

APPENDIX

TABLE OF CONTENTS

The State’s Sixth Supplemental Petition filed
against Petitioner (Redacted)..... 1a

Juvenile Court’s Order Adjudicating the
State’s Sixth Supplemental Petition
(Redacted) 4a

Chart of State Juvenile-Offender-in-
Possession Statutes and Juvenile Jury
Laws 8a

**The State's Sixth Supplemental Petition filed
against Petitioner (Redacted)**

IN THE SEPARATE JUVENILE COURT OF
LANCASTER COUNTY, NEBRASKA

THE STATE OF NEBRASKA CASE ID: JV17-372
IN THE INTEREST OF

ZOIE __. _____, SIXTH SUPPLEMENTAL
PETITION

A JUVENILE

7. Theft by Unlawful Taking, \$5,000 or more
28-511; 28-518(1) FEL2A

Comes now Maureen E. Lamski, Deputy County Attorney of Lancaster County, Nebraska, and alleges and shows to the Court that the above named juvenile in Lancaster County, born August, 2003, is a person as defined by Nebraska Revised Statutes § 43-247(2), by reason of the following facts:

Zoie __. _____. on, about, or between November 22, 2018 and November 28, 2019, in the County of Lancaster and State of Nebraska, then and there being, did take or exercise control over movable property of another with the intent to deprive him or her thereof, having a value of five thousand dollars or more, to wit: property of Veronica Adden, in violation of provisions of Neb. Rev. Stat. § 28-511, 28-518(1).

The name and address of the parents of said juvenile are as follows:

Father: _____

Mother: _____

The parents do not have custody and the name and address of the custodians of said juvenile who should receive a summons are:

WHEREFORE, your petitioner prays that a summons be issued and served upon the juvenile and the parents and persons having custody of said juvenile requiring them to appear before this Court with said juvenile, at a time and place to be stated in said summons for hearing to determine whether the allegations of the petition are true and that the Court make such orders concerning the care, custody and control of said juvenile as may be deemed proper, including ability and liability for child support if said juvenile is placed out of the parental home.

STATE OF NEBRASKA,
Petitioner, Patrick F.
Condon, Lancaster Co-
ounty Attorney,

/s/ Maureen E. Lamski
Maureen E. Lamski,
#22243
Petitioner

STATE OF NEBRASKA)
) ss.

3a

LANCASTER COUNTY)

MAUREEN E. LAMSKI, of lawful age, being first duly sworn, on oath deposes and says that he/she has read and signed the above complaint and petition: that to the best of affiant's information and belief the statements therein made are true.

/s/ Maureen E. Lamski
Maureen E. Lamski,
#22243
Petitioner

SUBSCRIBED in my presence and sworn to before me this 2nd day of December, 2019.

Jessica M. Busboom
Notary Public

Juvenile Court's Order Adjudicating the State's Sixth Supplemental Petition (Redacted)

Image ID: D00586982D02

IN THE JUVENILE COURT OF LANCASTER COUNTY,
NEBRASKA

Zoie _____, Juvenile Printed on 12/12/2019 at 2:41
Proceeding under 43-247 (1) Room 02D41
Case ID: JV 17 372 Page 1
Violate Prob Hrg held on 12/12/2019

=====
ORDER OF ADJUDICATION; ORDER OF JUVENILE
PROBATION;
CHARGES (ALLEGATIONS/AMENDMENTS/ANSWERS/FINDINGS/
REPORT/DISMISSALS

<u>ALLEGATION</u>	<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>CLASS</u>	<u>TYPE</u>
01	28-310	Assault-3rd degree	1	MSD
Probation Ordered				
02	DROPPED	Count dropped/dismissed		
03	DROPPED	Count dropped/dismissed		
04	DROPPED	Count dropped/dismissed		
05	28-201	Attempt of a class 2A felony	3A	FEL
06	28-907	False reporting - misdemeanor	1	MSD
Probation Ordered				
07	28-511	Theft-unlawful taking \$5,000+	2A	FEL
Answer: Admit Found: Adjudicated (2) Probation Ordered				

APPEARANCES AND ADVISEMENT

Judge	Roger J Heideman	Appeared
Dad	_____	Appeared
Juvenile	Zoie _____	
Counsel	Public Defender	
	Represented by Amy Peters	Appeared
Plaintiff	State of Nebraska	
Counsel	Maureen E Lamski	Appeared
Probation Officer	Juvenile Probation	
	Represented by Ember Kalama	Appeared

Juvenile previously advised of the nature of the allegations and all rights.

