

CAUSE NO. _____

EX PARTE

* IN THE _____

* DISTRICT COURT

* OF DALLAS COUNTY, TEXAS

ORDER GRANTING EXPUNCTION

1.

Petitioner has the following description:

Race:

Sex:

Date of Birth:

Texas Driver's License Number:

Social Security Number:

Address at the time of arrest:

2.

The Court finds that the petitioner is entitled to expunction of the following Dallas County arrest(s) by the _____ Police Department:

Offense Date	Arrest Date	Offense	Number
_____	_____	_____	_____
		Occ. DL. [if DWI Acquittal]	_____
		Service No.	_____
	G.J. DT.: _____	Bond	_____
		Grand Jury No. [if felony]	_____

3.

Respondents are:

3.1 Dallas County District Attorney's Office for itself and the following county agencies:

- District Clerk;
- County Clerk; [only list if misdemeanor]
- Sheriff-ID;
- Sheriff-Bond;
- Grand Jury; [only list if felony]
- Data Services.

3.2 _____ Police Department

_____, Texas

3.3 _____ [Constable &/or J.P. Court &/or Municipal Ct. only if applicable]

_____, Texas

3.4 Texas Department of Public Safety
Crime Records Division - MSC 0234
Post Office Box 4143
Austin, Texas 78765-4143

3.5 THE TEXAS DEPARTMENT OF PUBLIC SAFETY, AND NOT THE DISTRICT CLERK, IS HEREBY REQUIRED TO PROVIDE "NOTICE OF THE ORDER TO ANY **PRIVATE ENTITY** THAT IS NAMED IN THE ORDER OR THAT PURCHASES CRIMINAL HISTORY RECORD INFORMATION FROM THE DEPARTMENT" IN ACCORDANCE WITH TEX. CODE CRIM. PROC. ANN. ART. 55.02, § 3(c-2) (VERNON SUPP. 2007). THE NOTICE MUST INCLUDE AN EXPLANATION OF THE EFFECT OF THE ORDER AND A REQUEST THAT THE ENTITY MUST DESTROY ANY INFORMATION IN THE POSSESSION OF THE ENTITY THAT IS SUBJECT TO THE ORDER.

(optional): 3.5(a) PublicData.com
3.5(b) _____

3.6 PETITIONER HAS REASON TO BELIEVE THAT BY INPUT INTO THE NATIONAL CRIME INDEX COMPUTER, THE **FEDERAL BUREAU OF INVESTIGATION** MAY HAVE STORED INFORMATION CONCERNING THE ARREST FOR WHICH THIS PETITION IS BEING BROUGHT. WHILE THESE FEDERAL AGENCIES ARE NOT "RESPONDENTS" IN THE STATE PROCEEDINGS, PURSUANT TO TEXAS CODE OF CRIMINAL PROCEDURE ART. 55.02, SECTION 3(A), THE TEXAS DEPARTMENT OF PUBLIC SAFETY SHALL FORWARD THE FINAL ORDER EMANATING FROM THE STATE PROCEEDINGS TO THE FBI.

4.

The Court finds that respondents have been served with a copy of the petition as required by law.

5.

IT IS THEREFORE ORDERED that all records and files pertaining to the arrest be expunged. Related arrests (same or similar charge, date, or arresting agency) not specifically listed herein are excluded from this expunction order. However, records of such unexpunged arrests which would not have been generated except for the expunged arrest shall be expunged.

6.

The phrase “all records and files pertaining to the arrest” includes records and files which were generated by respondents during this expunction proceeding, including the copies of the petition (and of this order) which are served on each respondent.

7.

In accordance with TEX. CODE CRIM. PROC. ANN. Art. 55.06, the phrase “all records and files pertaining to the arrest” does not include records relating to the suspension or revocation of a driver’s license, permit, or privilege to operate a motor vehicle except as provided in TEX. TRANS. CODE ANN. § 524.015 and § 724.048 (Vernon 1999).

8.

