [per Title 18 §6111.1(G) (2)] due to the absence of a record being filed in Clearfield County and also upon review of the 3 pages of medical records from Scott R. Turkin, M.D. dated May 9, 2002 as Transcribed on May 15, 2002.

12. The criminal justice Agencies upon which the certified copies of the order shall be served- The Pennsylvania State Police and The Federal Bureau of Investigation.

BY THE COURT:


Fredric J. Ammerman, President Judge

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William A. Shaw
Prothonotary

- ✓ 1 FAXED copy to Bill Mendat, MHMR (814) 265-1049 FAX; (814) 265-1060, x359
- ✓ 2 certified copies to Timothy Durant, Esquire
- ✓ 1 certified copy to DRMC Mental Health Unit 100 Caldwell Dr Dubois
- ✓ 1 certified copy to Brockway Jefferson Mental Health 1200 Wood St Brockway

617104 ICC to PSP Central Repository, Harrisburg

HP Fax Series 1020

Last Transaction Report
Name : COURT ADMINISTRATOR
Fax Number : 8147657649
Date&Time : Jun 03 2004 02:06pm

Last Fax

Date	Time	Type	Identification	Duration	Pages	Result
Jun 03 2004	02:05:35pm	Sent	8142651049	00:01:09	02	Ok

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JUN 03 2004

William A. Shaw
Prothonotary