



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION

FISH AND WILDLIFE
OFFICE OF THE ASSISTANT COMMISSIONER

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PHILIP D. MURPHY
Governor

SHAWN M. LATOURETTE
Commissioner

TAHESHA WAY
Lt. Governor

October 2, 2023

Richard Petteruti
[REDACTED]
Port Murray, NJ 07865

Dear Mr. Petteruti;

The records of NJDEP Fish and Wildlife indicate you have been convicted of the following violations of the Fish and Game laws of New Jersey:

N.J.A.C. 7:25-5.6(a) Did hunt/take black bear during closed season
Conviction Date: 9/5/2023

N.J.A.C. 7:25-5.6(a)4 Did possess/use an illegal missile white hunting black bear
Conviction Date: 9/5/2023

N.J.S.A. 23:4-16(d) Did possess a loaded firearm within 450 feet of an occupied building.
Conviction Date: 9/5/2023

N.J.S.A. 23:4-13.1 Failure to wear fluorescent orange garment while firearm hunting
Conviction Date: 5/8/2023

N.J.S.A. 23:3-22 provides that upon a second conviction for violation of the Fish and Game Code or the Fish and Game laws of this or any other state within five years of the first such conviction, any fishing or hunting or bow and arrow license held by the person so convicted shall be void upon the date of the second conviction for two years. A third or subsequent violation of the fish and game laws and regulations will result in a period of three years during which licenses will be void from the date of a third or subsequent conviction.

This notice of license revocation letter serves to inform you that due to the convictions listed above, your privileges to purchase all hunting, freshwater fishing and bow and arrow licenses, and any of these licenses or permits currently held by you **are void automatically by operation of law** as of 9/5/2023. Assuming that you commit no new violations, you may apply for a new hunting, fishing or bow and arrow license on 9/5/2025.

If you have evidence that indicates that the conviction record above is in error or you are not the person so convicted, please contact NJDEP Fish and Wildlife, Bureau of Law Enforcement at (609) 259-3347.

Although your revocation is by operation of law, N.J.S.A. 23:3-22.1 provides that you may petition the Fish and Game Council for an order of early license restoration. The forms required to file your petition are available at: https://dep.nj.gov/wp-content/uploads/njfw/license_restoration_petition.pdf. When completing your petition, provide all facts, documentation, and arguments that the Council will need to make a decision. Please carefully review and complete the petition checklist form and attach any supporting documentation. The petition checklist form must be fully filled out and signed before processing. The Council will not hear your petition until it has received a complete petition.

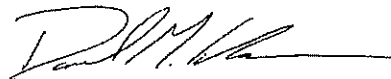
The purpose of the petition is not to challenge the convictions that triggered the automatic license revocation. Rather, the hearing is an opportunity for you to demonstrate why, despite the fact that you were convicted of the violations, early restoration of your license privileges is appropriate because the violations were minor and/or there were other extenuating circumstances. If you have any questions about the petition or the Council meeting, please contact Captain Linda Quirk at the above address or call (609) 259-3347.

Going forward please be aware, under N.J.S.A. 23:3-22 subsequent violation of the fish and game laws and regulations will result in a period of three years during which your licenses will be void from the date of your subsequent conviction. Furthermore, if you are convicted of fishing or hunting under such a voided license during the period of invalidity you will be subject to a penalty of \$100.00 for each offense.

Under N.J.S.A. 23:3-1.e, farmers are exempt from the requirements for a fishing, bow and arrow, and firearm license **when hunting and fishing on the farm on which they reside** during the time and in the manner provided by law. This farmer license exemption means that despite this license suspension you may hunt on your farm only during the seasons for which no permit is required, for example: fall bow, winter bow, and Six-day firearm deer seasons, and small game hunting seasons. Hunting during seasons that require a permit, including a free occupant farmer permit is not allowed, for example: permit bow, permit muzzleloader, and permit shotgun deer seasons, spring and fall turkey seasons, special goose seasons, and the coyote and fox special permit season.

New Jersey is a member of the Interstate Wildlife Violator Compact (N.J.S.A. 23:13-1 et seq.). Under the Compact, your license suspension has been communicated with the other member states. The Compact enables member states to apply license and wildlife privilege suspensions as if the convictions occurred within that state. If you intend to hunt, fish, or otherwise take wildlife in another state, it is your responsibility to first contact that state's licensing authority to determine your license or privilege status in that state.

The Department recommends you keep this letter for your records.



