

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

For Official Use Only - Bar Code

Motion for Return of Property

See Pa.R.Crim.P. 588 and Phila. Crim. Rule 588

Motion Must Be Filed with the Office of Judicial Records, Criminal Justice Juanita Kidd Stout Center for Criminal Justice 1301 Filbert Street, Motions Counter (Second Floor) Philadelphia, PA 19107

NAME OF PETITIONER (Person filing this Motion) PP NO. PETITIONER'S CURRENT ADDRESS TELEPHONE NO.

MOTION FOR RETURN OF PROPERTY-REQUEST FOR POST-DEPRIVATION HEARING

1) I, the above named Petitioner, request this Honorable Court to return the property described and identified below, and represent that I am entitled to lawful possession of the property and further aver as follows: 2) NAME AND ADDRESS OF PERSON IN POSSESSION OF THE PROPERTY WHEN SEIZED:

POLICE PROPERTY RECEIPT NUMBER DATE PROPERTY SEIZED LOCATION OF PROPERTY WHEN SEIZED NAME OF LAW ENFORCEMENT OFFICER WHO SEIZED PROPERTY, IF KNOWN BADGE NUMBER, IF KNOWN

DESCRIPTION OF PROPERTY ADDRESS OF PROPERTY, IF PROPERTY SEIZED IS REAL ESTATE VIN NUMBER, IF PROPERTY SEIZED IS A MOTOR VEHICLE

ARE THERE ANY PENDING MATTERS RELATED TO THE SUBJECT PROPERTY (SUCH AS FORFEITURE)? LIST ANY RELATED CRIMINAL CASE(S)

3) I am requesting return of the above property for the following reasons (be as specific as possible): You may attach additional pages or documentation

HEARING REQUEST - Choose One

I am filing this Motion to preserve my right to request the return of the seized property. I do not want a hearing on this Motion to be scheduled at this time. I or my attorney will inform the Office of Judicial Records when to schedule a hearing on this Motion. I request a prompt hearing because I cannot wait for the end of any pending criminal and/or forfeiture case(s) to have the property returned, and ask that the Court order the return of the seized property to me at this time for the following reasons (be as specific as possible):

You may attach additional pages or documentation

VERIFICATION

I, being duly sworn according to law, depose and say that I am the Petitioner in this action and that the facts and statements I have provided in this Motion for Return of Property are true and correct to the best of my knowledge, information and belief. I verify that the statements made are true and correct. I understand that any false statements I have made in this Motion are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date Name of Petitioner Signature of Petitioner

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS – TRIAL DIVISION**

MOTION FOR RETURN OF PROPERTY-POST DEPRIVATION HEARING

The owner of property seized by law enforcement officers may file a *Motion for Return of Property* regardless of whether criminal charges were filed against the owner or person in possession of the property when the property was seized. See PA. Rule of Crim. Procedure 588 and Phila. Crim. Rule 588 for additional information. In the event the Owner/Petitioner believes he/she is entitled to have the property returned promptly, before disposition of any pending criminal and/or forfeiture action(s), the Owner/Petitioner may request a prompt hearing as part of the *Motion*.

If you believe you are entitled to lawful possession and the return of the seized property to you:

1. Complete and sign the *Motion for Return of Property*, make one copy, attach a copy of the Police Property Receipt, and file with the Office of Judicial Records, Justice Juanita Kidd Stout Center for Criminal Justice, 1301 Filbert Street, Motions Counter (Second Floor), Philadelphia, PA 19107. You must pay the filing fee of \$12.50.
2. Please select only **one** of the Hearing Request options. Unless you indicate that you are filing the *Motion* merely to preserve your right to request the return of the seized property, the Office of Judicial Records will schedule a hearing as promptly as possible after you file the *Motion* and will notify you of the hearing date.
3. The District Attorney's Office and the Pennsylvania Attorney General's Office, as applicable, have agreed to accept service of the *Motion* from the *Office of Judicial Records*.
4. On the hearing date, you **must** appear and be ready to prove to the assigned judge that you are entitled to return of your property, either on a temporary basis or permanently. If you fail to appear on the hearing date, your *Motion* will be dismissed or denied.
5. You will be given a copy of the order issued by the judge, either granting or denying your *Motion*.
6. If your *Motion* is granted, and the Philadelphia Police Department has been ordered to return your property, you must contact the District Attorney's Office, Forfeiture Unit, Three South Penn Square, Philadelphia, PA 19107 to make arrangements for the return of your property.
7. If your *Motion* is granted, and the Pennsylvania State Police or by the Office of the Attorney General have been ordered to return your property, you must contact the Pennsylvania Attorney General, Asset Forfeiture and Money Laundering Section, 7801 Essington Avenue, Philadelphia, PA 19153 (Phone: 215-937-1346) to make arrangements for the return of your property.

PLEASE NOTE

**An attorney will not be appointed for you in connection with your
Motion for Return of Property.**

**You may represent yourself or you may hire an attorney to assist and represent you.
If you fail to provide all required information or fail to appear for the scheduled
hearing, your *Motion for Return of Property* will be denied or dismissed.**

Pa.R.Crim.P. Rule 588. Motion for Return of Property

(A) A person aggrieved by a search and seizure, whether or not executed pursuant to a warrant, may move for the return of the property on the ground that he or she is entitled to lawful possession thereof. Such motion shall be filed in the court of common pleas for the judicial district in which the property was seized.

(B) The judge hearing such motion shall receive evidence on any issue of fact necessary to the decision thereon. If the motion is granted, the property shall be restored unless the court determines that such property is contraband, in which case the court may order the property to be forfeited.

(C) A motion to suppress evidence under Rule 581 may be joined with a motion under this rule.

Comment: A motion for the return of property should not be confused with a motion for the suppression of evidence, governed by Rule 581. However, if the time and effect of a motion brought under the instant rule would be, in the view of the judge hearing the motion, substantially the same as a motion for suppression of evidence, the judge may dispose of the motion in accordance with Rule 581.

Philadelphia Criminal Rule 588. Motion for Return of Property. Post Deprivation Hearing.

(A) Any person aggrieved by a search and seizure may move for the return of the property seized by filing a motion with the Trial Division, Criminal regardless of whether criminal charges have been filed against the owner of the property or the person in possession of the property. The relief requested may be interim (i.e. return of the property pending disposition of the criminal case or the forfeiture petition), or permanent in nature.

(B) In the event criminal charges have been filed against the owner of the property or the person in possession of the property, the motion shall be filed utilizing the CPCMS number assigned to the underlying case. If criminal charges have not been filed against the owner or person in possession of the property, a Miscellaneous Docket number shall be assigned through CPCMS.

(C) The filer shall serve the Commonwealth through the District Attorney's Office, and shall file an Affidavit of Service.

(D) Upon receipt of the Affidavit of Service, the Office of Judicial Records shall schedule a prompt hearing on the motion and shall notify the Commonwealth and the filer.

(E) The assigned judge may require the filing of an Answer.

(F) In the event a forfeiture petition was filed by the Commonwealth before the filing of a motion for the return of property, the motion(s) shall be assigned to the same judge for disposition, as practicable.

Note: Issued on August 11, 2016 as Administrative Order No. 02 of 2016 by Trial Division Administrative Judge Jacqueline F. Allen. Published in *The Pennsylvania Bulletin* August 27, 2016, effective September 26, 2016.