5a

Juvenile previously advised of the possible dispositions.

ANSWER TO PETITION

Juvenile enters answers as shown above.

The answer(s) have been freely, voluntarily, knowingly, entered.

Juvenile is adjudicated under Section 43-247 (2) The Court finds a factual basis exists and the allegations of the petition are true beyond a reasonable doubt.

ADJUDICATION/MOTION HEARING

Hearing held on: Motion for Commitment to YRTC
Granted

CUSTODY/DETENTION

Commitment to HHS/OFC of Juvenile Srvcs/YRTC Kearney or Geneva is necessary for the protection of the health and welfare of the child and society. The Court finds that all levels of probation supervision and options for community based services have been exhausted, no other community based resources have a reasonable possibility of success, and placement of the juvenile is a matter of immediate and urgent necessity for the protection of the juvenile, or the person or property of another, or it appears that such juvenile is likely to flee the jurisdiction of the court.

The juvenile will cooperate with placement and programming through Nebraska Department of Health and Human Services at the Youth Rehabilitation and Treatment center until discharge. A reentry hearing shall be held, before the court, 30 days prior to discharge to include consideration of the juvenile's individualized reentry plan.

Juvenile is committed under the terms of a separate Intensive Supervision Probation order.

DISPOSITION

The Court orders that the juvenile is placed on:

Intensive supervised probation ordered for a term of 2 Years Months 232 Days.

PROBATION HEARING/REVOCATION/TERMINATION

Hearing held on: Third Supplemental Motion to Revoke Probation

JUVENILE ACKNOWLEDGED UNDERSTANDING RIGHTS, ALLEGATIONS, PROCEEDINGS AND POSSIBLE DISPOSITIONS ON DIRECT INQUIRY.

Juvenile has not received any threats, promises, or pressure to make an admission.

Juvenile understands that by admitting the allegations the Court is allowed to find the allegations to be true without hearing any evidence and gives up the rights previously explained.

Court find juvenile's admission(s) to be freely, voluntarily, and knowingly made and that a factual basis exists for the juvenile's admission(s).

Juvenile admits allegations of violation of probation conditions.

Court sustains allegations of violation of probation conditions.

Probation Modified.

WITNESSES

_____ Called For Prosecution

ADDITIONAL ENTRIES OF RECORD

Court further finds the exhaustion requirement of Neb. Rev. Stat. Sec. 43-286(1)(b)(ii)(B)(II) has been met as the evidence establishes no other communitiy-based resources have a reasonable possibility for success.

The Court finds that pursuant to Neb. Rev. Stat. 43-3001, State Probation personnel is allowed to receive and share pertinent confidential information not otherwise prohibited by the Federal Privacy Act of 1974, regarding records of the court, schools, county attorney, law enforcement agencies, state parole personnel, youth detention facilities, medical personnel treatment or placement programs, DHHS, Dept of Correctional Services, FCRO and child abuse and neglect investigation and treatment teams with those agencies having or seeking such pertinent information.

7a

IT IS ORDERED, in the event that the above-captioned juvenile, while under any form of supervision by the Office of Juvenile Probation, has a report pursuant to Neb. Rev. Stat. §43-4318(1) or is the subject of an investigation pursuant to Neb. Rev. Stat. §43-4318(1)(a)(ii), the Office of Probation Administration shall provide to the Office of the Inspector General of Nebraska Child Welfare the individualized probation records referenced in Neb. Rev. Stat. §43-2,108(2). This order remains in full force and effect until it is vacated or otherwise modified in the manner provided by law.

