

**IN THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA**

ADMINISTRATIVE ORDER NO. A-2022-29

**REGARDING CERTAIN PROCEEDINGS TO PROHIBIT THE
PURCHASE OF FIREARMS BY THE MENTALLY ILL**

AND

**RESCINDING, SUPERSEDING, AND REPLACING
ADMINISTRATIVE ORDER A-2014-4**

WHEREAS, Article V, Section 2(d) of the Florida Constitution, Section 43.26, Florida Statutes, Florida Rules of General Practice and Judicial Administration 2.215, charges the Chief Judge with the authority to promote the prompt and efficient administration of justice in the courts over which he or she is Chief Judge; and

WHEREAS, Florida Law provides that under certain conditions an individual who has been allowed to transfer to voluntary status after being admitted for involuntary examination at a Baker Act receiving facility and is certified by a physician to be of imminent danger to self or others may be prohibited from purchasing firearms or obtaining or retaining a license for a concealed weapon; and

WHEREAS, Section 790.065, Florida Statutes, governs the sale and delivery of firearms; and

WHEREAS, Section 790.065(2)(a), Florida Statutes, governs who can be denied a license to carry a concealed weapon or purchase a firearm, including the responsibilities of various individuals or entities in carrying out these provisions; and

WHEREAS, Section 790.065(2)(a)4.b.(II), Florida Statutes, establishes a procedure so that certain persons voluntarily admitted for mental health treatment will be prohibited from purchasing a firearm;

DBM

IT IS THEREFORE:

ORDERED ADMINISTRATIVELY as follows:

I. Voluntary Admission to a Mental Institution: In the event that a person voluntarily is admitted to a mental institution for outpatient or inpatient treatment, who had an involuntary examination under Section 394.463, Florida Statutes, and where each of the conditions found in Section 790.065(2)(a)4.b.(II) have been met:

a. Within 24 hours, the **Administrator** of the receiving or treatment facility must file, with the Clerk of the Circuit Court (Clerk):

- 1) The examining physician's written finding that the person is an imminent danger to himself/herself or others, including a description of the person's behavior that led to the finding;
- 2) The examining physician's certification that if the patient did not agree to voluntary treatment that a petition for involuntary outpatient or inpatient treatment would have been filed under Section 394.463(2)(g)4, Florida Statutes, or a petition for involuntary treatment was filed and the patient subsequently agreed to voluntary treatment prior to a court hearing on the petition;
- 3). Written notice, received prior to the patient agreeing to voluntary treatment, of the examining physician's finding and certification, and which contains a statement that the patient would be prohibited from purchasing a firearm and would not be eligible to apply for or retain a concealed weapon or firearm license under Section 790.06, Florida Statutes; and
- 4) The patient's written acknowledgment that he/she understands the above-described findings.

- b. No fee shall be charged for the filing

II. Computation of Time: For all purposes of this Administrative Order the 24-hour time-periods shall be computed as provided in Florida Rules of General Practice and Judicial Administration 2.514(a)(2).

III. Duties of the Clerk of Courts:

a. **Transmission by the Clerk of the record of finding, certification, notice and written acknowledgment to the Court:** The Clerk must present the records to a judge or magistrate within 24 hours after receipt of the records

b. **Transmission of court order to FDLE:** If, after determining that the record supports the classifying of the person as an imminent danger to himself or herself or others, a judge or magistrate orders the record to be submitted to FDLE, the **Clerk must transmit the Court's order to the Florida Department of Law Enforcement within 24 hours of receipt of the order.**

IV. Duties of the Judge or Magistrate: A judge or magistrate is required and has the lawful authority to review the records ex parte and, if the judge or magistrate determines that the record supports the classifying of the person as an imminent danger to himself or herself or others, to order the record be submitted to FDLE

a. The judge reviewing the matter shall use **Attachment A**, Confidential Ex Parte Order Directing Entry of Record in FDLE's Database of Persons Prohibited From Purchasing Firearms or **Attachment B**, Confidential Ex Parte Interim Order Requiring Further Documentation On Voluntary Commitment.

V. Clerk Procedures:

a. The Clerks of the Circuit Court (Clerks) are directed to comply with the statutory time periods as computed in accordance with Rule of General Practice and Judicial Administration 2.514(a)(2). This Rule excludes performance of duties on weekends, holidays, or during periods of time extended by the Chief Justice.

b. Upon receipt by the Clerk of the Circuit Court of a filing to exclude a voluntarily admitted patient from purchasing a firearm, the Clerk must, within 24 hours of receipt of the filing, present the filings to the Court.

c. The filings must be provided to the Judge whose regular docket assignment includes presiding over Baker Act hearings. Should that Judge be unavailable. The filing shall be brought to the Duty Judge.

d. In the event the Clerk has not received an order from the Court within 24 hours after submission of the filings to the judge(s) as described above, the Clerk is directed to forthwith notify the Chief Judge by telephone or e-mail. The 24-hour period shall be computed as provided in Rule of Judicial Administration 2.514(a)(2).

e. If the Court orders that the record be submitted to the Florida Department of Law Enforcement, the Clerk must submit it to the FDLE within 24 hours of receipt of the Order from the Court. The 24-hour period shall be computed as provided in Rule of Judicial Administration 2.514(a)(2).

f. The Clerks of Court are directed to

1). Track the number of submissions made under this Administrative Order.

