

ATT

FILED

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STATE OF MINNESOTA
COUNTY OF HENNEPIN

HENN. CO. DISTRICT
COURT ADMINISTRATOR

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff/Respondent,

vs.

E [REDACTED] B [REDACTED]

Defendant/Petitioner.

Petitioner's Date of Birth: [REDACTED]

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER GRANTING
LIMITED RELIEF PER
M.S. §609A**

File: 27CR12-[REDACTED]

The above-entitled matter came before Richard A. Trachy, District Court Referee, on Petitioner's Request for Expungement/Sealing of records relating to this file.

Petitioner is represented by Ryan Garry.

The County of Hennepin is represented by M [REDACTED] M [REDACTED]

The Department of Human Services is represented by M [REDACTED] D [REDACTED].

Based on the petition, responses (if any) and the entire record herein, this Court makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner was charged with Felony Assault in the Third Degree.
2. This charge was dismissed on January 17, 2013, a resolution in favor of Petitioner.
3. Petitioner has paid all required fines, costs and surcharges.
4. Petitioner was not convicted of an offense requiring registration under Minn. Stat. Sec. 243.166.
5. Minnesota Statutes Chapter 609A.02, subd. 3, provides for the expungement/sealing of criminal records where "all pending actions or proceedings were resolved in favor of the petitioner."

6. In cases resolved in Petitioner's favor, the petitioner is presumptively entitled to expungement unless the agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record. Minn. Stat. §609A.03, subd. 5(b).

7. Per affidavits of service in the petition, proper notice has been given in this case to law enforcement agencies and prosecuting authorities.

8. The Hennepin County Attorney objects to this petition. It argues that there were a number of agencies interested in aspects of this case, including the Department of Human Services and Hennepin County Child Protection Services. Both agencies made findings and, especially, Child Protection Services has a significant interest in maintaining records of families with which it has had contact. It is noted that while there was an initial finding of abuse, the child was returned to her parents (one of whom is petitioner) where she remains. Both parents maintain that the child was untruthful in her allegations. Whether accurate or not, the best interest of protecting children lie in, at least, maintaining records in that agency of past issues within the family. These considerations have merit, and justify retention of records to some degree in executive agencies.

9. The Minnesota Department of Human Services, which made an initial determination of culpability, later reversed that finding after a hearing. Its final decision has not been announced. However, at the present time, that department has not taken a final action adverse to petitioner.

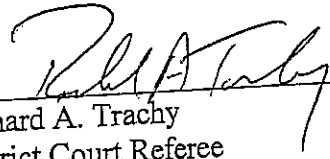
10. The law enforcement agencies or jurisdictions whose records would be affected have not established by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the Petitioner of not sealing the judicial record per Minn. Stat. § 609A.03, subd. 5(b).

ORDER

1. Petitioner's request for sealing of records is **GRANTED** in part and **DENIED** in part.
2. The Hennepin County District Court Administrator shall seal all files and records relating to the offenses, and refrain from disclosing or revealing the contents thereof without a court order. References to Petitioner should be removed from all index books and computers open to public examination under the caption of these cases or as it relates to the cases.
3. The Minnesota Bureau of Criminal Apprehension Superintendent, Hennepin County Sheriff, Hennepin County Department of Community Corrections Director and Brooklyn Center Police Chief, shall seal Petitioner's fingerprints, photographs and other identification data taken in connection with the offenses; said officials shall remove references to Petitioner from all index books, computer systems and/or any other listing of arrests or charges as they relate to the case (except strictly internal records). Said officials shall seal all other files and records concerning the cases and shall refrain from disclosing to anyone without court order the fact that Petitioner was charged in connection with this case.
4. The request to seal records of the Hennepin County Attorney, Hennepin County Child Protection Services, and the Department of Human Services is **DENIED**.
5. This Order is subject to the limitations set forth in Minn. Stat. §609A.03.
6. The court administrator shall send a copy of this Order to each agency and jurisdiction whose records are affected.

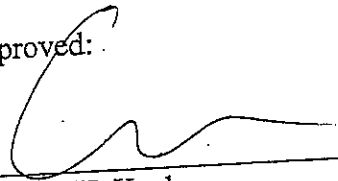
NOTE: THIS ORDER IS STAYED FOR 60 DAYS FOLLOWING THE DATE OF FILING, AND DURING ANY APPEAL. RECORDS WILL NOT BE SEALED UNTIL AFTER THIS TIME.

By the Court:


Richard A. Trachy
District Court Referee

2/10/14
Date

Approved:


William H. Koch
District Court Judge

02-14-14
Date

STATE OF MINNESOTA, COUNTY OF HENNEPIN
Certified to be a true and correct copy of the
original on file and of record in my office.
MARK S. THOMPSON, Court Administrator

By  Deputy