

Complex and Litigated Expungements



Lesson Plan

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Crime Spree

Defendant commits a series of four burglaries on four dates within a 27-day period. He enters pleas of guilty to several indictable offenses on one date and is sentenced for all offenses simultaneously.

To what extent does the crime spree exception established under State v. Fontana, 146 N.J. Super. 264 (App. Div. 1976) (accord State v. A.N.J., 98 N.J. 421, 427 (1984)) survive the post-Code decision in State v. Ross, 400 N.J. Super. 117 (App. Div. 2008)?

In re M.G., 2011 WL 2306891

We reasoned that “when the Legislature enacted [N.J.S.A. 2C:52–2](#), it deliberately chose to alter the more expansive view of expungement that had existed under [N.J.S.A. 2A:164–28](#) and was exemplified by our decision in *Fontana*,” and concluded that “when the Legislature chose the language ‘subsequent crime’ it intended to preclude expungement of a conviction where an individual commits a second crime even if the two crimes result in a single sentencing and conviction date.” [Ross, supra, 400 N.J. Super. at 123–24](#). We discern no basis to hold otherwise. Accordingly, we are satisfied Judge Ciuffani correctly applied [N.J.S.A. 2C:52–2\(a\)](#) and determined defendant was not entitled to expungement relief because he pled guilty to at least two indictable offenses even though the crimes resulted in a single sentencing and conviction date.

Even if we were to accept for present purposes the continued viability of *Fontana* based on the dicta in [A.N.J., supra, 98 N.J. at 427 n. 3](#), the record does not support the application of the “single spree” doctrine to defendant’s conduct. Defendant pled guilty to seven indictable crimes occurring over a span of twenty-seven days. Although the crimes were similar as they involved theft-related offenses, they occurred on four separate dates—November 15, December 5, December 8, and December 12, 1991—and targeted three separate locations on the Livingston College campus—Tillet Hall, Kilmer Library, and the Student Center. Moreover, there is no evidence the items of movable property stolen by defendant were related, such as component parts of a computer.

Contrast Application of V.S., 258 NJ Super. 348 (Law Div. 1992)

Early Pathway N.J.S.A. 2C:52–2a(2)

Notwithstanding the provisions of the preceding paragraph, a petition may be filed and presented, and the court may grant an expungement pursuant to this section, although less than 10 years has expired in accordance with the requirements of the preceding paragraph where the court finds:

(1) less than 10 years has expired from the satisfaction of a fine, but the 10-year time requirement is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered pursuant to [N.J.S.2C:46-1 et seq.](#), or could not do so due to compelling circumstances affecting his ability to satisfy the fine; or

(2) at least five years has expired from the date of his conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later; the person has not been convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense, and the applicant's character and conduct since conviction.

In determining whether compelling circumstances exist for the purposes of paragraph (1) of this subsection, a court may consider the amount of the fine or fines imposed, the person's age at the time of the offense, the person's financial condition and other relevant circumstances regarding the person's ability to pay.

What factors may the Court consider in addition to those pertaining to the “nature of the offense” and the applicant's “character and conduct since conviction.”

In re Lobasso, 423 N.J. Super. 475 (App. Div. 2012)

In connection with a petitioner's "character and conduct since conviction," a court may consider facts related to an arrest that did not lead to a conviction, if supported by cognizable evidence, and the court makes an appropriate finding, after a hearing if necessary. A court may not infer guilt from the fact of arrest alone. Yet, a court may consider the underlying facts of a dismissed charge that a petitioner admits in his guilty plea to a related charge. (in sentencing, court may rely on arrest record of dismissed charge where the arrest "relate[s] to an offense the defendant does not dispute, which offense was disposed of without further action as part of a plea bargain involving other offenses");

Likewise, a court may consider other forms of admissible proof of dismissed charges.

The statute also expressly requires the court to consider the "nature of the offense." *N.J.S.A. 2C:52-2a(2)*. We distinguish the "nature of the offense" from the circumstances of the offense. The Legislature has itself chosen to distinguish the two concepts. While the statute only requires a court to consider the "nature of the offense" in making its public interest determination, a court must consider "the nature of those ... convictions and the circumstances surrounding them" when determining whether subsequent convictions for two or fewer disorderly or petty disorderly persons offenses should bar relief. *N.J.S.A. 2C:52-2a*.

The "nature of the offense" would appear to pertain to facts surrounding the grade and definition of the offense, and the facts relating directly to the elements of the offense. Thus, the nature of an eluding offense might include that a petitioner drove at high speed or over a great distance to flee an officer, and the nature of risks presented. The nature of an assault case might include the age of the victim. The nature of a burglary might include whether the structure entered was a victim's occupied bedroom, or a detached garage or vehicle when no one was present.

See also *State v. Merendino, 293 NJ Super. 444 (App. Div. 1996) (Use of extraneous facts related to arrest to bar expungement)*

Drug Distribution Conspiracy

Defendant was convicted of conspiring to distribute CDS. Is such an application barred as a result of NJSA 2C:52-2(c).

c. In the case of conviction for the sale or distribution of a controlled dangerous substance or possession thereof with intent to sell, expungement shall be denied except where the crimes involve:

(1) Marijuana, where the total quantity sold, distributed or possessed with intent to sell was 25 grams or less ;

(2) Hashish, where the total quantity sold, distributed or possessed with intent to sell was five grams or less; or

(3) Any controlled dangerous substance provided that the conviction is of the third or fourth degree, where the court finds that expungement is consistent with the public interest, giving due consideration to the nature of the offense and the petitioner's character and conduct since conviction.

In re R.W.B., 2010 WL 1740904

The provision has no application because R.W.B., Jr., was not convicted of sale, distribution or possession with intent to sell. He was convicted of inchoate crimes-conspiring to possess, conspiring to possess with intent to distribute and conspiring to distribute.

Where the Legislature has deemed it appropriate to bar expungement of convictions for conspiring to commit designated crimes, the Legislature has expressed that intention with unmistakable clarity. Three provisions of [N.J.S.A. 2C:52-2](#), the statute at issue here, expressly bar expungement of convictions for conspiracy to commit designated crimes. Subsection b of [N.J.S.A. 2C:52-2](#) identifies, in three separate paragraphs, convictions for specific crimes committed under prior law, committed under the New Jersey Code of Criminal Justice and committed by a person holding a public office, position or employment. *N.J.S.A. 2C:52-2b*. In each instance, conspiracies and attempts to commit the designated crimes are expressly included in the ban. *Ibid*. Under the reasoning of *N.W.*, with which we agree, courts should construe the exceptions to the general rule strictly, leaving the scope of the statutory exclusions to the Legislature and applying the statutory language in accordance with the plain meaning of its terms.

But see *In re D.A.C.*, 337 N.J. Super. 493 (App. Div. 2001) holding that accomplices are barred from expungement (overruling *Application of R.C.*, 292 N.J. Super. 151 (Law Div. 1996).

Government Personnel Records

Can an order of expungement also include a provision that the records of the expunged offense be removed from the governmental employee records of the petitioner?

State v. Zemak, 304 N.J. Super. 381 (App. Div. 1997)

[N.J.S.A. 2C:52-1](#) provides “Expunged records shall include complaints, warrants, arrests, commitments, processing records, fingerprints, photographs, index cards, rap sheets, and judicial docket records.” The statute refers to

“all records on file within any court, detention or correctional facility, law enforcement or criminal justice agency concerning a person's detection, apprehension, arrest, detention, trial or disposition of an offense within the criminal justice system.”

The statute does not, however, call for the removal of personnel records from any employment files. The Appellate Division has held that state agencies other than law enforcement are beyond the expungement statute and cannot be compelled to remove references from their records. This limitation implies that records maintained outside the realm of the law enforcement function are exempt from the expungement statute.

The statute governing the expungement of records does not subject the Police Department as employer to the same restrictions as it does the Police Department as law enforcement entity. The purpose of the statute is to provide relief to the “one-time offender” and allow him to carry on as if the proceedings never occurred. However, in light of the Secaucus Police Department's duty to ensure public safety, and therefore **1239 maintain complete performance records of all its employees, the need for the *385 availability of those personnel records outweighs the desirability of having them isolated. The petition for Expungement of Criminal Records shall be granted. The request for removal of Police Department personnel records is denied.

Expungement & Forfeiture of Public Office

Defendant convicted of a petty disorderly person's offense that touched on her office. She is subject, upon conviction to an order of lifetime loss of public employment. Five years after completion of her sentence, she seeks to expunge both her conviction and the order for forfeiture.

NJSA 2C:52-2(b):

Records of conviction for any crime committed by a person holding any public office, position or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof and any conspiracy or attempt to commit such a crime shall not be subject to expungement if the crime involved or touched such office, position or employment.

In re D.H., 204 N.J. 7 (2010)

Our primary task is to harmonize the provisions of the forfeiture of public employment statute, [N.J.S.A. 2C:51-2](#), with those of the expungement statute, [N.J.S.A. 2C:52-1](#) to -32. In so doing, we conclude that the provisions of the expungement statute are not intended to override—that is, expunge—a properly entered order of forfeiture of public employment. Stated differently, we conclude that, in the context of an expungement application and in order to give full expression to the Legislature's will, a mandatory order of permanent forfeiture of public employment must be severed from—and preserved from the expungement of—the conviction that originally triggered the order of forfeiture.

Vacating an Expungement

Defendant is arrested for drunk driving and resisting arrest by the Hamilton Township (Mercer County) police. While case is pending in municipal court, the defendant files a notice of tort claim against the Township pursuant to NJSA 59:8-8. At a subsequent pretrial conference, the State moves to dismiss all charges. The defendant thereafter files a petition to expunge the resisting arrest records which is granted by the Superior Court. He then immediately files suit against the Township for various common law torts associated with his arrest. In response, the county prosecutor seeks an order vacating the expungement on the grounds that a civil action was in play at the time the expungement application was made.

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NJSA 2C:52-14(d)

A petition for expungement filed pursuant to this chapter shall be denied when:

d. The arrest or conviction sought to be expunged is, at the time of hearing, the subject matter of civil litigation between the petitioner or his legal representative and the State, any governmental entity thereof or any State agency and the representatives or employees of any such body.

NJSA 2C:52-26

If, within 5 years of the entry of an expungement order, any party to whom notice is required to be given pursuant to [section 2C:52-10](#) notifies the court which issued the order that at the time of the petition or hearing there were criminal, disorderly persons or petty disorderly persons charges pending against the person to whom the court granted such order, which charges were not revealed to the court at the time of hearing of the original motion or that there was some other statutory disqualification, said court shall vacate the expungement order in question and reconsider the original motion in conjunction with the previously undisclosed information.