David M. Golden,
Assistant Commissioner

DG/lq
c. file



NJ Department of Environmental Protection

Division of Fish and Wildlife

Early License Restoration Order Petition Form

This form is to be used by those petitioning the NJ Fish and Game Council for restoration of fishing and/or hunting privileges which are currently revoked. Note that a person is ineligible to petition the Council for early license restoration if he or she has been convicted of the following:

- any violation of N.J.S.A. 23:7-3
- any violation of N.J.S.A. 23:9A-2
- two violations of the same statute at N.J.S.A. 23:4-16(d), N.J.S.A. 23:7-1, and N.J.S.A. 23:7-9.

The form can be printed and completed by hand, or completed online (except for signatures) and printed. Completed forms should be mailed to the address at the end of the form.

PETITION TO THE FISH AND GAME COUNCIL FOR AN EARLY LICENSE
RESTORATION ORDER

Section I. Petitioner Information (Please print legibly)

Name of Petitioner: <div style="font-size: 1.2em; font-family: cursive;">RICHARD PETTERUTI</div>	
Address: <div style="background-color: black; width: 300px; height: 20px; display: inline-block; margin-right: 10px;"></div> MANSFIELD TOWNSHIP PORT MURRAY N.J. 07865	
Telephone Number: <div style="background-color: black; width: 250px; height: 20px; display: inline-block;"></div>	Date of birth: <div style="background-color: black; width: 150px; height: 20px; display: inline-block;"></div>

Attorney Name (if applicable): EVAN F. NAPPEN (ATT: ALI HOMAYOUNI ESQ)	
Address: 21 THROCKMORTON AVE. EATONTOWN, N.J. 07724	
Telephone Number: 732-389-8888	

Violation 1 listed on Notice of Revocation Letter	N.J.S.A./N.J.A.C. <u>7:25-5.6(A)</u> did hunt/take BLACK BEAR DURING CLOSED SEASON Date of Conviction: <u>9-5-2023</u>
Violation 2 listed on Notice of Revocation Letter	N.J.S.A./N.J.A.C. <u>7:25-5.6(A)</u> USE AN ILLEGAL MISSILE WHILE HUNTING BLACK BEAR Date of Conviction: <u>9-5-2023</u>

VIOLATION 3 N.J.S.A./N.J.A.C. 23:4-16(d) POSSED A LOADED FIREARM WITHIN
450 FT
DATE OF CONVICTION 9-5-2023

VIOLATION 4 N.J.S.A./N.J.A.C. 23:4-13.1 FAILURE TO WEAR ORANGE WHILE
HUNTING
DATE OF CONVICTION 5-8-2023

Section II. Petition Overview Checklist

Please use this checklist to ensure that your petition is complete. The last two items on the list are optional and are opportunities to attach supplementary evidence or speak to the Council in person at the public meeting in addition to the information provided in this petition.

The Council will not schedule your petition for discussion at a public meeting until this petition is complete.

- ☒ I have attached a copy of the notice of license revocation letter which informed me of the opportunity to petition for early restoration.
- ☒ I have provided reasons in support of my petition by describing the minor nature of the violation(s) and/or other extenuating circumstances, and have signed to attest to the truth and accuracy of my reasons. (Section III. below)
- ☒ I have signed Petitioner's Certification as to Notice of Potential Public Disclosure. (Section IV. below)
- ☒ Optional: I have chosen to attach supplementary evidence supporting my petition.
- ☒ Optional: In addition to this paper petition, I also wish to speak to the Council in person at the public meeting. *I would only want to accept this option if it would help my case or would be necessary for approval of my petition. I would further want the council to know that I have hunted in N.J. every year since 1960 and have never had any issue with a conservation officer and did in fact small game hunt with C.O.s in the past.*

Section III. Statement of Reasons in Support of the Petition for Early Restoration

Please select the applicable circumstance(s) below and describe the reasons supporting your petition in detail. You may attach additional sheets if necessary. I am petitioning the Fish and Game Council for early restoration of my license(s) because:

☒ the violations were minor in nature AND/OR

☒ there were other extenuating circumstances SEE LAST PAGE

The violations were minor in nature because / the extenuating circumstances are as follows:

Section IV. Petitioner's Certification as to Notice of Potential Public Disclosure

All personal identifying information (e.g. identity, name, address, social security number, telephone number, fax number, driver's license number, email address) received by the Division in connection with the issuance of any license authorizing hunting with a firearm is confidential pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and therefore cannot be disclosed when someone makes a request for public records. Please be aware however that such information is not protected from public disclosure during Council meetings under the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. or at hearings before the Office of Administrative Law. The Council or the Office of Administrative Law may need to publicly discuss your identity and firearm license, ownership, and/or possession if such information is pertinent to deciding your petition. Please certify below that you have received notification of the possibility of disclosure of such information at the public meeting and hearing on your petition.

