IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-173

Filed 18 November 2026

Wake County, No. 22CVD601569-910

VICTORIA M. CRUZ, Plaintiff,

v.

JEREMIAH E. RUNKLE, Defendant.

Appeal by Third-Party Movant from order entered 14 August 2025 by Judge Kevin Boxberger in Wake County District Court. Heard in the Court of Appeals 16 September 2026.

Edward Eldred for Movant-Appellant.

No brief filed for Plaintiff-Appellee, pro se.

No brief filed for Defendant-Appellee, pro se.

GRIFFIN, Judge.

Third-Party Movant Matthew Runkle appeals the trial court's order denying his motion to return weapons surrendered under a domestic violence protective order. Mr. Runkle contends the trial court erred in its denial of his motion for two reasons. First, Mr. Runkle argues the timing of his motion does not operate as a mandatory bar to recovery. Second, Mr. Runkle argues the trial court wrongly concluded that

because he did not own the firearms when they were surrendered, he was not entitled to their possession. We vacate the order and remand.

I. Factual and Procedural Background

On 7 July 2022, Plaintiff Victoria Cruz filed a complaint for a domestic violence protective order against Defendant Jeremiah Runkle. The complaint stated that Defendant had several firearms, a permit to purchase firearms, and a permit to carry concealed weapons. The trial court entered a temporary *ex parte* domestic violence protective order directing Defendant to surrender the firearms, prohibiting Defendant from purchasing firearms, and suspending Defendant's permit to carry concealed weapons. The temporary *ex parte* order expired on 12 December 2022.

On 31 October 2024, Defendant filed a motion for return of the firearms surrendered under the protective order. The trial court relied on 18 U.S.C. § 922, which prohibits people from possessing weapons if they have been convicted of certain crimes, to deny the motion on 12 May 2025. The order denying the motion cited Defendant's convictions for assault on a female and driving while impaired as support.

Defendant gave all of his firearms and ammunition in writing to his father, Matthew Runkle, after his motion for return of weapons was denied. The next day, Mr. Runkle filed a motion by a third-party owner for the return of firearms. On 14 August 2025, the trial court entered an order denying Mr. Runkle's motion. In its order denying Mr. Runkle's request for the return of firearms, the trial court noted

Defendant had transferred the firearms to his father on the same day the first motion was denied. In addition, the trial court cited two considerations in its denial of the third-party motion: (1) the motion was filed after thirty days from seizure, and North Carolina General Statute section 50B-3.1(g) required that the motion be filed within thirty days of seizure, and (2) the third-party owner did not own the firearms on the date of seizure. Mr. Runkle timely appeals.

North Carolina General Statute section 50B-3.1(g), has been amended since the filing of the third-party motion in this case. *See* N.C. Gen. Stat. § 50B-3.1(g) (2026). The updated statute went into effect on 1 February 2026 and now provides that "[t]he motion may be filed at any time following the seizure of the items by the sheriff prior to their disposal." *Id.*

II. Analysis

Mr. Runkle makes two arguments on appeal: (1) time is not a bar to recovery, and (2) a sheriff may give weapons seized pursuant to a domestic violence protective order to a person who did not own the weapons on the date they were surrendered. We address both arguments.

A. Timing of Mr. Runkle's Motion

Mr. Runkle first contends that the timing of his motion does not operate as a mandatory bar to recovery. In support of this argument, Mr. Runkle notes that the relevant statute, North Carolina General Statute section 50B-3.1(g) was modified in July 2025. N.C. Gen. Stat. § 50B-3.1(g) (2025).

North Carolina General Statute section 50B-3.1(g) governs the process by which a third party may move for the return of firearms in possession of the sheriff that were seized as a result of the entry of a domestic violence protective order. N.C. Gen. Stat. § 50B-3.1(g).

At the time the trial court made its decision, the statutory language governing the procedure for filing such a motion read as follows: "[t]he motion must be filed not later than 30 days after the seizure of the items by the sheriff." N.C. Gen. Stat. § 50B-3.1(g) (2025).