State v. J.R.S., 398 N.J. Super. 1 (App. Div. 2008)

The term “civil litigation” speaks to a pending civil action in a court of law. Although the filing of a tort claims notice under [N.J.S.A. 59:8-8](#) is an indispensable jurisdictional prerequisite to the prosecution of common law tort claims against a public entity, the mere serving of this notice upon the public entity does not amount to the commencement of “civil litigation.” In this context, civil litigation is commenced by the filing of a pleading by the plaintiff. Potential future litigation or notice of intent to commence a civil suit at some future time are not grounds for denying a petition for expungement under [N.J.S.A. 2C:52-14\(d\)](#).

We also find no statutory support for the State's argument that enforcement of the expungement judgment here will deprive the State of information needed to defend itself against plaintiff's allegations of wrongdoings. Expunged records are not destroyed. *N.J.S.A. 2C:52-1a*. Even after the entry of a judgment of expungement, these records remain available for certain limited purposes, including to satisfy discovery obligations in a civil suit.

Diversion from the Criminal Justice System

Defendant pleads guilty in 1992 to simple assault. In 2001, he is arrested and charged with shoplifting, 4th degree. He seeks diversion thru PTI which is granted. In 2012, years after his successful completion of PTI, he seeks to expunge both his indictable arrest and his 1992 simple assault conviction.

Can this be accomplished?

Assuming the defendant wants to expunge his entire criminal history in 2012, does the outcome change based upon the following facts:

- 1. The 1992 matter was dismissed in muni court;**
- 2. The 1992 matter was a marijuana offense for which the defendant received a conditional discharge;**
- 3. The 1992 matter was a marijuana offense for which the defendant received a conditional discharge and the 2001 matter results in a plea of guilty in municipal court.**

State v. Dylag, 267 N.J. Super. 348 (Law Div. 1993)

See State v. O'Brien, 418 NJ Super. 428 (App. Div. 2011).

NJSA 2C:52-14(f)

A petition for expungement filed pursuant to this chapter shall be denied when:

f. The person seeking the relief of expungement of a conviction for a disorderly persons, petty disorderly persons, or criminal offense has prior to or subsequent to said conviction been granted the dismissal of criminal charges following completion of a supervisory treatment or other diversion program.

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Petition of Podias, 284 NJ Super. 674 (App. Div. 1995)

There is some merit to petitioner's contention that the PTI expungement does not bar expungement of the DP convictions because the petition need not reveal the matter expunged after dismissal following successful completion of PTI. Under *N.J.S.A. 2C:52-8c*, only a person who has secured a prior “dismissal of a criminal charge” by virtue of supervisory treatment or other diversion program must so indicate in the expungement petition. There is a clear distinction between an indictable offense or crime, on the one hand, and a DP and petty DP or non-indictable offense on the other, *see N.J.S.A. 2C:1-4a, b*, and the distinction between crimes and DPs is significant with respect to the expungement process. *See [State v. A.N.J.](#), 98 N.J. 421, 426-27, 487 A.2d 324 (1985)*.

We nevertheless conclude that the Legislature did not intend to make such a sophisticated distinction in these circumstances when the language of *N.J.S.A. 2C:52-14f* is so clear. As our Supreme Court has said, “[w]hen a statute is clear on its face, a court need not look beyond the statutory terms to determine the legislative intent.”

Other Crimes as a Bar

Defendant plead guilty in 1986 to 4th degree theft. In 2005, he is convicted in federal court of the misdemeanor of interfering with turtles, an offense with a maximum prison term of 1 year. In 2012, Defendant seeks to expunge both his 1986 and 2005 convictions.

Application of N.A., 218 NJ Super. 547 (App. Div. 1987)

Petitioner's argument overlooks the fact that although the maximum custodial punishment for our lowest grade of crime is 18 months imprisonment, [N.J.S.A. 2C:1-4](#) specifically recites that any New Jersey statutory offense “for which a sentence of imprisonment in excess of 6 months is authorized, constitutes a crime within the meaning of the Constitution of this State.” Moreover, for sentencing purposes *N.J.S.A. 2C:44-4c* provides that “[a] conviction in another jurisdiction shall constitute a prior conviction of crime if a sentence of imprisonment in excess of 6 months was authorized under the law of the other jurisdiction.” Prior to the enactment of that legislation our Supreme Court applied the same standard in [State v. Owens, 54 N.J. 153, 160, 254 A.2d 97 \(1969\)](#), *cert. den.* [396 U.S. 1021, 90 S.Ct. 593, 24 L.Ed.2d 514 \(1970\)](#). It would appear, therefore, that where the question has been addressed in this state, either by the courts or the legislature, the determination has been made that offenses punishable by more than 6 months imprisonment are regarded as crimes. Although those determinations do not directly control this situation, our study of outside material compels the belief that the expungement statute should be read consistently therewith to contemplate a subsequent crime as an offense entailing possible imprisonment for more than six months. On this basis we conclude that petitioner's federal misdemeanor conviction bars his claim for relief.

Appendix

N.J.S.A. 2c:52-1. *et seq.*

2C:52-1. Definition of expungement

- a. Except as otherwise provided in this chapter, expungement shall mean the extraction and isolation of all records on file within any court, detention or correctional facility, law enforcement or criminal justice agency concerning a person's detection, apprehension, arrest, detention, trial or disposition of an offense within the criminal justice system.**
- b. Expunged records shall include complaints, warrants, arrests, commitments, processing records, fingerprints, photographs, index cards, “rap sheets” and judicial docket records.**
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2C:52-2. Indictable offenses

- a. In all cases, except as herein provided, wherein a person has been convicted of a crime under the laws of this State and who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, and has not been adjudged a disorderly person or petty disorderly person on more than two occasions may, after the expiration of a period of 10 years from the date of his conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later, present a duly verified petition as provided in [section 2C:52-7](#) to the Superior Court in the county in which the conviction was entered praying that such conviction and all records and information pertaining thereto be expunged.**

Notwithstanding the provisions of the preceding paragraph, a petition may be filed and presented, and the court may grant an expungement pursuant to this section, although less than 10 years has expired in accordance with the requirements of the

preceding paragraph where the court finds:

(1) less than 10 years has expired from the satisfaction of a fine, but the 10-year time requirement is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered pursuant to [N.J.S.2C:46-1 et seq.](#), or could not do so due to compelling circumstances affecting his ability to satisfy the fine; or

(2) at least five years has expired from the date of his conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later; the person has not been convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense, and the applicant's character and conduct since conviction.

In determining whether compelling circumstances exist for the purposes of paragraph (1) of this subsection, a court may consider the amount of the fine or fines imposed, the person's age at the time of the offense, the person's financial condition and other relevant circumstances regarding the person's ability to pay.

Although subsequent convictions for no more than two disorderly or petty disorderly offenses shall not be an absolute bar to relief, the nature of those conviction or convictions and the circumstances surrounding them shall be considered by the court and may be a basis for denial of relief if they or either of them constitute a continuation of the type of unlawful activity embodied in the criminal conviction for which expungement is sought.

b. Records of conviction pursuant to statutes repealed by this Code for the crimes of murder, manslaughter, treason, anarchy, kidnapping, rape, forcible sodomy, arson, perjury, false swearing, robbery, embracery, or a conspiracy or any attempt to commit any of the foregoing, or aiding, assisting or concealing persons accused of the foregoing crimes, shall not be expunged.

Records of conviction for the following crimes specified in the New Jersey Code of Criminal Justice shall not be subject to expungement: [Section 2C:11-1 et seq.](#) (Criminal Homicide), except death by auto as specified in [section 2C:11-5](#); [section 2C:13-1](#) (Kidnapping); [section 2C:13-6](#) (Luring or Enticing); section 1 of [P.L.2005, c. 77 \(C.2C:13-8\)](#) (Human Trafficking); [section 2C:14-2](#) (Aggravated Sexual Assault); [section 2C:14-3a](#) (Aggravated Criminal Sexual Contact); if the victim is a minor, [section 2C:14-3b](#) (Criminal Sexual Contact); if the victim is a minor and the offender is not the parent of the victim, [section 2C:13-2](#) (Criminal Restraint) or [section 2C:13-3](#) (False Imprisonment); [section 2C:15-1](#) (Robbery); [section 2C:17-1](#) (Arson and Related Offenses); [section 2C:24-4a](#). (Endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the

child); section 2C:24-4b(4) (Endangering the welfare of a child); section 2C:24-4b. (3) (Causing or permitting a child to engage in a prohibited sexual act); [section 2C:24-4 b.\(5\)\(a\)](#) (Selling or manufacturing child pornography); [section 2C:28-1](#) (Perjury); [section 2C:28-2](#) (False Swearing); section 2C:34-1b.(4) (Knowingly promoting the prostitution of the actor's child); section 2 of [P.L.2002, c. 26 \(C.2C:38-2\)](#) (Terrorism); subsection a. of section 3 of [P.L.2002, c. 26 \(C.2C:38-3\)](#) (Producing or Possessing Chemical Weapons, Biological Agents or Nuclear or Radiological Devices); and conspiracies or attempts to commit such crimes.

Records of conviction for any crime committed by a person holding any public office, position or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof and any conspiracy or attempt to commit such a crime shall not be subject to expungement if the crime involved or touched such office, position or employment.

c. In the case of conviction for the sale or distribution of a controlled dangerous substance or possession thereof with intent to sell, expungement shall be denied except where the crimes involve:

(1) Marijuana, where the total quantity sold, distributed or possessed with intent to sell was 25 grams or less ;

(2) Hashish, where the total quantity sold, distributed or possessed with intent to sell was five grams or less; or

(3) Any controlled dangerous substance provided that the conviction is of the third or fourth degree, where the court finds that expungement is consistent with the public interest, giving due consideration to the nature of the offense and the petitioner's character and conduct since conviction.

d. In the case of a State licensed physician or podiatrist convicted of an offense involving drugs or alcohol or pursuant to section 14 or 15 of [P.L. 1989, c. 300 \(C.2C:21-20 or 2C:21-4.1\)](#), the court shall notify the State Board of Medical Examiners upon receipt of a petition for expungement of the conviction and records and information pertaining thereto.

2C:52-3. Disorderly persons offenses and petty disorderly persons offenses

Any person convicted of a disorderly persons offense or petty disorderly persons offense under the laws of this State who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, or of another

three disorderly persons or petty disorderly persons offenses, may, after the expiration of a period of 5 years from the date of his conviction, payment of fine, satisfactory completion of probation or release from incarceration, whichever is later, present a duly verified petition as provided in [section 2C:52-7](#) hereof to the Superior Court in the county in which the conviction was entered praying that such conviction and all records and information pertaining thereto be expunged.

2C:52-4. Ordinances

In all cases wherein a person has been found guilty of violating a municipal ordinance of any governmental entity of this State and who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, and who has not been adjudged a disorderly person or petty disorderly person on more than two occasions, may, after the expiration of a period of 2 years from the date of his conviction, payment of fine, satisfactory completion of probation or release from incarceration, whichever is later, present a duly verified petition as provided in [section 2C:52-7](#) herein to the Superior Court in the county in which the violation occurred praying that such conviction and all records and information pertaining thereto be expunged.

