

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF SCOTT

FIRST JUDICIAL DISTRICT

T [REDACTED] L [REDACTED] M [REDACTED]

Petitioner,

vs.

**FINDINGS OF FACT, CONCLUSIONS OF  
LAW, AND ORDER TO EXPUNGE/SEAL  
PETITIONER'S CRIMINAL RECORDS**

Scott County Attorney;  
Shakopee City Attorney;  
Scott County Sheriff;  
Shakopee Police Department;  
Bureau of Criminal Apprehension;  
Minnesota Attorney General;  
Minnesota Department of Corrections;  
Scott County Department of Community  
Corrections;  
Commissioner of Human Services,

Case Number: 70-CR-10 [REDACTED]

Respondents.

TO: THE SCOTT COUNTY DISTRICT COURT AND THE ABOVE-LISTED  
RESPONDENTS.

The above-entitled matter came before the undersigned Judge pursuant to Petitioner's Notice of Motion and Motion and Petitioner's Petition for Expungement/Sealing of the arrest record, criminal history record, all identification information, and all records of Petitioner's arrest and subsequent charges for *Fifth Degree Drug Possession*, pursuant to Minn. Stat. § 152.025, subd. 2(a)(1) arising on or about March 5, 2010. Petitioner pled guilty pursuant to an *Alford* plea and received a statutory stay of adjudication, Minn. Stat. § 152.18. On May 21, 2013, Petitioner was discharged from probation and the case was dismissed.

Ryan P. Garry, Esq. appeared on behalf of Petitioner.

The following parties appeared on behalf of the Respondents:

**FILED** [Signature]

MAY 21 2014

SCOTT COUNTY COURTS

Based upon the arguments of counsel, together with all the files, records, affidavits, and proceedings herein, the Court now makes the following:

#### FINDINGS OF FACT

1. On or about August 25, 2010, Petitioner was charged with *Fifth Degree Drug Possession*.
2. On April 14, 2011, the Petitioner entered an *Alford* guilty plea and received a statutory stay of adjudication, pursuant to Minn. Stat. § 152.18.
3. On May 21, 2013, the charge against Petitioner was dismissed pursuant to the 152.18 stay of adjudication.
4. Petitioner has made a showing by clear and convincing evidence that his benefit is commensurate with the disadvantages to the public of sealing his records and burdening the court and authorities of sealing his records.

#### CONCLUSIONS OF LAW

1. There are two legal bases for the expungement of criminal records: Minnesota Statutes Chapter 609A and a court's inherent authority. *State v. Ambaye*, 616 N.W.2d 256, 257 (Minn. 2000).
2. Minnesota Statutes Chapter 609A allows for the expungement of criminal records in the following circumstances: 1) certain controlled substance offenses; 2) juveniles prosecuted as adults; or 3) certain proceedings not resulting in a conviction where "all pending actions or proceedings were resolved in favor of the petitioner." MINN. STAT. § 609A.02, subdiv. 3.
3. In the situation listed in Minn. Stat. § 609A.02, subdiv. 1, the petitioner is entitled to expungement if he shows by clear and convincing evidence that the benefit to him is "commensurate with the disadvantages to the public and public safety of: (1) sealing the record; and (2) burdening the court and public authorities to issue, enforce, and monitor an expungement order." MINN. STAT. § 609A.03, subdiv. 5(a).

#### ORDER

1. Petitioner's request is **GRANTED**.
2. The records concerning the above-entitled matter, including both the judicial and executive records, records of arrest, citation, charges, and all other records relative to the offenses shall be sealed.
3. The Scott County District Court Administrator shall seal all files and records relating to the offenses, and refrain from disclosing or revealing the contents thereof without Order of the Court; said officials shall remove references to Petitioner from all index books and

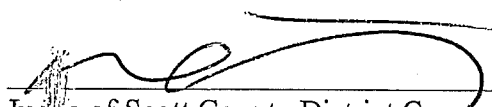
computers open to public examination under the caption of these cases or as it relates to the cases.

4. The Minnesota Bureau of Criminal Apprehension Superintendent, Scott County Sheriff, Scott County Department of Community Corrections Director, and Shakopee 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 and/or any other listings of arrests or charges as they relate to the cases (except strictly internal records); said officials shall seal all other files and records concerning the cases; and said officials shall refrain from disclosing to anyone without Order of this Court the fact that Petitioner has been charged in connection with the cases.
5. The Scott County Attorney, Shakopee City Attorney, and Minnesota Attorney General shall seal all files and records relating to the offenses, and refrain from disclosing to anyone without order of this Court the fact that Petitioner has been charged in connection with the cases.
6. This Order is subject to the limitations set forth in Minn. Stat. § 609A.03.
7. This Order shall be stayed for 60 days from the date of filing to allow any affected party to file an appeal. If any appeal is filed, this Order is stayed during the pendency of that appeal.

**BY THE COURT:**

Date:

5-21-14

  
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Judge of Scott County District Court

Hon. Rex D. Stacey