In July 2025, the new statute was signed into law, which reads: "[t]he motion may be filed at any time following the seizure of the items by the sheriff prior to their disposal." N.C. Gen. Stat. § 50B-3.1(g) (2026). The difference in the statutes is the elimination of the thirty-day time limit for the filing of such a motion. Both versions of the statute contain additional language stating the trial court "shall order return of the items to the third party unless the court determines that the third party is disqualified from owning or possessing said items pursuant to State or federal law." *Id.*

For firearms surrendered before 1 December 2025, as in this case, the new statute became effective on 1 February 2026. N.C. Sess. Laws 2025-70, § 20(a)[1],

[1] "This section becomes effective [1 December] 2025, and applies (i) to firearms, ammunition, and permits surrendered on or after that date and (ii) beginning [1 February] 2026, to firearms ammunition, and permits surrendered before [1 December] 2025." Senate Bill 429, N.C. Sess. Laws 2025-70 § 20(b) (codified as amended at N.C. Gen. Stat. § 50B-3.1(g)).

When a statutory amendment occurs while a case is pending on appeal, the appellate court "must give effect to the new law." *State v. Pardon*, 272 N.C. 72, 76, 157 S.E.2d 698, 701 (1967) (citations omitted) (applying this principle in a criminal case). This may sometimes lead to a reversal of a judgment that was correct when rendered. *Id.* "[I]f subsequent to the judgment and before the decision of the appellate court, a law intervenes and positively changes the rule which governs, the law must be obeyed[.]" *United States v. Schooner Peggy*, 5 U.S. 103, 110 (1801); *see N.C. ex rel. Expert Discovery, LLC*, 287 N.C. App. 75, 90, 882 S.E.2d 660, 672–73 (2022) (determining that an intervening statutory amendment applied retroactively to a civil case pending on appeal).

Although statutes are presumed to have prospective effect, North Carolina recognizes the rule of statutory construction that "statutes relating to modes of procedure are generally held to operate retroactively, where the statute or amendment does not contain language clearly evincing a contrary legislative intent." *State v. Green*, 350 N.C. 400, 404–05, 514 S.E.2d 724, 727 (1999).

The Supreme Court of North Carolina has explained that "a right created solely by the statute may [generally] be taken away by its repeal or by new legislation." *McKinney v. Goins*, 387 N.C. 35, 49, 911 S.E.2d 1, 12 (2025) (citation omitted). Statutes that affect procedural rights only affect the remedy and not the actual right to recover. *Id.* "In other words, a plaintiff's underlying claim exists regardless of any procedural time bars the General Assembly prescribes for bringing

it." *Id.* at 51. The General Assembly has the "settled" power to "pass retroactive statutes affecting remedies." *Id.* (citing *Hinton v. Hinton*, 61 N.C. (Phil.) 410, 415 (1868)). "Procedural acts describe methods for enforcing, processing, administering, or determining rights, liabilities, or status." *Twadell v. Anderson*, 136 N.C. App. 56, 65, 523 S.E.2d 710, 717 (1999). Further, it is "well settled" that procedural legislation must be applied retroactively. *Id.*

Mr. Runkle notes that the most recent version of the statute supports the proposition that time does not operate as a mandatory bar to recovery. We acknowledge that the changed language of the statute shows an intent by the legislature to depart from the mandatory thirty-day time limit for a motion for the return of firearms by a third-party owner. *See Brown v. Flowe*, 349 N.C. 520, 522, 507 S.E.2d 894, 895 (1998) ("Legislative intent controls the meaning of a statute.") (citation omitted).

The statute here affects a procedural right that determines how a third-party owner may request the return of firearms "seized as a result of the entry of a domestic violence protective order." N.C. Gen. Stat. § 50B-3.1(g). It is procedural in nature because it provides the "method for enforcing" the return of firearms to a third-party owner. *Twadell*, 136 N.C. App. at 65, 523 S.E.2d at 717. The legislature expressly eliminated the thirty-day time limit for a motion for the return of firearms by a third-party owner when it amended the statute.

Thus, because the statute is procedural in nature, it should be applied retroactively. A statutory amendment may require an appellate court to apply the new law even if it leads to overturning a judgment that was correct when rendered. *See Pardon*, 272 N.C. at 76, 157 S.E.2d at 701; *see also State v. Currie*, 284 N.C. 562, 568, 202 S.E.2d 153, 157 (1974) (providing defendant the benefit of a statutory revision to the Felony Firearms Act that occurred after trial but while appeal was pending). Here, the statutory amendment occurred after the trial court's decision. We hold that the timing of Mr. Runkle's motion does not operate as a mandatory bar to recovery.