Hon. <u>Roger J Heideman</u>	<u>12/12/2019</u>	<u>Angie Pofahl</u>
Roger J Heideman	Date	Bailiff

**Chart of State Juvenile-Offender-in-Possession
Statutes and Juvenile Jury Laws**

State with juvenile-offender-in-possession statute	Right to jury trial in juvenile proceedings?	Automatic reinstatement of right to possess firearms?
Alaska	Yes	After 10 years
Arizona	No	No
California	No	At age 30
Connecticut	Sometimes	No
Delaware	No	At age 25
Florida	No	At age 24
Hawaii	No	At age 25
Illinois	Sometimes	Depends on offense
Iowa	No	No
Kansas	Yes	Depends on offense
Kentucky	No	No
Maine	No	Depends on offense
Maryland	No	At age 30
Mass.	Yes	Depends on offense and firearm
Minnesota	Sometimes	No
Montana	Yes	Once out of detention
Nebraska	No	At age 25

New Jersey	No	No
North Carolina	No	Once off probation
Ohio	Sometimes	No
Oklahoma	Yes	After 10 years
Oregon	No	After 4 years
Penn.	No	Depends on offense
Utah	No	Depends on offense
Virginia	Yes	Depends on offense
Wisconsin	No	No

Alaska – Alaska Stat. §11.61.200(a)(1) makes it a crime for individuals to knowingly possess a concealable firearm if they have been “adjudicated a delinquent minor for conduct that would constitute a felony if committed by an adult,” and Subsection (b)(1)(C) provides that (a)(1) does not apply if ten years have passed since the person’s unconditional discharge on the prior adjudication. Alaska Delinquency R. 21(a) allows a juvenile in an adjudication hearing to request a trial by jury.

Arizona – Ariz. Rev. Stat. §13-904(H) provides that “a person who is adjudicated delinquent . . . for a felony does not have the right to carry or possess a firearm.” Section 13-912.01 lists two categories of offenders who may apply for reinstatement of their gun rights. Those adjudicated for a “dangerous” or “serious” offense, or other specified offenses, may petition for restoration at age 30. Those adjudicated

for other felonies may petition two years after the person's discharge. 17B Ariz. Rev. Stat., Juv. Ct. Rules of Proc., Rule 6 provides that juvenile proceedings shall proceed "without a jury."

California – Cal. Penal Code §29820(b) states: "Any person described in subdivision (a) shall not own, or have in possession or under custody or control, any firearm until the age of 30 years." Subdivision (a) includes a person adjudged a ward of the juvenile court for having committed certain enumerated offenses involving violence, drugs, or firearms. The Supreme Court of California has ruled that a "jury trial is inapplicable in juvenile proceedings." *Richard M. v. Superior Court*, 482 P.2d 664, 668 (Cal. 1971).

Connecticut – Conn. Gen. Stat. §53a-217(a)(2) makes it a crime for any person "convicted as delinquent for commission of a serious juvenile offense" to possess a firearm or electronic defense weapon. Conn. Gen. Stat. §54-76e states: "Trial shall be held without a jury." Conn. Gen. Stat. § 46b-133d, however, allows the court to transfer a proceeding designated a "serious sexual offender prosecution" to the regular criminal docket where there is a right to a jury trial.

Delaware – Del. Code Ann. tit. 11, §1448(a)(4) makes it a crime for a person who, "as a juvenile, has been adjudicated as delinquent for conduct which, if committed by an adult, would constitute a felony," to purchase, own, possess, or control a deadly weapon "unless and until that person has reached their twenty-fifth birthday." Del. Code Ann. tit. 10, §1009(a) states: "Where the evidence supports such

holding, the Court may declare a child to be . . . delinquent.” It also appears that Delaware law does not allow jury trials in juvenile proceedings. See *R.S. v. State*, No. N-80-01-0488 FC-A, 1981 WL 377683, at *1 (Del. Super. Ct. Jan. 28, 1981) (holding that a “request for a *de novo* jury trial” before a superior court in a juvenile case “must be considered frivolous”).

Florida – Fla. Stat. §790.23(1)(b) makes it unlawful for any person “under 24 years of age” who has been “found, in the courts of this state, to have committed a delinquent act that would be a felony if committed by an adult” to own or have in his or her care, custody, possession, or control any firearm. Fla. R. Juv. P. 8.110(c) states: “The adjudicatory hearing shall be conducted by the judge without a jury.”

Hawaii – Haw. Rev. Stat. §134-7(d) provides that “no person who is less than twenty-five years old and has been adjudicated by the family court to have committed a felony, two or more crimes of violence, or an illegal sale of any drug shall own, possess or control any firearm.” Haw. Rev. Stat. §571-41(a)(2) states that juvenile proceedings “shall be heard . . . without a jury.”