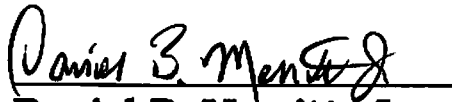
2). Report any problems with these procedures to the Chief Judge.

g. Nothing in this Administrative Order modifies the procedures for reporting involuntary admissions to mental institutions and the resulting prohibition on purchasing firearms by such persons.

IT IS FURTHER ORDERED:

Administrative Order A-2014-4 is hereby rescinded, superseded, and replaced. Rescission, supersession, or replacement of any administrative order does not put into effect any provision of a previously rescinded, superseded, or replaced administrative order.

DONE AND ORDERED in Chambers at Brooksville, Hernando County, Florida this 10th day of June 2022.


Daniel B. Merritt, Jr.
Chief Judge
Fifth Judicial Circuit

IN THE CIRCUIT COURT, FIFTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

IN RE: [NAME] _____

[ADDRESS] _____

CASE NO.: _____

**CONFIDENTIAL EX PARTE ORDER DIRECTING ENTRY OF RECORD
IN FDLE'S DATABASE OF PERSONS PROHIBITED
FROM PURCHASING FIREARMS**

THIS CAUSE came before the Court on _____ to determine if _____
(DATE) (NAME)

may be prohibited from purchasing a firearm because of his/her voluntary admission to a mental institution for outpatient or inpatient treatment after an involuntary examination under section 394.463, Florida Statutes.

The Court, having reviewed the following records:

_____ The examining physician's finding that the person is an imminent danger to himself/herself or others;

_____ The examining physician's certification that:

_____ if the person did not agree to voluntary treatment that a petition for involuntary outpatient or inpatient treatment would have been filed under section 394.463(2)(g)4, OR
_____ a petition for involuntary treatment was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition;

_____ The written notice of the examining physician's finding and certification that the person received prior to agreeing to voluntary treatment, and which contained a statement that he/she would be prohibited from purchasing a firearm and would not be eligible to apply for or retain a concealed weapon or firearm license under section 790.06; and

_____ 's written acknowledgment that he/she understands the above-described finding,
(NAME)
certification and notice;

FINDS the record supports the classification of _____ as an imminent danger to
(NAME)

himself/herself or others and hereby **ORDERS** that such record be submitted to the Florida Department of Law Enforcement in accord with Section 790.065, Florida Statutes.

The Clerk of Court is **DIRECTED** to forward the record and this Order to the Florida Department of Law Enforcement within 24 hours of the entry of this Order.

DONE AND ORDERED in Chambers, at _____, _____ County, Florida, this ____ day of _____, 20____, at ____:____ am/pm.

CIRCUIT JUDGE

Copies furnished to:

_____- [Name of Patient]
Receiving or Treatment Facility Administrator:

**IN THE CIRCUIT COURT, FIFTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA**

IN RE: [NAME] _____
[ADDRESS] _____
CASE NO.: _____

**CONFIDENTIAL EX PARTE INTERIM ORDER REQUIRING FURTHER DOCUMENTATION ON
VOLUNTARY COMMITMENT**

THIS CAUSE came before the Court on _____ to determine whether
[date]
_____ may be prohibited from purchasing a firearm because
[name]

of his/her voluntary admission to a mental institution for outpatient or inpatient treatment after an involuntary examination under section 394.463, Florida Statutes.

The Court, having reviewed the submitted documentation, **FINDS** as follows:

_____ The examining physician's finding that the person is an imminent danger to himself/herself or others is missing.

_____ The examining physician's finding that the person is an imminent danger to himself/herself or others lacks a description of the person's behavior that resulted in such a finding and must be supplemented.

_____ The examining physician's certification that if the person did not agree to voluntary treatment that a petition for involuntary outpatient or inpatient treatment would have been filed under section 394.463(2)(g)4, Florida Statutes, OR a petition for involuntary treatment was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition is missing.

_____ The written notice of the examining physician's finding and certification that the person received prior to agreeing to voluntary treatment, and which contained a statement that the person would be prohibited from purchasing a firearm and would not be eligible to apply for or retain a concealed weapon or firearm license under section 790.06 is missing.

_____ 's written acknowledgment that he/she understands the above-
[Name]
described finding, certification and notice is missing.

_____ 's written acknowledgment that he/she understands the above-
[Name]
described finding, certification, and notice contains the notation that the acknowledgment was refused.

_____ Other: _____.

Exhibit B- Fifth Judicial Circuit Administrative Order Number A-2022-29

Based on the incomplete record presented to the Court by the examining physician, the Court cannot at this time find that _____'s voluntary commitment procedure met the requirements of

[Name]

Section 790.065, Florida Statutes, so as to require that he/she be prohibited from purchasing a firearm or that his/her name be added to the FDLE's Mental Competency (MECOM) database.

It is therefore

ORDERED that the examining physician file with this Court adequate documentation of this voluntary commitment procedure within three (3) days. The Court reserves jurisdiction to enter further orders in this matter. It is further

ORDERED that a failure to timely file the documentation requested will result in:

☐ A dismissal of the matter with prejudice, without further order of this Court,

☐ The person's record will not be submitted to the FDLE database, and

☐ The person will not be precluded from purchasing a firearm because of a voluntary admission to a mental institution.

DONE AND ORDERED in Chambers, at _____, _____ County, Florida, this ____ day of _____, 201____, at ____:____ am/pm.

CIRCUIT JUDGE

Copies furnished to:
Receiving or Treatment Facility Administrator:

[Name of Patient]