2C:52-4.1. Juvenile delinquent; expungement of adjudications and charges

a. Any person adjudged a juvenile delinquent may have such adjudication expunged as follows:

(1) Pursuant to [N.J.S.2C:52-2](#), if the act committed by the juvenile would have constituted a crime if committed by an adult;

(2) Pursuant to [N.J.S.2C:52-3](#), if the act committed by the juvenile would have constituted a disorderly or petty disorderly persons offense if committed by an adult; or

(3) Pursuant to [N.J.S.2C:52-4](#), if the act committed by the juvenile would have constituted an ordinance violation if committed by an adult.

For purposes of expungement, any act which resulted in a juvenile being adjudged a delinquent shall be classified as if that act had been committed by an adult.

b. Additionally, any person who has been adjudged a juvenile delinquent may have his entire record of delinquency adjudications expunged if:

(1) Five years have elapsed since the final discharge of the person from legal custody or supervision or 5 years have elapsed after the entry of any other court order not involving custody or supervision, except that periods of post-incarceration supervision pursuant to section 25 of P.L.1982, c. 77 ([C.2A:4A-44](#)), shall not be considered in calculating the five-year period for purposes of this paragraph;

(2) He has not been convicted of a crime, or a disorderly or petty disorderly persons offense, or adjudged a delinquent, or in need of supervision, during the 5 years prior to the filing of the petition, and no proceeding or complaint is pending seeking such a conviction or adjudication, except that periods of post-incarceration supervision pursuant to section 25 of P.L.1982, c. 77 ([C.2A:4A-44](#)), shall not be considered in calculating the five-year period for purposes of this paragraph;

(3) He was never adjudged a juvenile delinquent on the basis of an act which if committed by an adult would constitute a crime not subject to expungement under [N.J.S.2C:52-2](#);

(4) He has never had an adult conviction expunged; and

(5) He has never had adult criminal charges dismissed following completion of a supervisory treatment or other diversion program.

c. Any person who has been charged with an act of delinquency and against whom proceedings were dismissed may have the filing of those charges expunged pursuant to the provisions of [N.J.S.2C:52-6](#).

2C:52-5. Expungement of records of young drug offenders

Notwithstanding the provisions of [sections 2C:52-2](#) and [2C:52-3](#), after a period of not less than one year following conviction, termination of probation or parole or discharge from custody, whichever is later, any person convicted of an offense under chapters 35 or 36 of this title for the possession or use of a controlled dangerous substance, convicted of violating P.L.1955, c. 277, § 3 ([C. 2A:170-77.5](#)), [\[FN1\]](#) or convicted of violating P.L.1962, c. 113, § 1 ([C. 2A:170-77.8](#)), and who at the time of the offense was 21 years of age or younger, may apply to the Superior Court in the county wherein the matter was disposed of for the expungement of such person's

conviction and all records pertaining thereto. The relief of expungement under this section shall be granted only if said person has not, prior to the time of hearing, violated any of the conditions of his probation or parole, albeit subsequent to discharge from probation or parole, has not been convicted of any previous or subsequent criminal act or any subsequent or previous violation of chapters 35 or 36 of this title or of P.L.1955, c. 277, § 3 ([C. 2A:170-77.5](#)) or of P.L.1962, c. 113, § 1 ([C. 2A:170-77.8](#)), or who has not had a prior or subsequent criminal matter dismissed because of acceptance into a supervisory treatment or other diversion program.

This section shall not apply to any person who has been convicted of the sale or distribution of a controlled dangerous substance or possession with the intent to sell any controlled dangerous substance except:

(1) Marihuana, where the total sold, distributed or possessed with intent to sell was 25 grams or less, or

(2) Hashish, where the total amount sold, distributed or possessed with intent to sell was 5 grams or less.

2C:52-6. Arrests not resulting in conviction

a. In all cases, except as herein provided, wherein a person has been arrested or held to answer for a crime, disorderly persons offense, petty disorderly persons offense or municipal ordinance violation under the laws of this State or of any governmental entity thereof and against whom proceedings were dismissed, or who was acquitted, or who was discharged without a conviction or finding of guilt, may at any time following the disposition of proceedings, present a duly verified petition as provided in [section 2C:52-7](#) to the Superior Court in the county in which the disposition occurred praying that records of such arrest and all records and information pertaining thereto be expunged.

b. Any person who has had charges dismissed against him pursuant to P.L.1970, c. 226, § 27 ([C. 24:21-27](#)) [\[FN1\]](#) or pursuant to a program of supervisory treatment, shall be barred from the relief provided in this section until 6 months after the entry of the order of dismissal.

c. Any person who has been arrested or held to answer for a crime shall be barred from the relief provided in this section where the dismissal, discharge, or acquittal resulted from a determination that the person was insane or lacked the mental capacity to commit the crime charged.

2C:52-7. Petition for expungement

Every petition for expungement filed pursuant to this chapter shall be verified and include:

- a. Petitioner's date of birth.**
- b. Petitioner's date of arrest.**
- c. The statute or statutes and offense or offenses for which petitioner was arrested and of which petitioner was convicted.**
- d. The original indictment, summons or complaint number.**
- e. Petitioner's date of conviction, or date of disposition of the matter if no conviction resulted.**
- f. The court's disposition of the matter and the punishment imposed, if any.**

2C:52-8. Statements to accompany petition

There shall be attached to a petition for expungement:

- a. A statement with the affidavit or verification that there are no disorderly persons, petty disorderly persons or criminal charges pending against the petitioner at the time of filing of the petition for expungement.**
- b. In those instances where the petitioner is seeking the expungement of a criminal conviction, a statement with affidavit or verification that he has never been granted expungement, sealing or similar relief regarding a criminal conviction by any court in this State or other state or by any Federal court. "Sealing" refers to the relief previously granted pursuant to P.L.1973, c. 191 ([C. 2A:85-15 et seq.](#)) [\[FN1\]](#).**
- c. In those instances where a person has received a dismissal of a criminal charge because of acceptance into a supervisory treatment or any other diversion program,**

a statement with affidavit or verification setting forth the nature of the original charge, the court of disposition and date of disposition.

2C:52-9. Order fixing time for hearing

Upon the filing of a petition for relief pursuant to this chapter, the court shall, by order, fix a time not less than 35 nor more than 60 days thereafter for hearing of the matter.

2C:52-10. Service of petition and documents

A copy of each petition, together with a copy of all supporting documents, shall be served pursuant to the rules of court upon the Superintendent of State Police; the Attorney General; the county prosecutor of the county wherein the court is located; the chief of police or other executive head of the police department of the municipality wherein the offense was committed; the chief law enforcement officer of any other law enforcement agency of this State which participated in the arrest of the individual; the superintendent or warden of any institution in which the petitioner was confined; and, if a disposition was made by a municipal court, upon the magistrate of that court. Service shall be made within 5 days from the date of the order setting the date for the hearing upon the matter.

2C:52-11. Order directing expungement where no objection prior to hearing

If, prior to the hearing, there is no objection from those law enforcement agencies notified or from those offices or agencies which are required to be served under 2C:52-10, and no reason, as provided in [section 2C:52-14](#), appears to the contrary, the court may, without a hearing, grant an order directing the clerk of the court and all relevant criminal justice and law enforcement agencies to expunge records of said disposition including evidence of arrest, detention, conviction and proceedings related thereto.

2C:52-12. Denial of relief although no objection entered

In the event that none of the persons or agencies required to be noticed under 2C:52-10 has entered any objection to the relief being sought, the court may nevertheless deny the relief sought if it concludes that petitioner is not entitled to relief for the reasons provided in [section 2C:52-14](#).

2C:52-13. When hearing on petition for expungement shall not be held

No petition for relief made pursuant to this section shall be heard by any court if the petitioner, at the time of filing or date of hearing, has a charge or charges pending against him which allege the commission of a crime, disorderly persons offense or petty disorderly persons offense. Such petition shall not be heard until such times as all pending criminal and or disorderly persons charges are adjudicated to finality.

2C:52-14. Grounds for denial of relief

A petition for expungement filed pursuant to this chapter shall be denied when:

- a. Any statutory prerequisite, including any provision of this chapter, is not fulfilled or there is any other statutory basis for denying relief.**
- b. The need for the availability of the records outweighs the desirability of having a person freed from any disabilities as otherwise provided in this chapter. An application may be denied under this subsection only following objection of a party given notice pursuant to 2C:52-10 and the burden of asserting such grounds shall be on the objector, except that in regard to expungement sought for third or fourth degree drug offenses pursuant to paragraph (3) of subsection c. of [N.J.S. 2C:52-2](#), the court shall consider whether this factor applies regardless of whether any party objects on this basis.**
- c. In connection with a petition under [section 2C:52-6](#), the acquittal, discharge or dismissal of charges resulted from a plea bargaining agreement involving the conviction of other charges. This bar, however, shall not apply once the conviction is**

itself expunged.

d. The arrest or conviction sought to be expunged is, at the time of hearing, the subject matter of civil litigation between the petitioner or his legal representative and the State, any governmental entity thereof or any State agency and the representatives or employees of any such body.

e. A person has had a previous criminal conviction expunged regardless of the lapse of time between the prior expungement, or sealing under prior law, and the present petition. This provision shall not apply:

(1) When the person is seeking the expungement of a municipal ordinance violation or,

(2) When the person is seeking the expungement of records pursuant to [section 2C:52-6](#).

f. The person seeking the relief of expungement of a conviction for a disorderly persons, petty disorderly persons, or criminal offense has prior to or subsequent to said conviction been granted the dismissal of criminal charges following completion of a supervisory treatment or other diversion program.

2C:52-15. Records to be removed; control

If an order of expungement of records of arrest or conviction under this chapter is granted by the court, all the records specified in said order shall be removed from the files of the agencies which have been noticed of the pendency of petitioner's motion and which are, by the provisions of this chapter, entitled to notice, and shall be placed in the control of a person who has been designated by the head of each such agency which, at the time of the hearing, possesses said records. That designated person shall, except as otherwise provided in this chapter, insure that such records or the information contained therein are not released for any reason and are not utilized or referred to for any purpose. In response to requests for information or records of the person who was arrested or convicted, all noticed officers, departments and agencies shall reply, with respect to the arrest, conviction or related proceedings which are the subject of the order, that there is no record information.

2C:52-16. Expunged record including names of persons other than petitioner

Any record or file which is maintained by a judicial or law enforcement agency, or agency in the criminal justice system, which is the subject of an order of expungement which includes the name or names of persons other than that of the petitioner need not be isolated from the general files of the agency retaining same if the other persons named in said record or file have not been granted an order of expungement of said record, provided that a copy of the record shall be given to the person designated in 2C:52-15 and the original shall remain in the agency's general files with the petitioner's name and other personal identifiers obliterated and deleted.