Illinois – Under 430 Ill. Comp. Stat. 65/8(a), a person may be denied a Firearm Owner’s Identification Card if he or she is “under 21 years of age” and has been “convicted of a misdemeanor other than a traffic offense or adjudged delinquent.” Under Subsection (p) of that same section, any adult person may be denied if he or she is an adult and has been “adjudicated a delinquent . . . for the commission of an offense that if

committed by an adult would be a felony.” 705 Ill. Comp. Stat. 405/5-605 states: “All delinquency proceedings shall be heard by the court except those proceedings. . . where the right to trial by jury is specifically set forth.” 705 Ill. Comp. Stat. 405/5-810(3) provides that “a minor who is subject of an extended jurisdiction juvenile prosecution has the right to trial by jury.” A juvenile court may designate a proceeding an extended jurisdiction juvenile prosecution upon a petition alleging “the commission by a minor 13 years of age or older of any offense which would be a felony if committed by an adult.”

Iowa – Iowa Code §724.26(1) makes it a crime for a person “who is adjudicated delinquent on the basis of conduct that would constitute a felony if committed by an adult” to knowingly possess, control, receive, or transport a firearm. The Supreme Court of Iowa has held that “[n]either statutory nor constitutional provisions guarantee juveniles the right to a jury trial. *In re A.K.*, 825 N.W.2d 46, 51 (Iowa 2013).

Kansas – Kan. Stat. Ann. §21-6304 makes it a crime to possess any weapon according to three different categories of offense. Section 21-6304(1) includes any person “adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute a person felony.” Section 21-6304(2) includes any person who “within the preceding five years” was adjudicated a juvenile offender because of conduct that was a felony (but not a “person” felony) and was “not found to have been in possession of a firearm at the time of the commission of the crime.” And Section 21-6304(3) includes any person who

“within the preceding 10 years” was adjudicated an offender for specified offenses and was not in possession of a firearm at the time of the offense. A juvenile has the right to request a jury trial “in writing within 30 days from the date of the juvenile’s entry of a plea of not guilty.” Kan. Stat. Ann. §38-2357(a)(1).

Kentucky – Ky. Rev. Stat. Ann. §527.040(1) makes it a crime for a convicted felon to possess, manufacture, or transport a firearm. Section 527.040(3) states that “the provision of this section shall apply to any youthful offender convicted of a felony offense under the laws of this Commonwealth.” Ky. Rev. Stat. Ann. §610.070(1) states: “All cases involving children . . . shall be dealt with by the court without a jury.”

Maine – Me. Stat. tit. 15, §393(1)(C) makes it a crime for any person adjudicated of “conduct that, if committed by an adult, would have been a disqualifying conviction” as defined in §393(1)(A-1)(1)–(5). For non-violent offenses “in which bodily injury to another person” neither “was threatened” nor “resulted,” the prohibition lasts only “3 years following completion of any disposition imposed or until that person reaches 18 years of age, whichever is later.” There is no right to a jury trial in juvenile proceedings. Me. Stat. tit. 15, §3310(1).

Maryland – Md. Code Ann., Pub. Safety §5-133(b)(13) makes it a crime for any person “under the age of 30 years at the time of possession,” who “has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed

by an adult,” to possess a regulated firearm. “Convicted of a disqualifying crime” is defined in Section 5-101(b)(b-1)(1)-(2). The juvenile courts “shall try cases without a jury.” Md. Code Ann., Cts. & Jud. Proc. §3-8A-13(g).

Massachusetts – Mass. Gen. Laws ch. 140, §129B(1)(i) prohibits a person who has been “adjudicated a youthful offender or delinquent child, or both . . . for the commission of” a felony and other specified offenses from being issued a firearm-identification card. Except for a felony and other specified violent crimes, a person may be eligible after “5 or more years” to “possess a non-large capacity rifle or shotgun.” *Id.* Juvenile proceedings shall be by jury unless the child files a written waiver. Mass. Gen. Laws. ch. 119, §55A.

Minnesota – Under Minn. Stat. §624.713, Subdivision 1(2), any person “who has been convicted of, or adjudicated delinquent[,] or convicted as an extended jurisdiction juvenile for committing . . . a crime of violence” is not entitled to possess a firearm. A juvenile has a right to a jury if the proceeding is designated an “extended jurisdiction juvenile prosecution.” Minn. Stat. §260B.130, subd. 3.