I certify that I understand the meeting(s) or hearing(s) on my petition for an early license restoration order are public, and that my identity and the fact that I might have or currently possess a firearm could be disclosed to the public during the course of said meeting(s)/hearing(s) if such information is related to the violation(s) and/or extenuating circumstances. Despite the possibility of such public disclosure I wish to petition the Council for early license restoration.

Richard Petteruti

Petitioner Certifying Signature (Section IV.)

Oct 7, 2023

Date

Please mail this completed, fully signed, and dated Petition for an Early License Restoration Order to:

**NJ Fish and Game Council
Attn: License Restoration Petitions
Mail Code 501-03
PO Box 420
Trenton, NJ 08625-0420**

Print

OVER

1. VIOLATION #1.

I had received Depredation permits for bear in the past but always after damage was done extensively. In 2022 I tried to get a permit in May but the permit was denied because damage was not yet evident.

2. VIOLATION #2.

I was not hunting but sitting in my kitchen and my grandson was playing in my backyard when my grandson came running into the house chased by a bear. The bear came to within 40ft of my house and I got the only weapon available that was not locked up. It was a 6mm rifle, not a good bear gun but the most available. I shot the bear from my back door.

3. Violation #3

I had permission verbally in the past from my neighbors to shoot. I was shooting in a safe direction in my mind so I shot when it was safe. My backyard door is around 400 FT from the neighbor who complained and I still did not think I was hunting.

4. Violation #4

I was small game hunting and was wearing a orange vest and orange hat. I did not realize that they had faded so they did not meet the requirements of the law.

The above statement of reasons and any attachments thereto are true and accurate to the best of my knowledge.

Richard Petterute

Petitioner Signature (Section III.)

OCT 7, 2023

Date

SEE LAWYERS LETTER DATED 9-29-2023
ATTACHED

21 THROCKMORTON AVE
EATONTOWN, NJ 07724
WWW.EVANNAPPEN.COM

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ALI HOMAYOUNI
NJ & NY BARS
ALI@EVANNAPPEN.COM

September 29, 2023

sent via email and regular mail

Fish And Game Council
P.O. Box 420
Trenton, N.J. 08625

Re: State v. Richard Petteruti, DFW-129392-2116, 129393-2116, 129394-2116,
129407-2116, 129408-2116

Request for restoration of
hunting license

Dear Honorable Members,

My office represented the applicant Richard Petteruti in the above-entitled matter at the Mansfield Township Municipal Court. Mr. Petteruti had his hunting privileges suspended as of September 5, 2023 for a period of two years. He is appealing to this Council to restore those privileges. I am writing on behalf of Mr. Petteruti to explain why he should receive an early restoration of his hunting privileges. It should be said at the outset that I do not provide a letter or any further assistance or guidance to every aggrieved hunter/former client who had his privileges temporarily suspended. But Mr. Petteruti's case is different.

The suspension stemmed from two separate hunting incidents last year, one in February 2022 and another in June 2022. As to the February 2022 incident, Mr. Petteruti was cited and pled guilty to not having the proper shade of fluorescent orange on his outer clothing, as required by the relevant regulations. The relevant regulation calls for a hunter of wild game to wear "hunter's orange" of 200 square inches. Hunter's orange is defined as "a daylight fluorescent orange color with a dominant wave length between 595 and 605 nanometers, excitation purity not less than 85%, and luminance factor of not less than 40%." N.J.S.A. 23:4-13.1(b).

Mr. Petteruti should be forgiven that his hunter's orange was within the correct wave length of orange required by the regulation. When a hunter buys hunting clothes with fluorescent orange, it is assumed by that hunter that those clothes would not be sold if they were not otherwise compliant with the relevant

regulations. In addition, there is no manual or other labeling that Mr. Petteruti is aware of at the time of purchase that in the event that the hunter's orange fades outside the acceptable range, that he needs to purchase new hunter's orange clothes. What is the acceptable range for hunter's orange is not something that all hunters would naturally know. The relevant regulation is not widely published to the extent that someone in Mr. Petteruti's position would likely become aware of it.