2C:52-17. Use of expunged records by agencies on pending petition for expungement

Expunged records may be used by the agencies that possess same to ascertain whether a person has had prior conviction expunged, or sealed under prior law, when the agency possessing the record is noticed of a pending petition for the expungement of a conviction. Any such agency may supply information to the court wherein the motion is pending and to the other parties who are entitled to notice pursuant to 2C:52-10.

2C:52-18. Supplying information to violent crimes compensation board

Information contained in expunged records may be supplied to the Violent Crimes Compensation Board, in conjunction with any claim which has been filed with said board.

2C:52-19. Order of superior court permitting inspection of records or release of information; limitations

Inspection of the files and records, or release of the information contained therein, which are the subject of an order of expungement, or sealing under prior law, may be permitted by the Superior Court upon motion for good cause shown and compelling need based on specific facts. The motion or any order granted pursuant thereto shall specify the person or persons to whom the records and information are to be shown and the purpose for which they are to be utilized. Leave to inspect shall be granted by the court only in those instances where the subject matter of the records of arrest or conviction is the object of litigation or judicial proceedings. Such records may not be inspected or utilized in any subsequent civil or criminal proceeding for the purposes of impeachment or otherwise but may be used for purposes of sentencing on a subsequent offense after guilt has been established

2C:52-20. Use of expunged records in conjunction with supervisory treatment or diversion programs

Expunged records may be used by any judge in determining whether to grant or deny the person's application for acceptance into a supervisory treatment or diversion program for subsequent charges. Any expunged records which are possessed by any law enforcement agency may be supplied to the Attorney General, any county prosecutor or judge of this State when same are requested and are to be used for the purpose of determining whether or not to accept a person into a supervisory treatment or diversion program for subsequent charges.

2C:52-21. Use of expunged records in conjunction with setting bail, presentence report or sentencing

Expunged records, or sealed records under prior law, of prior arrests or convictions shall be provided to any judge, county prosecutor, probation department or the Attorney General when same are requested for use in conjunction with a bail hearing or for the preparation of a presentence report or for purpose of sentencing.

2C:52-22. Use of expunged records by parole board

Expunged records, or sealed records under prior law, of prior disorderly persons, petty disorderly persons and criminal convictions shall be provided to the Parole Board when same are requested for the purpose of evaluating the granting of parole to the person who is the subject of said records. Such sealed or expunged records may be used by the Parole Board in the same manner and given the same weight in its considerations as if the records had not been expunged or sealed.

2C:52-23. Use of expunged records by department of corrections

Expunged records, and records sealed under prior law, shall be provided to the Department of Corrections for its use solely in the classification, evaluation and assignment to correctional and penal institutions of persons placed in its custody.

2C:52-24. County prosecutor's obligation to ascertain propriety of petition

Notwithstanding the notice requirements provided herein, it shall be the obligation of the county prosecutor of the county wherein any petition for expungement is filed to verify the accuracy of the allegations contained in the petition for expungement and to bring to the court's attention any facts which may be a bar to, or which may make inappropriate the granting of, such relief. If no disabling, adverse or relevant information is ascertained other than that as included in the petitioner's affidavit, such facts shall be communicated by the prosecutor to the hearing judge.

2C:52-25. Retroactive application

This chapter shall apply to arrests and convictions which occurred prior to, and which occur subsequent to, the effective date of this act.

2C:52-26. Vacating of orders of sealing; time; basis

If, within 5 years of the entry of an expungement order, any party to whom notice is required to be given pursuant to [section 2C:52-10](#) notifies the court which issued the order that at the time of the petition or hearing there were criminal, disorderly persons or petty disorderly persons charges pending against the person to whom the court granted such order, which charges were not revealed to the court at the time of hearing of the original motion or that there was some other statutory disqualification, said court shall vacate the expungement order in question and reconsider the original motion in conjunction with the previously undisclosed information.

2C:52-27. Effect of expungement

Unless otherwise provided by law, if an order of expungement is granted, the arrest, conviction and any proceedings related thereto shall be deemed not to have occurred, and the petitioner may answer any questions relating to their occurrence accordingly, except as follows:

- a. The fact of an expungement, sealing or similar relief shall be disclosed as provided in section 2C:52-8b.**
 - b. The fact of an expungement of prior charges which were dismissed because of the person's acceptance into and successful completion of a supervisory treatment or other diversion program shall be disclosed by said person to any judge who is determining the propriety of accepting said person into a supervisory treatment or other diversion program for subsequent criminal charges; and**
 - c. Information divulged on expunged records shall be revealed by a petitioner seeking employment within the judicial branch or with a law enforcement or corrections agency and such information shall continue to provide a disability as otherwise provided by law.**
-
-

2C:52-27.1. Practitioners convicted of health care claims fraud; rescission of debarment order

a. If an order of expungement of records of conviction under the provisions of chapter 52 of Title 2C of the New Jersey Statutes is granted by the court to a person convicted of health care claims fraud in which the court had ordered the offender's professional license or certificate be forfeited and the person be forever barred from the practice of the profession, occupation, trade, vocation or business pursuant to subsection a. of section 4 of [P.L.1997, c. 353 \(C.2C:51-5\)](#), the person may petition the court for an order to rescind the court's order of debarment if the person can demonstrate that the person is sufficiently rehabilitated.

b. If an order to rescind the court's order of debarment is granted, the person granted the order may apply to be licensed or certified to practice the profession, occupation, trade, vocation or business from which the offender was barred.

2C:52-28. Motor vehicle offenses

Nothing contained in this chapter shall apply to arrests or conviction for motor vehicle offenses contained in Title 39.

2C:52-29. Fee

Any person who files an application pursuant to this chapter shall pay to the State Treasurer a fee of \$30.00 to defer administrative costs in processing an application hereunder.

2C:52-30. Disclosure of expungement order

Except as otherwise provided in this chapter, any person who reveals to another the existence of an arrest, conviction or related legal proceeding with knowledge that the records and information pertaining thereto have been expunged or sealed is a disorderly person. Notwithstanding the provisions of [section 2C:43-3](#), the maximum

fine which can be imposed for violation of this section is \$200.00.

2C:52-31. Limitation

Nothing provided in this chapter shall be interpreted to permit the expungement of records contained in the Controlled Dangerous Substances Registry created pursuant to P.L.1970, c. 227 ([C. 26:2G-17 et seq.](#)), [\[EN1\]](#) or the registry created by the Administrative Office of the Courts pursuant to [section 2C:43-21](#).

2C:52-32. Construction

This chapter shall be construed with the primary objective of providing relief to the one-time offender who has led a life of rectitude and disassociated himself with unlawful activity, but not to create a system whereby periodic violators of the law or those who associate themselves with criminal activity have a regular means of expunging their police and criminal records.

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File No. 6851
Attorney for Petitioner [REDACTED]

-----: SUPERIOR COURT OF NEW JERSEY
IN THE MATTER OF THE APPLICATION OF: LAW DIVISION
[REDACTED] FOR THE EXPUNGEMENT OF: PASSAIC COUNTY
RECORDS : DOCKET EXP-
:
:
: CRIMINAL ACTION.
:
: VERIFIED PETITION
-----: FOR EXPUNGEMENT

[REDACTED], residing at [REDACTED], [REDACTED], New York,
by way of Verified Petition, says:

GENERAL RECITATION

1. Petitioner was born on [REDACTED].

COUNT ONE

2. Petitioner was arrested on or about [REDACTED], by members
of the [REDACTED] Police Department, file number [REDACTED].

3. Petitioner was charged with terroristic threats, contrary to
N.J.S. 2C:12-3b.

4. The original Complaint number was W-764599-0225. In due cause,
this complaint gave rise to Indictment 95-09-980. That indictment
charged Petitioner with two counts of terroristic threats contrary to
N.J.S. 2C:12-3a and/or N.J.S. 2C:12-3b. The file reference of the
Passaic County Prosecutor on this matter was 95004135-001. The file

references of the Bergen County Prosecutor on this matter were 95000768-001 and 95000760-001.

5. This matter was disposed of on [REDACTED], in the Superior Court of New Jersey, Law Division, Passaic County.

6. This matter was resolved by Petitioner being found guilty of one count of terroristic threats. The court sentenced Petitioner to probation for four years and imposed statutory assessments. The remaining count was dismissed.

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest and conviction, and all records and information appertaining thereto.

COUNT TWO

7. Petitioner was arrested on or about [REDACTED], by members of the [REDACTED] Police Department, file number [REDACTED].

8. Petitioner was charged with terroristic threats, contrary to N.J.S. 2C:12-3a and N.J.S. 2C:12-3b; and ethnic intimidation (harassment), contrary to N.J.S. 2C:33-4d.

9. The original Complaint Number was W-131805-0225. In due course this complaint gave rise to Indictment 95-09-980. This is the same indictment referenced in Count One of this Petition. The file reference of the Passaic County Prosecutor on this matter was 95004135-001. The file references of the Bergen County Prosecutor on this matter were 95000768-001 and 95000760-001.

10. This matter was disposed of on [REDACTED], in the Superior Court of New Jersey, Law Division, Passaic County.

11. This matter was resolved as indicated in Paragraph Six, above,

the two complaints having given rise to a single indictment.

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest and conviction, and all records and information appertaining thereto.

ADDITIONAL ARRESTS

12. Petitioner was arrested on or about [REDACTED] in [REDACTED], New York. Petitioner was charged with aggravated harassment -2, contrary to Public Law 240.30. The original case number was [REDACTED]. This charge arose out of the same conduct recited in Counts One and Two of this Petition, said conduct consisting of telephone communications made in New York to a New Jersey recipient. This matter was disposed of on [REDACTED], in the [REDACTED] Justice Court, Rockland County, New York. This matter was resolved by Petitioner being found guilty. The court sentenced Petitioner to a conditional discharge¹. Petitioner does not seek expungement of this charge.

¹New York law uses "conditional discharge" differently than New Jersey. In New Jersey, a conditional discharge is a diversion. See N.J.S. 2C:36a-1. In New York, a conditional discharge is a sentence that would appear to be equivalent to what New Jersey calls unsupervised probation. Thus McKinney's Penal Law Section 60.01 provides in pertinent part:

1. Applicability. Except as otherwise specified in this article, when the court imposes sentence upon a person convicted of an offense, the court must impose a sentence prescribed by this section.

2. Revocable disposition.

(a) The court may impose a revocable sentence as herein specified:

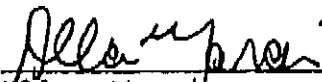
(i) the court, where authorized by article sixty-five, may sentence a person to a period of probation or to a period of conditional discharge as provided in that article[.]