Montana – Mont. Code Ann. §45-8-318(1)(b) makes it a crime for a person “in a youth detention facility,” “youth correctional facility, or shelter care facility,” or “under the custody of the facility officials, officers, or employees,” to possess any deadly weapon. Mont. Code Ann. §41-5-1502(1) allows minors to demand a jury trial.

Nebraska – Neb. Rev. Stat. §28-1204.05(1) makes it a crime for a “person under the age of twenty-five” to possess a firearm “if he or she has previously been adjudicated an offender in juvenile court for an act which would constitute a felony or an act which would constitute a misdemeanor crime of domestic violence.” Subsection (4) allows a person subject to Subsection (1) to “petition for exemption from such prohibition and thereby have his or her right to possess a firearm reinstated.” Juvenile proceedings are conducted “before the court without a jury.” Neb. Rev. Stat. §43-279(1).

New Jersey – N.J. Stat. Ann. §2C:58-3(c)(7) prohibits “any person who as a juvenile was adjudicated delinquent for an offense which, if committed by an adult, would constitute a crime and the offense involved the unlawful use or possession of a weapon” from receiving a firearms-purchaser-identification card. N.J. Stat. Ann. §2A:4A-40 specifically exempts the right to a jury trial from the rights guaranteed to a juvenile.

North Carolina – N.C. Gen. Stat. §7B-2510 allows the court to impose the requirement that a juvenile on probation pursuant to Section 7B-2506(8) “possess no firearm” as a condition of the juvenile’s probation. The court shall sit without a jury in juvenile proceedings. N.C. Gen. Stat. §7B-3503.

Ohio – Ohio Rev. Code Ann. §2923.13(A)(2) prohibits a person who “has been adjudicated a delinquent child for the commission of an offense that, if committed by

an adult, would have been a felony offense of violence” from possessing a firearm or dangerous ordnance. Ohio Rev. Code Ann. §2151.35(A)(1) provides that juvenile cases are to be heard without a jury, “except cases involving serious youthful offenders” under Section 2152.13.

Oklahoma – Okla. Stat. tit. 21, §1283(D) makes it unlawful for a person who was “adjudicated as a delinquent child or a youthful offender for the commission of an offense, which would have constituted a felony offense if committed by an adult, to have in . . . possession . . . any dangerous or deadly firearm within ten (10) years after such adjudication.” Juveniles may demand a trial by jury. Okla. Stat. tit. 10A, §2-2-401.

Oregon – Or. Rev. Stat. §166.250(1)(c)(B) prohibits the possession of a firearm by any person who (1) “was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or a misdemeanor involving violence,” and (2) “was discharged from the jurisdiction of the juvenile court” in the last four years. Juvenile hearings “shall be held by the court without a jury.” Or. Rev. Stat. §419C.400(1).

Pennsylvania – 18 Pa. Cons. Stat. §6105(c)(7) prohibits possession of a firearm by “a person who was adjudicated delinquent . . . as a result of conduct which if committed by an adult would constitute an offense” under specified sections. Section 6105(c)(8) provides that the prohibition for juveniles, except for those offenses in Subsection (7), shall last for 15 years

or until age 30, whichever is earlier. Juvenile hearings “shall be conducted by the court without a jury.” 42 Pa. Cons. Stat. §6336(a).

Utah – Utah Code Ann. §§76-10-503(1)(a)(iv) & (1)(b)(ii) prohibit possession of dangerous weapons by a person who (1) “within the last ten years has been adjudicated delinquent for an offense which if committed by an adult would have been a violent felony” or (2) “within the last seven years has been adjudicated delinquent” for an offense that would be any other felony. “Hearings in minors’ cases shall be . . . without a jury.” Utah Code Ann. §78A-6-114(1).

Virginia – Va. Code Ann. §18.2-308.2(A)(ii) makes it unlawful for any person to possess a firearm who was “adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense” for murder, kidnapping, and other specified violent offenses. Section 18.2-308.2(A)(iii) prohibits possession by those under 29 who were adjudicated delinquent for an act that would be a felony other than those specified in subsection (ii). The juvenile has the right to an appeal heard de novo by a jury. Va. Code Ann. §16.1-296(C).

Wisconsin – Wis. Stat. §941.29(1m)(bm) prohibits possession of a firearm by any person who “has been adjudicated delinquent” for an offense “that if committed by an adult . . . would be a felony.” Wis. Stat. §938.31(4) states that a court—not a jury—“shall make findings of fact and conclusions of law” in juvenile cases.