B. Transfer of Weapons to Third-Party Owner

Mr. Runkle argues a sheriff may give weapons seized pursuant to a domestic violence protective order to a person who did not own the weapons on the date they were surrendered. On 12 May 2025, Defendant gave all his firearms and ammunition to Mr. Runkle. The next day, Mr. Runkle filed his motion by a third-party owner for the return of firearms. In its order denying the motion, the trial court noted that "the third party did not own the firearms on the date of the seizure." This raises the question of whether Mr. Runkle can recover the firearms if he did not own them on the date of their seizure.

The relevant statutory language in North Carolina General Statute section 50B-3.1(g) provides that "[t]he court shall order return of the items to the third party unless the court determines that the third party is disqualified from owning or

processing said items pursuant to State or federal law." N.C. Gen. Stat. § 50B-3.1(g). The trial court did not determine that Mr. Runkle was disqualified from owning or possessing the weapons under state or federal law. Nothing in the statutory language of North Carolina General Statute section 50B-3.1 prohibits a defendant from transferring ownership to a third-party. At the time that the weapons were given from Defendant to Mr. Runkle, the domestic violence protective order had been expired for over two years.

Mr. Runkle relies on *Henderson* and *Gainey* as support for his argument, which both suggest that a defendant does not lose the right of alienation when he surrenders possession of firearms. *See Henderson v. United States*, 575 U.S. 622 (2015); *Gainey v. Gainey*, 194 N.C. App. 186, 188, 669 S.E.2d 22, 24 (2008). Specifically, he argues that possession is just "one of the proverbial sticks in the bundle of property rights;" thus, the owner is not prevented from transferring ownership to a third-party even though the guns were in the possession of the sheriff. *See Henderson*, 575 U.S. at 626. Although the owner loses the possessory interest—he retains the right of alienation—which is the "capacity to sell or transfer his guns, unaccompanied by any control over them." *Id.* at 628. Here, the trial court made the finding that "the third-party filing the motion is the owner of the weapons."

Gainey is instructive here. *See Gainey*, 194 N.C. App. at 187 n.1, 669 S.E.2d at 24 n.1. In *Gainey*, the defendant died during the pendency of the appeal, and the court noted that the sheriff must comply with North Carolina General Statute section

50B-3.1 by either "returning the firearms to the defendant's estate or heirs or in obtaining permission of the court for other disposition of the firearms." *Id.* This supports a holding that not all the property rights in the weapons transfer when they are seized pursuant to a domestic violence protective order. *Gainey* suggests that a defendant still retains the right of alienation even after surrendering possession. *See Henderson*, 575 U.S. at 628 (noting that a felon who has surrendered their possessory interest in firearms pursuant to 18 U.S.C. § 922(g) still retains a right of alienation).

Henderson explicitly cautions that "[a defendant] cannot evade the strictures of § 922(g) by arranging a sham transfer that leaves him in effective control of his guns." *Henderson*, 575 U.S. at 627. The same principle applies in this case. Here, Defendant transferred the firearms to his father, someone who is in close relation to him. Because of the close familial relationship between Defendant and his father, there could be potential for Defendant to use the weapons or control their use. The *Henderson* opinion suggests that a court can seek additional assurances in situations like this one. *Id.* at 630. A court may approve a motion like Mr. Runkle's "but only if, [the] disposition prevents [Defendant] from later exercising control over [the] weapons, so that he could either use them or tell someone else how to do so." *Id.*

Because Defendant never lost the right to alienation of the firearms, the conveyance of the firearms to Mr. Runkle was valid. The trial court made the finding that Matthew Runkle "is the owner of the weapons." Accordingly, Mr. Runkle is entitled to obtain ownership of the weapons if not otherwise disqualified by law.

Here, the trial court found that "[t]here was no evidence presented that the third-party claimant is disqualified from owning or possessing a firearm pursuant to 18 U.S.C. § 922 or any state law."

We hold that the trial court erred in denying the third-party motion for the return of firearms. The trial court found Mr. Runkle was not disqualified from owning or possessing a firearm. North Carolina General Statute section 50B-3.1(g) directs courts to order return of the items unless the third-party is disqualified from owning or possessing firearms. The fact that Mr. Runkle did not own the firearms on the date of seizure does not prohibit him from recovering them.

III. Conclusion

For the foregoing reasons, we vacate the trial court's order denying the third-party motion for the return of firearms pursuant to North Carolina General Statute section 50B-3.1(g). We remand so the trial court may consider the motion consistent with this opinion.

VACATED AND REMANDED.

Judges HAMPSON and WOOD concur.