Similarly, McKinney's Penal Law Section 65.05(1) specifies:

Petitioner recites this charge solely for purposes of completeness.

13. As an adult, Petitioner has never been arrested or charged with any disorderly persons, petty disorderly persons, or criminal offense, or violation of a municipal ordinance, in any jurisdiction whatsoever, except as set forth herein. As a juvenile, Petitioner has never been arrested or charged with any action which, had Petitioner been an adult, would have constituted a disorderly persons, petty disorderly persons, or criminal offense, or violation of a municipal ordinance, in any jurisdiction whatsoever, except as set forth herein.

Dated: April 22, 2010



Allan Marain

1. Criteria. (a) Except as otherwise required by section 60.05, the court may impose a sentence of conditional discharge for an offense if the court, having regard to the nature and circumstances of the offense and to the history, character and condition of the defendant, is of the opinion that neither the public interest nor the ends of justice would be served by a sentence of imprisonment and that probation supervision is not appropriate.

Thus is it clear that the conditional discharge that Petitioner received in New York was a sentence, and not a diversion.

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File No. 6935
Attorney for Petitioner [REDACTED]

IN THE MATTER OF THE APPLICATION : SUPERIOR COURT OF NEW JERSEY
OF [REDACTED] FOR THE : LAW DIVISION
EXPUNGEMENT OF RECORDS : MONMOUTH COUNTY
: DOCKET M-2011-
:
:
: CRIMINAL ACTION
:
: VERIFIED PETITION
: FOR EXPUNGEMENT

[REDACTED] residing at [REDACTED] [REDACTED] in the Town of [REDACTED]
[REDACTED], State of New York, by way of Verified Petition, says:

GENERAL RECITATION

1. Petitioner was born on [REDACTED]. Petitioner's SBI file number is [REDACTED]
Petitioner's FBI number is [REDACTED].

COUNT ONE

2. Petitioner was arrested on or about [REDACTED], by members of the [REDACTED] Police
Department.

3. Petitioner was charged with possession or consumption of alcohol in a public place while under the legal age to do so, contrary to N.J.S. 2C:33-15a; and possessing false identification, contrary to N.J.S. 2C: 21-2.1.

4. The original Complaint Numbers were S-2004-4 and S-2004-33.

5. This matter was disposed of on [REDACTED], in the [REDACTED] Municipal Court.

6. The court dismissed the charge of possessing false identification. The court found Petitioner guilty of possession/consumption of alcohol under the legal age and imposed a fine of \$1,000.00 plus costs and statutory assessments.

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest and conviction, and all records and information appertaining thereto.

COUNT TWO

7. Petitioner was arrested on [REDACTED] by members of the [REDACTED] Police Department.

8. Petitioner was charged with possession and consumption of alcohol while under the legal age to do so, contrary to N.J.S. 2C:33-15; and improper behavior, contrary to [REDACTED] Ordinance 6:14-7B.

9. The original Complaint Numbers were SC-2005-7470 and SC-2005-011053.

10. This matter was disposed of on [REDACTED], in the [REDACTED] Municipal Court.

11. The court dismissed the charge of possession and consumption of alcohol while under the legal age to do so. The court found Petitioner guilty of improper behavior, contrary to Long Branch Ordinance 6:14-7B, and imposed a fine of \$333.00.

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest and conviction, and all records and information appertaining thereto.

COUNT THREE

12. Petitioner was arrested on or about [REDACTED], by members of the [REDACTED] Police Department.

13. Petitioner was charged with possession and consumption of alcohol under the legal age, contrary to N.J.S. 2C:33-15.

14. The original complaint number was SC-2005-010389.

15. This matter was disposed of on [REDACTED], in [REDACTED] Municipal Court.

16. The municipal prosecutor downgraded the charge to allege underage possession/consumption of alcohol on private property, contrary to [REDACTED] Ordinance 0-01-5. The court found Petitioner guilty of the charge as amended and imposed a fine of \$300.00 plus costs and statutory assessments.

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest and conviction, and all records and information appertaining thereto.

COUNT FOUR

17. Petitioner was arrested on [REDACTED], by members of the [REDACTED] Police Department. The case number of the [REDACTED] Department as listed on an SBI criminal history was 26574. The case number of the [REDACTED] Department as listed on Promis/Gavel was 0636800.

18. Petitioner was charged with aggravated assault, contrary to N.J.S. 2C:12-1b(5)(a); resisting arrest, contrary to N.J.S. 2C:29-2a; and disorderly conduct, contrary to N.J.S. 2C:33-2.

19. The original complaint numbers were W-2006-003550-1303, and S-2006-003551-1303.

20. This matter was disposed of on [REDACTED], in the [REDACTED] Municipal Court.

21. The [REDACTED] County Prosecutor reviewed the charges, downgraded them, and remanded them to the [REDACTED] Municipal Court. The [REDACTED] Municipal Prosecutor reviewed the matter and amended the charges further. Petitioner's ultimate charges were resisting arrest, contrary to N.J.S. 2C:29-2a(1); improper behavior, contrary to N.J.S. 2C:33-2a(1); and loitering, contrary to [REDACTED] Ordinance 3-22.3. That court dismissed the charges of improper behavior and resisting arrest, and found Petitioner guilty of violating Asbury Park Ordinance 3-22.3, imposing a fine of \$536.00

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest and conviction, and all records and information appertaining thereto.

ADDITIONAL ARRESTS

22. Petitioner was arrested on [REDACTED], by members of the Nassau County Police Department in the State of New York. Petitioner was charged with operating a motor vehicle under the influence of alcohol, contrary to McKinney's Vehicle and Traffic Law §1193. The original complaint number was [REDACTED]. This matter was disposed of on [REDACTED] [REDACTED] in Nassau County 1st District Court. The court found Petitioner guilty of driving under the influence and imposed a fine of \$500.00 plus costs and statutory assessments, three years

probation, and revoked Petitioner's license. Petitioner does not seek expungement of this arrest and conviction. Petitioner recites this arrest and conviction solely for purposes of completeness.

23. As an adult, Petitioner has never been arrested or charged with any disorderly persons, petty disorderly persons, or criminal offense, or violation of a municipal ordinance, in any jurisdiction whatsoever, except as set forth herein. As a juvenile, Petitioner has never been arrested or charged with any action which, had Petitioner been an adult, would have constituted a disorderly persons, petty disorderly persons, or criminal offense, or violation of a municipal ordinance, in any jurisdiction whatsoever, except as set forth herein.

Dated: January , 2011

Allan Marain

STATE OF NEW YORK:

SS.

COUNTY OF [REDACTED]

[REDACTED], of full age, being duly sworn according to law, upon his/her oath,
deposes and says:

1. I am the Petitioner in the foregoing Petition.
2. I have read the foregoing Petition. The allegations in the foregoing Petition are true to the best of my knowledge, information, and belief. The foregoing Petition is made in good faith for the causes set forth therein.
3. There are no disorderly persons, petty disorderly persons, or criminal charges pending against me at the time of the filing of this Petition for Expungement.

[REDACTED]

Sworn and subscribed to before me this
day of January, 2011

Allan Marain
100 Bayard Street
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Telephone: 732-828-2020
Allan@NJExpungements.com
File No. 6978
Attorney for Petitioner [REDACTED]

IN THE MATTER OF THE APPLICATION : SUPERIOR COURT OF NEW JERSEY
OF [REDACTED], n/k/a [REDACTED] : LAW DIVISION
[REDACTED], FOR THE EXPUNGEMENT OF : BURLINGTON COUNTY
RECORDS : DOCKET EX-
:
:
: CRIMINAL ACTION
:
: VERIFIED PETITION
: FOR EXPUNGEMENT

[REDACTED], n/k/a [REDACTED], residing at [REDACTED]
[REDACTED], in the City of [REDACTED] County of [REDACTED]
State of [REDACTED], by way of Verified Petition, says:

GENERAL RECITATION

1. Petitioner was born on [REDACTED]. Petitioner's SBI file number is 546963C.

COUNT ONE

2. Petitioner was arrested on August 14, 2001; by members of the Willingboro Police Department.

3. Petitioner was charged with issuing bad checks, contrary to N.J.S. 2C:21-5a.

4. The original complaint numbers were B-2001-004181, B-2001-004182, B-2001-004183, B-2001-004184, B-2001-004185, B-2001-004186, B-

2001-001487, B-2001-001488, B-2001-001489, and B-2001-001490.

5. These matters were disposed of on or about October 19, 2001, in the [REDACTED] Municipal Court.

6. This matter was resolved by all charges being dismissed.

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest, and all records and information appertaining thereto.

COUNT TWO

7. Petitioner was arrested on September 20, 2002, by members of the [REDACTED] Police Department.

8. Petitioner was charged with burglary, contrary to N.J.S. 2C:18-2a(1); theft by unlawful taking, contrary to N.J.S. 2C:20-3a; and fencing, contrary to N.J.S. 2C:20-7.1b.

9. The original complaint numbers were W-2002-000612-0306, and W-2002-00613-0306. In due course these complaints gave rise to Indictment 2003-01-0047-I. The file reference for the Burlington County Prosecutor was 02003035-001. The Caps ID was s34328.

10. This matter was resolved on May 16, 2003, in the [REDACTED]
[REDACTED], [REDACTED], [REDACTED].

11. The court found Petitioner guilty of theft by unlawful taking, contrary to N.J.S. 2C:20-3a. The court sentenced Petitioner to a term of probation for one year, and \$1,200.00 restitution, and statutory assessments.

12. The expungement that Petitioner seeks is consistent with the public interest, giving due consideration to the nature of the offense, and her character and conduct both before and since

conviction. Petitioner is mindful that N.J.S. 2C:52-2 calls for examination of an applicant's character and conduct following conviction. Petitioner nevertheless provides the following as documentation that her conviction was an aberration from the manner in which she had previously conducted, and continued thereafter to conduct her life:

A. Education

- i. Diploma from [REDACTED]
- ii. Certificate of Achievement for completion of State Certified Nurse Aide Course, [REDACTED]
- iii. Certificate of placement on the New Jersey State Nurse Aide Registry, [REDACTED]
- iv. Certificate of Completion for Team Building program from New Jersey Institute of Technology, Division of Continuing Professional Education, [REDACTED]
- v. Certificate of Completion for Problem Solving program from New Jersey Institute of Technology, Division of Continuing Professional Education, [REDACTED]

B. Employment

i. Upon completion of her probation, Petitioner obtained employment with Medical Diagnostic Laboratories, in Hamilton, New Jersey. She worked there for nearly six years. After being laid off in May 2010, Petitioner searched for and found employment with the State of New Jersey, [REDACTED]. Her federal I.R.S. withholding for 2010 was \$1,958.19. (Actual tax liability for 2010 has not yet been determined.) Her remaining at and advancing within her new

position is dependent upon a clean criminal history, once she is fingerprinted. A more extensive history of Petitioner's past employment is provided in the form of her resume, included herein.

ii. In her current position, Petitioner is responsible for criminal background checks for anyone working in the New Jersey [REDACTED], as well as personnel in [REDACTED]. Working in conjunction with the New Jersey State Police, the FBI, and New Jersey Division of Motor Vehicles, Petitioner issues approval letters when there criminal history is found, and disqualifications and suspensions notifying [REDACTED] contractors of any criminal activity or motor vehicle violations.