As to the June 6, 2022 incident, Mr. Petteruti's circumstances are even more sympathetic. For several years before the incident, Mr. Petteruti's fruit trees were being significantly damaged or destroyed by black bears. Mr. Petteruti lives close to the habitation of black bears and has fruit trees on his property. On many occasions these bears would invade his property and significantly damage his fruit trees. See attached. As a result, Mr. Petteruti began to apply for a bear depredation permit before this incident, as allowed by relevant regulation. N.J.A.C. 7.25-5.6(a)(iv). The bear depredation permit allows individuals in the position of Mr. Petteruti to kill one black bear per permit, as stated on the form itself, as a form of population control. The bears that come onto his property can be properly classified as a Category 1 or Category 2 black bears, according to this Council's 2010 Bear Management Policy. In other words, a situation worthy of a bear depredation permit.

Nonetheless, a month before the incident his application for a permit was denied by a representative from the Department of Fish and Wildlife due to lack of any damage to his fruit trees. There is no rule or regulation that Mr. Petteruti is aware of that requires that damage first occur before such a permit could issue. Certainly Mr. Petteruti was not aware of any such requirement and any such requirement seems to defeat the purpose for classifying a black bear in advance as a Category I or Category II black bear. Mr. Petteruti believed that the whole point of the permit was to prevent damage before it occurred. Oddly enough, Mr. Petteruti was given just such a permit two months after the incident at issue (August 2022) without the need to prove destruction of his property, likewise for his latest permit that was issued in July 2023.

On June 6, 2022, shot and killed a black bear that had come onto his property. If Mr. Petteruti had a bear depredation permit issued to him on that day, then he could not have been justifiably cited for hunting a black bear during closed season. On that day, Mr. Petteruti was spending time with his grandson on Mr. Petteruti's property. He had no intention of hunting for black bears or any wild game for that matter. His grandson then ran toward Mr. Petteruti to inform him that he had just seen a black bear. Mr. Petteruti was instinctively concerned for the

safety of his grandson. Even though the bear was some distance from his grandson at the time, it was approaching closer and closer to Mr. Petteruti's property and his grandson.

Mr. Petteruti grabbed the only firearm available at the time, a rifle, and shot at the bear, leading to its eventual death after several minutes being shot. Mr. Petteruti would not have used a rifle if a shotgun was instead available, as required for the exercise of the privilege of shooting a black bear. But again, given the lack of a permit, he was not expecting the need to have a shotgun close by if a black bear came on to his property again. But a perceived threat to his grandson is different. If under the criminal law, reasonable force to protect a third party is justified, N.J.S. 2C:3-5, so much so in a civil case such as the one before this Council.

Mr. Petteruti was also found to be in violation of the rule against having a loaded firearm within 450 feet of an occupied building, N.J.S.A. 23:4-16(c). Mr. Petteruti has three neighbors within 450 feet of his residence, from which he shot the bear. Mr. Petteruti believed that he had consent from all his neighbors, but he never received written consent from any as required by the statute. The basis for his belief was that he informed his neighbors of his problem and they did not inform him that they object to any method he chose to check any bear's encroachment on his property. He was not aware of the written consent requirement of the statute.

As it turned out, two out of his three neighbors denied that they had given any consent when the conservation officers came on scene to investigate. Whether there was any pressure or felt intimidation by those two neighbors to deny consent ever being given in any shape or form is not known, but if Mr. Petteruti knew that he needed written consent in advance, he would made efforts to procure it. If he could not have received written consent after trying, then he would not have had a loaded firearm on his property within the safety zone of his neighbors at the time of the incident, because he is not someone who would intentionally violate any hunting. Mr. Petteruti has been an avid hunter his whole life without incident and these two incidents in February and June 2022 were his very first and second violations ever after decades of hunting without incident.

Mr. Petteruti fully cooperated with the officers' investigation, going into detail about the circumstances of his encounters with the black bear, when questioning by the officers focused on the dead black bear, his efforts to procure a depredation permit, and his admission that he shot the black bear. Mr. Petteruti signed a consent search form to search his property and handed over his firearm to the officers without issue.

The wrongful denial of the permit to Mr. Petteruti, the concern for the physical safety of his grandson, and the belief that he had verbal consent from his neighbors to use his firearm within their safety zone are all reasons why Mr. Petteruti should be given another opportunity, at his age (Mr. Petteruti is a senior citizen), to have his hunting privileges immediately restored under any reasonable condition that this Council would deem appropriate.

Respectfully submitted,
Evan F. Nappen, Attorney At Law, P.C.

A handwritten signature in cursive script, reading "Ali Homayouni".

Ali Homayouni, Esq.
For the Firm