

IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE
DIVISION IV

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BOBBY [REDACTED]

VS.

NO: [REDACTED]

STATE OF TENNESSEE

ORDER

The Petitioner in this cause filed a petition to expunge records of a dismissed criminal charge with the Davidson County Criminal Court Clerk on August 8, 2016. The petition was heard by the Court on September 16, 2016, after which it was taken under advisement.

The record reflects that the Petitioner was arrested on December 26, 2003 and charged with Unlawful Possession of a Prohibited Weapon and Unlawful Possession of Drug Paraphernalia. On July 1, 2004, the Petitioner pleaded guilty in front of this Court to Count 1 of the indictment, the felony charge of Unlawful Possession of a Prohibited Weapon. As part of the resolution, Count 2, the charge of Unlawful Possession of Drug Paraphernalia, was dismissed. The Petitioner now moves this Court to expunge the charge of Unlawful Possession of Drug Paraphernalia.

T.C.A. 40-32-101(j) states, in relevant part,

A person who is ineligible for expunction of the person's records pursuant to subdivision (a)(1)(E) shall be entitled to partial expunction of any public records relating to the person's arrest, indictment, charging instrument, or disposition for any charges other than the offense for which the person was convicted. . . Nothing in this subsection (j) shall require court clerks to expunge records relating to an offense for which the person was convicted.

In Tennessee Attorney General Opinion No. 16-36, issued on August 31, 2016, the

Attorney General opined that the natural reading of the term "partial expunction" is "the destruction of records relating to a petitioner's arrest, indictment, charging instrument, or disposition for any charges other than the offense for which he was convicted." The opinion elaborates that, where the charges are particularly intertwined, the burden is on the opposing party to show cause that justifies a less-than-complete redaction of the record. (citing *Eslick v. State*, 942 S.W.2d 559, 560 (Tenn. Crim. App. 1996)).

In the instant case, it appears that a single count was dismissed and that the charges are not sufficiently complex, voluminous, and intertwined as to justify a less-than-complete expunction and redaction.

The Court finds that the petition is well taken and that the dismissed charge shall be expunged. It is so ORDERED.



SETH NORMAN, JUDGE

cc: Daniel Horowitz
Dan Hamm
Cynthia Gross