C. Community Involvement and Family Life

i. Petitioner married in 2007. She has a nine-year old son, and a three-year old daughter. Petitioner works full time, while remaining involved with her children's activities, such as scouts and baseball.

ii. Petitioner is also a pillar of support for her ninety year-old grandmother. She coordinates and maintains contact with her grandmother's social worker, therapist, and nurse, who visits several times per week. Additionally, Petitioner regularly drives her grandmother to doctor's appointments.

iii. Letter from [REDACTED] February 22, 2011.

iv. Letter from [REDACTED] March 2, 2011.

v. Certificate of Special Recognition from [REDACTED] High School for 253 hours of service to the community.

vi. Certificate of one-year membership in the National

Fraternity of Student Musicians, Student Division of American College of Musicians, and Piano Hobbyists of the World, 1990.

vii. Certificate of one-year membership in the National Fraternity of Student Musicians, Student Division of American College of Musicians, and Piano Hobbyists of the World, 1991.

viii. Certificate of one-year membership in the National Fraternity of Student Musicians, Student Division of American College of Musicians, and Piano Hobbyists of the World, 1992.

iv. Certificate of one-year membership in the National Fraternity of Student Musicians, Student Division of American College of Musicians, and Piano Hobbyists of the World, 1993.

x. Certificate of one-year membership in the National Fraternity of Student Musicians, Student Division of American College of Musicians, and Piano Hobbyists of the World, 1995.

xi. Holy Cross Sports Award, 1989-1990.

xii. Holy Cross Sports Award, 1990-1991.

D. Aspirations

Petitioner seeks to put her past mistakes behind her. Petitioner would like the freedom to pursue job opportunities now closed to her, to advance her career and thus enhance her contributions to society. Employment is a main concern for Petitioner. Even though Petitioner has been able to obtain employment, her ability to keep her present position is in jeopardy.

13. As an adult, Petitioner has never been arrested or charged with any disorderly persons, petty disorderly persons, or criminal offense, or violation of a municipal ordinance, in any jurisdiction whatsoever, except as set forth herein. As a juvenile, Petitioner has never been arrested or charged with any action which, had Petitioner been an adult, would have constituted a disorderly persons, petty disorderly persons, or criminal offense, or violation of a municipal ordinance, in any jurisdiction whatsoever, except as set forth herein.

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest and indictment/conviction, and all records and information appertaining thereto.

Dated: April , 2011

Allan Marain

Allan Marain & Associate
100 Bayard Street
P.O. Box 1030
New Brunswick, New Jersey 08903
Telephone: 732-828-2020
Allan@NJExpungements.com
File No. 7005
Attorney for Petitioner [REDACTED]

IN THE MATTER OF THE APPLICATION : SUPERIOR COURT OF NEW JERSEY
OF [REDACTED] FOR THE : LAW DIVISION
EXPUNGEMENT OF RECORDS : HUNTERDON COUNTY
: [REDACTED]
:
:
: CRIMINAL ACTION
:
: VERIFIED PETITION
: FOR EXPUNGEMENT

[REDACTED], residing at [REDACTED], in the Township
of [REDACTED] County of [REDACTED] State of [REDACTED] by way of
Verified Petition, says:

GENERAL RECITATION

1. Petitioner was born on [REDACTED]. Petitioner's SBI file
number is [REDACTED].

COUNT ONE

2. Petitioner was taken in custody on [REDACTED], by members
of the [REDACTED] Police Department.

3. Petitioner was charged with actions which, had he been an
adult, would have constituted operation of a vehicle without the

owner's consent, contrary to N.J.S. 2C:20-10a.¹

4. The original complaint number was [REDACTED]

5. This matter was disposed of on [REDACTED] in the

[REDACTED]

6. This matter was resolved by the charge being dismissed.²

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned matter, and all records and information appertaining thereto.

COUNT TWO

7. Petitioner was arrested on [REDACTED] by members of the [REDACTED] Police Department.³

8. Petitioner was charged with terroristic threats, contrary to N.J.S. 2C:12-3b.

9. The original complaint number was [REDACTED]

10. The [REDACTED] Prosecutor downgraded the charge to allege, instead, harassing communication, contrary to N.J.S. 2C:33-4, and remanded the matter to [REDACTED] Municipal Court. This matter was resolved in [REDACTED] Municipal Court on [REDACTED]

11. This matter was resolved by the charge being dismissed.

¹Petitioner was additionally charged at the same time with various motor vehicle offenses, expungement for which is not sought.

²Order of Disposition showing dismissal of this charge is included in attached affidavit (Exhibit B, Page Eleven). Counsel surmises that the Docket Number for this charge was erroneously included in Order of Disposition for Petitioner's later charges, also included in attached affidavit (Exhibit B, Page Seven).

³This date comes from the Municipal Court Criminal Docket provided by the Flemington Municipal Court. A New Jersey Criminal History Detailed Record provided by the New Jersey State Police, incorporated herein, recites the arrest date as [REDACTED].

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest, and all records and information appertaining thereto.

COUNT THREE

12. Petitioner was arrested [REDACTED], by members of the [REDACTED] Police Department.

13. Petitioner was charged with burglary, contrary to N.J.S. 2C:18-2a(1) and N.J.S. 2C:2-6; and receiving stolen property, contrary to N.J.S. 2C:20-3a and N.J.S. 2C:2b(2) (a).

14. The indictment number was [REDACTED]

15. This matter was disposed of on [REDACTED] in the [REDACTED]

16. The court found Petitioner guilty, and sentenced him to a term of probation of two years, thirty days confinement in the [REDACTED] two hundred hours community service, and to submit to a substance abuse evaluation. The court also imposed a fine of \$60.00.

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest and conviction, and all records and information appertaining thereto.

ADDITIONAL ARRESTS

17. Petitioner was taken into custody on [REDACTED] by members of the [REDACTED] Police Department, for actions which, had he been an adult, would have constituted vandalism, contrary to N.J.S. 2C:33-14. The original complaint number was FJ-18-0613-85-A. This matter was heard in the [REDACTED]

[REDACTED], [REDACTED], on [REDACTED]. The court adjudicated Petitioner delinquent, and placed Petitioner on a term of probation of two years, imposed a fine of \$40.00, restitution of \$121.52, and counseling. Petitioner does not seek expungement of this matter. Petitioner recites this matter solely for purposes of completeness.

18. Petitioner was taken into custody on [REDACTED] by members of the [REDACTED] Police Department, for actions which, had he been an adult, would have constituted receiving stolen property, contrary to N.J.S. 2C:20-7. The original Complaint Number was [REDACTED]. This matter was heard in the [REDACTED] [REDACTED], [REDACTED], [REDACTED], on [REDACTED]. The court adjudicated Petitioner delinquent, and placed Petitioner on a term of probation of two years, imposed a fine of \$40.00, restitution of \$121.52, and counseling. Petitioner does not seek expungement of this matter. Petitioner recites this matter solely for purposes of completeness.

19. Petitioner was taken into custody on [REDACTED] by members of the [REDACTED] Police Department, for actions which had he been an adult, would have constituted burglary, contrary to N.J.S. 2C:18-2, and theft of movable property, contrary to N.J.S. 2C:20-3(a). The original complaint number was [REDACTED]. Counsel's best efforts at determining the disposition of this offense, as further detailed in attached affidavit of Jill Westerberg, were unsuccessful. Petitioner does not seek expungement of this matter. Petitioner recites this matter solely for purposes of completeness.

20. Petitioner was taken into custody on [REDACTED], by

members of the [REDACTED] Police Department, for actions which, had he been an adult, would have constituted entering a vehicle with the intent to commit a crime, contrary to N.J.S. 2C:18-2; and unlawful taking, contrary to N.J.S. 2C:20-3a. The original Complaint Number was [REDACTED]. This matter was heard in the [REDACTED] [REDACTED], Somerset County, on November 7, 1985. The court amended the offense of unlawful taking to allege, instead, receiving stolen property, contrary to N.J.S. 2C:20-7. The court adjudicated Petitioner delinquent, and sentenced Petitioner to six months in confinement in the NJ Home for Boys, and a fine of \$50.00. Petitioner does not seek expungement of this matter. Petitioner recites this matter solely for purposes of completeness.

21. Petitioner was taken into custody on [REDACTED] by members of the [REDACTED] Police Department, for actions which, had he been an adult, would have constituted possession of marijuana, contrary to N.J.S. 24:21-20. The original complaint number was [REDACTED]. Counsel's best efforts at determining the disposition of this offense, further detailed in attached affidavit of Jill Westerberg, were unsuccessful. Petitioner does not seek expungement of this matter. Petitioner recites this matter solely for purposes of completeness.

22. Petitioner was taken into custody by members of the [REDACTED] [REDACTED] Police Department on [REDACTED] for events which, had he been an adult, would have constituted possession of alcoholic beverages without being of legal age, contrary to N.J.S. 2C:33-15. Information provided by the court to Petitioner does not mention this

charge. Petitioner does not seek expungement of this matter.

Petitioner recites this matter solely for purposes of completeness.

23. Petitioner was taken into custody by members of the [REDACTED] Police Department several additional times during [REDACTED] for actions which, had he been an adult, would have constituted assault, and criminal trespassing. The original complaint numbers were [REDACTED] [REDACTED], [REDACTED], and [REDACTED]. These matters were resolved in the [REDACTED] [REDACTED]. The final hearing was on [REDACTED]. Petitioner was sentenced to an indeterminate term in [REDACTED], not to exceed one year, suspended. Petitioner was placed on probation for two years with conditions. On [REDACTED], an amended order altered these conditions. On [REDACTED] Petitioner's conditions were further amended. Petitioner does not seek expungement of these matters. Petitioner recites these matters solely for purposes of completeness.

24. Petitioner was arrested on [REDACTED], by members of the [REDACTED] Police Department. Petitioner was charged with receiving stolen property, contrary to N.J.S. 2C:20-7a. The original complaint number was S-1993-747842. This matter was disposed of on [REDACTED], in [REDACTED] Municipal Court. The court found Petitioner guilty. The court imposed a fine of \$250.00, plus costs. Petitioner does not seek expungement of this arrest and conviction. Petitioner recites this arrest and conviction solely for the purposes of completeness.