8.1 Records and files pertaining to the arrest shall be expunged by turning them in to the clerk of this court, in a sealed envelope, by hand delivery or by mail to:

District Clerk
Attention: Expunction Section
Frank Crowley Courts Building
133 North Industrial Boulevard, Second Floor
Dallas, Texas 75207

8.2 Videotapes and audiotapes shall be expunged by erasing them.

8.3 Records which pertain both to this arrest and to other arrests which are not included in this order, and which would have been generated even if the expunged arrest had not been made, shall be obliterated (covered with tape, liquid paper, or other opaque substance) only insofar as they pertain to this arrest. A photocopy of such records, partially obliterated, shall be forwarded to the District Clerk as specified in 8.1.

8.4 Each respondent that has sent information concerning the arrest to a central federal depository shall request such depository to return all records and files subject to the order of expunction.

8.5 Each respondent shall attach a certificate to the sealed envelope, certifying that these are all the expunged records; and, if the respondent has sent information concerning the arrest to a central federal depository, it shall also certify that the respondent requested such depository to return all records and files subject to the order of expunction.

8.6 Alternatively, records pertaining to this arrest may be expunged by the record keeping agency obliterating or destroying the records. The agency shall then send a certificate to the District Clerk's Office certifying that the records have been destroyed.

9.

No copy of this order shall be given to petitioner, nor to any respondent, nor to any other person, until it has become final and until the clerk has certified to its finality. When it has become final, the clerk shall so certify and shall mail certified copies of it:

- 9.1 by hand delivery to the Dallas County District Attorney's Office on behalf of itself and all county law enforcement agencies;
- 9.2 by ordinary first class mail to petitioner or his attorney; and
- 9.3 by certified mail, return receipt requested, secure electronic mail, electronic transmission, or facsimile transmission to all other respondents.

No respondent shall comply with this order until it has been thus served.

10.

If the petitioner should file a civil action arising out of his arrest which is the subject of this expunction, he necessarily by his own allegations makes the materials contained in the expunged records, as well as the contents of the expunction file, a matter of public record subject to discovery proceedings. *W.V. v. State*, 669 S.W.2d 376, 379 (Tex. App.–Dallas 1984, writ ref'd n.r.e.). If the expunction file is still in the Dallas County District Clerk's custody, the person seeking discovery of its contents shall notify the Dallas County District Clerk and the Dallas County District Attorney's Office. Upon motion and order, the clerk of this court shall deliver the expunction file to the clerk of the civil court where said action is pending, taking his receipt for the same.

11.

The costs which are described in Art. 102.006 of the Code of Criminal Procedure are assessed against petitioner.

12.

The clerk of the court shall destroy all files or other records collected or maintained pursuant to this expunction on or after the first anniversary of the date the order of expunction was issued, unless the records or files were released to the petitioner before that date pursuant to court order.

13.

The expunction file shall be released to petitioner, upon request, no sooner than six months after the date of this order; UNLESS the order is issued based on an acquittal under TEX. CODE CRIM. PROC ANN. 55.01(a)(1)(A), in which case the related records and files shall remain in the possession of the District Clerk as provided for in TEX. CODE CRIM. PROC. ANN. art. 55.02, § 5(b) (Vernon Supp. 2008).

14.

All relief prayed for not herein specifically granted is hereby denied.

SIGNED this ____ day of _____, 200__.

JUDGE

APPROVED AS TO FORM:

ATTORNEY FOR PETITIONER [Please sign before submitting proposed order]

ASSISTANT DISTRICT ATTORNEY

CERTIFICATE OF FINALITY

I, Gary Fitzsimmons, District Clerk of Dallas County, Texas, do certify that I have custody of the official records of the district courts of Dallas County, Texas. A search of the record in this cause reveals that no motion for new trial, notice of appeal, or motion in arrest of judgment has been filed by any party within 30 days after the signing of the foregoing order (next business day if the 30th day is a Saturday, Sunday, or legal holiday).

WITNESS my hand and seal of office this _____ day of _____, 200__.

GARY FITZSIMMONS
DISTRICT CLERK
DALLAS COUNTY, TEXAS

By: _____
Deputy