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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-860

No. COA22-392

Filed 20 December 2022

Forsyth County, No. 21 CVD 2389

IN THE MATTER OF: RICHARD JONES

Appeal by Petitioner from order entered 5 August 2021 by Judge David E. Sipprell in Forsyth County District Court. Heard in the Court of Appeals 16 November 2022.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Meredith L. Britt, for the State.

James Barrett Wilson for Petitioner.

GRIFFIN, Judge.

¶ 1 Petitioner Richard Jones appeals from the trial court's order denying his petition for restoration of firearm rights. Petitioner argues that the trial court erred as a matter of law in finding that Petitioner did not satisfy the statutory criteria for restoration of his firearm rights. We affirm the trial court's order.

I. Factual and Procedural Background

¶ 2 Petitioner was convicted of the non-violent felonies of mail fraud and altering

an odometer of a motor vehicle in the United States District Court for the Middle District of North Carolina in 1984. On 29 April 2021, Petitioner filed to have his firearm rights restored in North Carolina pursuant to N.C. Gen. Stat. § 14-415.4. The trial court found that Petitioner did not meet the requirements of N.C. Gen. Stat. § 14-415.4 because he did not have proof that his federal right to possess a firearm had been restored. Petitioner conceded that he had no federal document proving that his rights had been restored. Therefore, the trial court concluded that Petitioner was “not eligible to have [his firearm rights] restored here on the state side” and denied his petition for restoration of firearm rights. Petitioner timely appeals.

II. Analysis

¶ 3 Petitioner argues that the trial court erred as a matter of law in denying his petition for restoration of firearm rights. He argues that North Carolina state law, not federal law, should be used to grant him the relief he requests. We disagree and hold that Petitioner is ineligible for restoration of his firearm rights according to the plain language of N.C. Gen. Stat. § 14-415.4.

A. Restoration of Firearm Rights

¶ 4 Pursuant to N.C. Gen. Stat. § 14-415.4(c), a petitioner convicted of “a nonviolent felony in a jurisdiction other than North Carolina” must meet two requirements to have his right to possess a firearm restored. N.C. Gen. Stat. § 14-415.4(c) (2021). The statute first requires that “a period of at least 20 years has

passed since the unconditional discharge or unconditional pardon of the person by the agency having jurisdiction where the conviction occurred.” *Id.* Second, it requires that “the person’s civil rights, including the right to possess a firearm, have been restored, pursuant to the law of the jurisdiction where the conviction occurred.” *Id.* Only the second requirement is at issue here. To meet this requirement, a petitioner must “show proof of the restoration of his or her civil rights and the right to possess a firearm *in the jurisdiction where the conviction occurred.*” N.C. Gen. Stat. § 14-415.4(b) (2021) (emphasis added).

¶ 5

Because Petitioner was convicted in United States District Court, federal law governs whether his right to possess a firearm has been restored. *See id.* Federal law imposes a ban on the possession of firearms for an individual who has been convicted by a crime punishable by imprisonment for a term exceeding one year. 18 U.S.C. § 922(g)(1). To obtain relief from the federal firearms ban, a convicted individual “may make application to the Attorney General for relief . . . with respect to the acquisition, transfer, shipment, transportation, or possession of firearms.” 18 U.S.C. § 925(c). However, since 1992 Congress has precluded appropriated funds from being used “to investigate or act upon applications for relief from [f]ederal firearms disabilities” under 18 U.S.C. § 925(c). Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, 136 Stat. 118; *United States v. Bean*, 537 U.S. 71, 74 (2002). Thus, there is no current procedure under federal law to enable a convicted

individual to restore his firearm rights. *See Beecham v. United States*, 511 U.S. 369, 372–73 (1994).

¶ 6

Petitioner argues that because federal law does not provide him a remedy, that North Carolina state law should be used to restore his firearm rights. We disagree. Under the plain language of N.C. Gen. Stat. § 14-415.4(c), an individual’s firearm rights can only be restored “pursuant to the law of the jurisdiction where the conviction occurred.” Petitioner has conceded that he does not have a federal document that proves restoration of his federal firearm rights. North Carolina state law regarding restoration of an individual’s firearm rights is inapplicable to a felon convicted in federal court. We agree with the trial court that, because Petitioner has not had his federal firearm rights restored, he cannot have his firearm rights restored in North Carolina based on the requirements of N.C. Gen. Stat. § 14-415.4(c).

III. Conclusion

¶ 7

The trial court properly denied Petitioner’s petition for restoration of his firearm rights. Because Petitioner has not had his federal firearm rights restored, he is ineligible to have his firearm rights restored in North Carolina.

AFFIRMED.

Judges ZACHARY and HAMPSON concur.

Report per Rule 30(e).