25. As an adult, Petitioner has never been arrested or charged

with any disorderly persons, petty disorderly persons, or criminal offense, or violation of a municipal ordinance, in any jurisdiction whatsoever, except as set forth herein. As a juvenile, Petitioner has never been taken into custody or charged with delinquency in any jurisdiction whatsoever, except as set forth herein.

Dated: July , 2011

Allan Marain

Allan Marain & Associate
100 Bayard Street
P.O. Box 1030
New Brunswick, New Jersey 08903
Telephone: 732-828-2020
Allan@NJExpungements.com
File No. 7053
Attorneys for Petitioner [REDACTED]

IN THE MATTER OF THE APPLICATION : SUPERIOR COURT OF NEW JERSEY
OF [REDACTED] FOR THE : LAW DIVISION
EXPUNGEMENT OF RECORDS : MIDDLESEX COUNTY
: DOCKET M-
:
:
: CRIMINAL ACTION
:
: VERIFIED PETITION
: FOR EXPUNGEMENT

[REDACTED] residing at [REDACTED] in the
City of [REDACTED] County of [REDACTED] State of [REDACTED] by way of
Verified Petition, says:

1. Petitioner was born on [REDACTED]. Petitioner's SBI file number is [REDACTED].
2. Petitioner was arrested on [REDACTED], by members of the New Jersey State Police, case number [REDACTED].
3. Petitioner was charged with theft by failure to make required disposition of property received, contrary to N.J.S. 2C:20-9; theft by unlawful taking, contrary to N.J.S. 2C:20-3a; theft by illegal retention, contrary to N.J.S. 2C:20-9; receiving stolen property, contrary to N.J.S. 2C: 20-7a; and official misconduct, contrary to N.J.S. 2C:30-2.

4. The original complaint numbers were [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. In due course, these complaints gave rise to Indictment [REDACTED], alleging theft by failure to make required disposition of property received, contrary to N.J.S. 2C:20-9; and official misconduct, contrary to N.J.S. 2C:30-2. The file reference of the Middlesex County Prosecutor was [REDACTED]. The file reference of the Burlington County Prosecutor was [REDACTED]. The file reference of the Hudson County Prosecutor was [REDACTED].

5. This matter was disposed of on [REDACTED] in the Superior Court of New Jersey, Law Division, Middlesex County.

6. This matter was resolved by all charges being dismissed upon Petitioner's successful completion of requirements set forth by the Middlesex County Pre-Trial Intervention Program. A copy of the Order of Dismissal is annexed hereto.

7. As an adult, Petitioner has never been arrested or charged with any disorderly persons, petty disorderly persons, or criminal offense, or violation of a municipal ordinance, in any jurisdiction whatsoever, except as set forth herein. As a juvenile, Petitioner has never been taken into custody or charged with delinquency in any jurisdiction whatsoever, except as set forth herein.

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest and indictment, and all records and information appertaining thereto.

Dated: September , 2011

Allan Marain



MIDDLESEX COUNTY PROSECUTOR'S OFFICE

Bruce J. Kaplan
County Prosecutor

25 Kirkpatrick Street, 3rd Floor
New Brunswick, NJ 08901
732-745-3300
prosecutor@co.middlesex.nj.us

Julia L. McClure
1st Assistant Prosecutor

Robert J. Travlsano
Chief of County Investigators

Deputy 1st Assistants

Nicholas F. Sewitch
Christopher L. C. Kuberiet
Christie L. Bevacqua
Keith M. Warburton

December 20, 2011

Hon. Frank M. Ciuffani, P.J. Ch.
Middlesex Superior Court, Ctrm. 306
56 Paterson Street, Box 964
New Brunswick, NJ 08903

Re: IMO Expungement Application of [REDACTED]
Docket No. [REDACTED]; Hearing Date: 1/6/2012

Dear Judge Ciuffani:

This office has received and reviewed Petitioner [REDACTED] expungement application. This office objects to said application as Petitioner has not set forth all her arrest events and related particulars and disposition documentation. Apparently Petitioner was arrested in Newark (Essex County) for theft violations and subsequently convicted of NJSA 2C:20-2B(3) on [REDACTED]. Petitioner must file and serve an Amended application setting forth her arrest information and documentation. Once a proper petition is filed and served, then Petitioner's eligibility can be reviewed. Until a complete compliant petition is filed and served, this matter should be dismissed. See: NJSA 2C:52-7.

Respectfully Submitted,

Glenn A. Grau
GLENN A. GRAU
Assistant Prosecutor
Expungement Unit
Tel: 732.745.8926

Cc: Allan Marain, Esq. (Via fax @ 732.828.2077 & mailed)

Allan Marain & Associate
100 Bayard Street
P.O. Box 1030
New Brunswick, New Jersey 08903
Telephone: 732-828-2020
Allan@NJExpungements.com
File No. 7068
Attorneys for Petitioner [REDACTED] a/k/a [REDACTED]

IN THE MATTER OF THE APPLICATION : SUPERIOR COURT OF NEW JERSEY
OF [REDACTED] a/k/a [REDACTED] FOR : LAW DIVISION
THE EXPUNGEMENT OF RECORDS : MIDDLESEX COUNTY
: DOCKET M-
:
:
: CRIMINAL ACTION
:
: VERIFIED PETITION
: FOR EXPUNGEMENT

[REDACTED] a/k/a [REDACTED] residing at [REDACTED]
in the Township of [REDACTED], County of [REDACTED] State of [REDACTED], by way of
Verified Petition, says:

GENERAL RECITATION

1. Petitioner was born on [REDACTED]. Petitioner's SBI file number is [REDACTED].
Petitioner's FBI file number is [REDACTED]

COUNT ONE

2. Petitioner was arrested on or about [REDACTED] by members of the [REDACTED]
[REDACTED] Police Department, case number [REDACTED]

3. Petitioner was charged with annoying communications, contrary to N.J.S. 2C:33-4a; alarming conduct, contrary to N.J.S. 2C:33-4c; aggravated assault, contrary to N.J.S. 2C:12-1b; terroristic threats, contrary to N.J.S. 2C:12-3b; possession of a weapon for an unlawful purpose, contrary to N.J.S. 2C:39-4a; and criminal mischief, contrary to N.J.S. 2C:17-3a(1).

4. The original complaint numbers were [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. In due course, these complaints gave rise to Indictment [REDACTED] alleging unlawful possession of a weapon, contrary to N.J.S. 2C:39-5b; possession of a weapon for unlawful purposes, contrary to N.J.S. 2C:39-4a; aggravated assault, contrary to N.J.S. 2C:12-1b(4); terroristic threats, contrary to N.J.S. 2C:12-3b; criminal mischief, contrary to N.J.S. 2C:17-3a(1); and stalking, contrary to N.J.S. 2C:12-10. The file reference of the [REDACTED] Prosecutor was [REDACTED].

5. This matter was disposed of on [REDACTED] in the [REDACTED], [REDACTED], [REDACTED].

6. This matter was resolved by Petitioner being found guilty of unlawful possession of a weapon, contrary to N.J.S. 2C:39-5b; and criminal mischief, contrary to N.J.S. 2C:17-3a(1). The court sentenced Petitioner to a term of probation for five years, fines of \$850.00, restitution, and statutory assessments. The court dismissed all remaining charges.

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest and conviction, and all records and information appertaining thereto.

COUNT TWO

7. Petitioner was arrested on [REDACTED], by members of the [REDACTED] Police Department.

8. Petitioner was charged with stalking, contrary to N.J.S. 2C:12-10b.

9. The original complaint number was [REDACTED]. In due course that complaint gave rise to Indictment [REDACTED] alleging the same.

10. This matter was disposed of on [REDACTED] in the [REDACTED] [REDACTED] [REDACTED].

11. This matter was resolved by the charge being dismissed.

WHEREFORE Petitioner respectfully requests that this Court issue an Order expunging all reference to the aforementioned arrest and indictment, and all records and information appertaining thereto.

ADDITIONAL INFORMATION

12. As an adult, Petitioner has never been arrested or charged with any disorderly persons, petty disorderly persons, or criminal offense, or violation of a municipal ordinance, in any jurisdiction whatsoever, except as set forth herein. As a juvenile, Petitioner has never been taken into custody or charged with delinquency in any jurisdiction whatsoever, except as set forth herein.

Dated: November , 2011

Allan Marain

MIDDLESEX COUNTY PROSECUTOR'S OFFICE

PROSECUTOR BRUCE J. KAPLAN

25 Kirkpatrick Street, 3rd Floor
New Brunswick, NJ 08901

January 25, 2012

Hon. Frank M. Ciuffani, P.J. Ch.
Middlesex Superior Court, Ctrm. 306
56 Paterson Street, Box 964
New Brunswick, NJ 08903

Re: IMO Expungement Application of [REDACTED]

Docket No.: [REDACTED], Hearing Date: [REDACTED]

Dear Judge Ciuffani:

The State has received Petitioner [REDACTED] application and the advisory letter from the New Jersey State Police. The State Police Expungement Unit informs this office that Petitioner has an open pending criminal charge connected to a 7/2/2011 CBP Newark (Federal) arrest on a charge of alien inadmissibility (§ 212). This federal arrest/charge must be resolved and concluded before Petitioner is eligible for expungement consideration. Accordingly, this application should be dismissed.

Respectfully Submitted,

Glenn A. Grau 

Glenn A. Grau
Assistant Prosecutor
MCPO Expungement Unit
T 732.745.8926 | F 732.745.2324
Email: glenn.grau@co.middlesex.nj.us

cc: Allen Marain, Esq. ✓

KELLEY LAW OFFICES, L.L.C.
401 Cooper Landing Road
Suite C-16
Cherry Hill, NJ 08002
(856) 414-1080
By: Daniel B. Kelley, Esquire
Attorneys for Petitioner

In the Matter of the Application for	:	SUPERIOR COURT OF NEW JERSEY
Expungement of the Criminal Records of	:	LAW DIVISION
FF A. WILLIAMS, a/k/a FF :	:	CAMDEN COUNTY
a/k/a FF FF :	:	FF,
:	:	FF,
Petitioner.	:	DOCKET NO.:
	:	QUASI-CRIMINAL ACTION
	:	VERIFIED PETITION

Petitioner, Ff A. Ff Ff, residing at 1574 ore, State of Pennsylvania, by and through her attorney, Daniel B. Kelley, Esq., hereby petitions this Honorable Court for an Order directing expungement of her criminal record, saying:

1. Petitioner's date of birth is .
2. On or about May 11, 1989, Petitioner was charged under Indictment No. 0 with one count each of violating N.J.S.A. 2C:35-5A(1)/2C:35-5B(3), *Cocaine/Distribution of CDS*, N.J.S.A. 2C:35-10A(1), *Possession of CDS*, N.J.S.A. 2C:5-2, *Conspiracy*, and N.J.S.A. 2C:35-5A(1)/2C:35-5B(3), *Possession with Intent to Distribute CDS*, and subsequently arrested by the Camden County

Sheriff's Department, on or about May 28, 1989, in the City of Camden, County of Camden, State of New Jersey.

