

§ 15A-544.8. Relief from final judgment of forfeiture.

(a) Relief Exclusive. – There is no relief from a final judgment of forfeiture except as provided in this section.

(b) Reasons. – The court may grant the defendant or any surety named in the judgment relief from the judgment, for the following reasons, and none other:

- (1) The person seeking relief was not given notice as provided in G.S. 15A-544.4. However, the court shall not grant relief under this subdivision solely due to the court's failure to provide notice within 30 days as required by G.S. 15A-544.4(e).
- (2) Other extraordinary circumstances exist that the court, in its discretion, determines should entitle that person to relief.

(c) Procedure. – The procedure for obtaining relief from a final judgment under this section is as follows:

- (1) At any time before the expiration of three years after the date on which a judgment of forfeiture became final, any of the following parties named in the judgment may make a written motion for relief under this section:
 - a. The defendant.
 - b. Any surety.
 - c. A professional bondsman or a runner acting on behalf of a professional bondsman.
 - d. A bail agent acting on behalf of an insurance company.

The written motion shall state the reasons for the motion and set forth the evidence in support of each reason.

- (2) The motion shall be filed in the office of the clerk of superior court of the county in which the final judgment was, entered. The moving party shall, under G.S. 1A-1, Rule 5, serve a copy of the motion on the district attorney for that county and on the attorney for the county board of education.
- (3) A hearing on the motion shall be scheduled within a reasonable time in the trial division in which the defendant was bonded to appear.
- (4) At the hearing the court may grant the party any relief from the judgment that the court considers appropriate, including the refund of all or a part of any money paid to satisfy the judgment.

(d) Only One Motion. – No more than one motion by any party for relief under this section may be considered by the court.

(e) Finality of Judgment as to Other Parties Not Affected. – The finality of a final judgment of forfeiture shall not be affected, as to any party to the judgment, by the filing of a motion by, or the granting of relief to, any other party.

(f) Appeal. – An order on a motion for relief from a final judgment of forfeiture is a final order or judgment of the trial court for purposes of appeal. Appeal is the same as provided for appeals in civil actions. When notice of appeal is properly filed, the court may stay the effectiveness of the order on any conditions it considers appropriate. (2000-133, s. 6; 2011-377, ss. 9, 10; 2013-139, s. 5; 2022-73, s. 3(d).)