3. On or about January 25, 1990, Petitioner appeared in Camden County Superior Court and plead not guilty to the charge of Indictment No. I
4. Petitioner re-appeared in Camden County Superior Court, on or about September 4, 1991, and was convicted of violating N.J.S.A. 2C:35-5A(1)/2C:35-5B(3), *Distribution of CDS (3rd Degree)*, and sentenced to Three ("3") years of probation, loss of driver's license for 6 months, and fines/court costs in the amount of \$1,080.00.
5. Also, on or about September 4, 1991, the remaining counts of Indictment No. I were dismissed in the Camden County Superior Court.
6. All of the fines and/or Court costs and/or terms of probation were paid in full/conditions satisfied more than ten ("10") years ago.
7. Petitioner was arrested on or about Au, 1996, in the Township of Mount Laurel, County of Burlington, State of New Jersey, and charged with one count of violating N.J.S.A. 2C:20-11, *Shoplifting*, under summons/warrant number W-19
8. On or about September 17, 1996, Petitioner appeared in the Mount Laurel Township Municipal Court and was convicted of the amended charge of violating N.J.S.A. 2C:20-11B(1), *Shoplifting* and assessed fines and/or court costs in the amount of \$378.00 which have been paid in full.
9. Petitioner was arrested on or about December 26, 1997, in the City of Camden, County of Camden, State of New Jersey, and charged with one count of violating

N.J.S.A. 2C:33-2.1(B), *Loitering to Obtain CDS*, under summons/warrant number S-1997-012947.

10. On or about July 6, 2009, Petitioner appeared in the Camden City Municipal Court and the charge of violating N.J.S.A. 2C:33-2.1(B), *Loitering to Obtain CDS*, was dismissed.
11. Petitioner is not presently seeking to expunge her 1996 Mount Laurel Township arrest and conviction as this matter is not eligible for expungement.
12. Petitioner previously filed for expungement *pro se* (docket number 3), and was ultimately denied prior to the January 2010 changes to N.J.S.A. 2C:52-2.
13. Specifically, as amended, however, N.J.S.A. 2C:52-2, now provides, in pertinent part, that expungement for certain drug offenses shall be denied except where the crimes relate to:

“Any controlled dangerous substance provided that the conviction is of the third or fourth degree, where the court finds that expungement is consistent with the public interest, giving due consideration to the nature of the offense and the petitioner’s character and conduct since conviction.”
N.J.S.A. 2C:52-2(b)(3).

14. It should be noted that none of Petitioner's charges/convictions allege or involve any violence whatsoever and no other parties were directly victimized by defendant's conduct.
15. As demonstrated by the nature of the offenses, Petitioner’s criminal records was a result of, and directly related to, her now resolved substance abuse problem.
16. Since the time of her criminal conviction, Petitioner completed her degree at Peirce College, has married and started a family and attends church regularly. She no longer uses any illegal drugs and has matured from the young woman she

was over twenty years ago (See Exhibit A: Various Certificates, Achievements, and Reference Letters).

17. As demonstrated by Petitioner's conduct since her criminal arrest/convictions, granting expungement of Petitioner's charges and conviction arising out of this criminal offense is consistent with the expungement statute's purpose of "providing relief to the one-time [criminal] offender who has led a life of rectitude and disassociated himself with criminal activity," N.J.S.A. 2C:52-32, as Petitioner has done since this incident.

18. Further, it is consistent with the public interest to grant a reprieve to Ms. Ff- Ff for her one time criminal infraction which occurred over twenty years ago. Her character and conduct since that matter demonstrate the positive changes she made in his life rather than this incident being a start of a criminal career.

19. Petitioner seeks expungement for employment purposes and personal reasons.

20. Petitioner has never been arrested or convicted for any offenses other than those detailed above.

WHEREFORE, Petitioner requests that this Court grant an Order of Expungement directing the Clerk of the Court and all relevant criminal justice and law enforcement services of the State of New Jersey to expunge from their records all evidence of the arrests and proceedings in these matters, and further directing any New Jersey law enforcement agency which sent records of the arrests and proceedings to the Federal Bureau of Investigation or any other law enforcement agency outside the State of New Jersey to inform the recipient of the Order of Expungement and request the return of said records.

Respectfully submitted,

KELLEY LAW OFFICES, L.L.C.
Attorneys for Petitioner

By: _____
Daniel B. Kelley, Esquire

Dated: _____, 2010.

Via Facsimile and Regular Mail

July 19, 2010

CAMDEN

Re: The Expungement
Hearing Date: July 30, 2010

As you may be aware, this firm represents the above-referenced expungement Petitioner, who had a hearing listed for August 20, 2010. We are writing in reply to that of the Camden County Prosecutor's Office which was dated September 21, 2010 and seeking to continue the expungement date until December 17, 2010. The basis of the Prosecutor's objections are incorrect and irrelevant, and we would accordingly request a hearing as soon as possible, so that this matter may be granted forthwith pursuant to Your Honor's approval of the same.

Ms. Ff is 44 years old and petitioning the court for expungement of her sole criminal conviction ever in her life; one count of violating N.J.S.A. 2C:35-5A(1)/2C:35-5B(3), *Distribution of CDS*, (3rd degree) from an arrest in 1989, over twenty ("20") years ago. The prosecutor has objected to expungement of this offense because the "arrest was for a 3rd degree and the drug involved was Cocaine." As noted in the Verified Petition, however, in light of the recent amendments to the expungement law, the decision of whether to grant the expungement "may be subject to review by the Court within the purview of P.L. 2009, c. 188, effective March 13, 2010." Specifically, the relevant amendment to N.J.S.A. 2C:52-2 provides that expungement may be granted:

"In the case of conviction for the sale or distribution of a controlled dangerous substance or possession thereof with intent to sell, expungement shall be denied except where the crimes involve:

(3) Any controlled dangerous substance provided that the conviction is of the third or fourth degree, where the court finds that expungement is in the public interest, giving due consideration to the nature of the offense and the petitioner's character and conduct since conviction."

N.J.S.A. 2C:52-2 (emphasis added).

In a related context, our state legislature has found and declared "it is in the public interest to assist the rehabilitation of convicted offenders by removing impediments and restrictions upon their ability to obtain employment." N.J.S.A. 2A:168A-1, *Rehabilitated Convicted Offenders Act* (2A:168A-1 Legislative Findings). These findings and declarations are further re-enforced by the more recent 2010 amendments to the expungement statute, whereby the legislature has sent a clear message of assisting those eligible offenders with criminal records expunge these matters as soon as possible and opened the door to many more offense being eligible. Regarding the nature of the offense, the matter resulted in a plea to a 3rd degree crime, a lesser level criminal charge. Petitioner's offense was not serious enough to result in any incarceration and did not involve any violence. The

charges involved in this matter were as a result of, and directly related to, Petitioner's now-resolved substance abuse problem. Since the time of her criminal conviction, Petitioner has completed her degree at Peirce College, has married and started a family, and attends church regularly. She no longer uses any illegal drugs and has matured from the young woman she was over twenty years ago. Attached is Exhibit "A" (Various Certificates, Achievements, and Reference Letters) showing a positive change of life in Petitioner's case, including a personal plea directly from the Petitioner. Further, Petitioner completed her sentence without incident, violation, or other problem. Petitioner also underwent treatment as ordered by the Court in this matter and has learned from this mistake, rather than it becoming the start of, or being a part of, a criminal career or repeated pattern.

Petitioner's character and conduct since this sole conviction has demonstrated that this matter was an isolated incident in the life of an otherwise law-abiding, tax-paying citizen. (See Exhibits A). Ms. Ff has completed further education and work-related training courses, is a homeowner, and has been gainfully employed since this incident. She seeks expungement to advance her career in the nursing profession having just completed nursing school, but being unemployable due to this criminal conviction. She also seeks expungement to help his future career and other opportunities and have the record comport with the person she has become since the incident.

In light of the 2010 amendments to N.J.S.A. 2C:52-2, Petitioner is precisely the type of person the legislature envisioned should benefit from the changes to the statute under which this matter would have been potentially eligible for expungement as early as 2005. Granting Petitioner's expungement is consistent with the purpose of the expungement statute as set forth in N.J.S.A. 2C:52-32, "to provide relief to the one-time offender who has led a life of rectitude and disassociated himself with criminal activity," as Petitioner has done since this incident.

The Prosecutor also objects to the Petition on the ground that the \$650.00 fine for Petitioner's matter that is not eligible for expungement, a 1996 Mount Laurel charge, was paid on June 22, 2009, and that the Petition merely listed they "have been paid in full". Whether or not the fines were been paid on June 22, 2009, or any other date, is not relevant to the Petition for Expungement of Petitioner's 1991 criminal conviction, except to the fact that it could speak to her character and conduct, which is not discussed by the prosecutor. The basis for the failure to pay this fine, in fact, however, as well as the 2009 dismissal of a 1997 Camden City charge, is that Petitioner's life changed dramatically since these events, and she moved several times and was not aware that they were still pending or open matters, possibly a common scenario in our courts, but one devoid of any malintent or scheme to escape the charges, rather one of neglect or not recalling some bad times of the past. She became aware of their existence during the process of this expungement and got them resolved immediately. The petitioner can and did make the statements required of her by N.J.S.A. 2C:52-8: that there are no pending charges of any kind and Petitioner has never had a criminal expungement.

As demonstrated by her conduct since the criminal arrest/conviction, granting

expungement of Petitioner's charges and conviction arising out of this single criminal offense is consistent with the expungement statute's purpose of "providing relief to the one-time [criminal] offender who has led a life of rectitude and disassociated himself with criminal activity," N.J.S.A. 2C:52-32, as Petitioner has done since this incident.

It should be noted that Petitioner began this process as a *pro se* litigant over one year ago, and retained counsel due to the difficulty she experienced. The Petition that was filed on her behalf by counsel was received by the Court on June 9, 2010, and the proposed new date of petitioner's expungement is December 17, 2010. Petitioner is seeking expungement for employment purposes, as noted above, and any further delay in her application is unjust. For the reasons set forth above, Petitioner requests a hearing and oral argument to determine the merits of this matter as soon as possible.

Accordingly, based upon the foregoing, Petitioner requests that the Court grant the expungement of Petitioner's sole arrest and conviction, the 1989 Camden County Indictable matter and her 1997 Mt. Laurel arrest and dismissal to which the prosecutor does not object. As stated in the Verified Petition, Petitioner is not seeking Petitioner hereby requests oral argument in this matter.

Thank you for your time and attention to this matter. Please feel free to contact me at your convenience if you have any questions or require additional information.

Respectfully,
KELLEY LAW OFFICES, L.L.C.

Daniel B. Kelley

DBK/rth