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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1924**

In the Matter of the Welfare of: M. J. B., Juvenile.

**Filed June 16, 2014
Reversed
Kirk, Judge**

Stearns County District Court
File No. 73-JV-11-9923

Lori Swanson, Attorney General, St. Paul, Minnesota; and

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Considered and decided by Ross, Presiding Judge; Kirk, Judge; and Schellhas, Judge.

UNPUBLISHED OPINION

KIRK, Judge

In this expungement appeal, appellant State of Minnesota challenges the district court's order expunging respondent M.J.B.'s juvenile records under Minn. Stat. § 609A.03 (2012). We reverse.

DECISION

The state charged M.J.B. with two counts of second-degree criminal sexual conduct in violation of Minn. Stat. § 609.343, subd. 1(a) (2010). In December 2012, M.J.B. moved to continue the matter for dismissal under Minn. R. Juv. Delinq. P. 14.10. The district court granted M.J.B.'s motion over the prosecution's objection. After satisfying the release conditions, M.J.B. moved to dismiss the charges against him. In May 2013, the district court dismissed M.J.B.'s case without adjudication.

M.J.B. then moved to expunge all of his juvenile records under Minn. Stat. § 260B.198, subd. 6 (2012). The district court granted M.J.B.'s expungement motion in October 2013. The district court found that, in accordance with the supreme court's recent holding in *In re Welfare of J.J.P.*, 831 N.W.2d 260 (Minn. 2013), it could not grant M.J.B.'s petition under Minn. Stat. § 260B.198, subd. 6, because M.J.B. had not been adjudicated a delinquent. Instead, relying on *State v. M.D.T.*, 831 N.W.2d 276 (Minn. 2013), the district court analyzed M.J.B.'s petition for expungement under the requirements set forth in Minn. Stat. § 609A.03, subd. 5(b). After finding the requirements of Minn. Stat. § 609A.03 met, the district court sealed M.J.B.'s juvenile delinquency records. This appeal follows.

On appeal, the state contends that the district court erred when it sua sponte considered M.J.B.'s expungement petition under Minn. Stat. § 609A.03. We review the district court's decision to expunge records for an abuse of discretion. *State v. Ambaye*, 616 N.W.2d 256, 261 (Minn. 2000). A district court abuses its discretion when it misapplies the law. *In re Adoption of T.A.M.*, 791 N.W.2d 573, 578 (Minn. App. 2010).

It is well settled that the legislature treats the adjudication of delinquency as distinct from a criminal conviction. *J.J.P.*, 831 N.W.2d at 269; *see* Minn. Stat. § 260B.245, subd. 1(a) (2012) (“No adjudication upon the status of any child in the jurisdiction of the juvenile court shall operate to impose any of the civil disabilities imposed by conviction, nor shall any child be deemed a criminal by reason of this adjudication, nor shall this adjudication be deemed a conviction of crime”). As a result, the legislature has enacted different statutes to govern the expungement of criminal records and the expungement of juvenile delinquency records. *Compare* Minn. Stat. §§ 609A.01–.03, 299C.11, subd. 1 (2012) (criminal) *with* Minn. Stat. § 260B.198, subd. 6 (juvenile).

Chapter 609A and Minn. Stat. § 299C.11, subd. 1(b), control the expungement of criminal records.¹ Chapter 609A “provides the grounds and procedures for *expungement of criminal records* under section 13.82; 152.18, subdivision 1; 299C.11, where a petition is authorized under section 609A.02, subdivision 3; or other applicable law.” Minn. Stat. § 609A.01 (emphasis added). The statute governing the expungement of juvenile records grants a district court broad discretion to expunge an adjudication of delinquency: “Except when legal custody is transferred under the provisions of subdivision 1, clause (4), the court may expunge the adjudication of delinquency at any time that it deems advisable.” Minn. Stat. § 260B.198, subd. 6.

¹ Minnesota Statutes section 299C.11, subdivision 1, concerns the return of identification data furnished to the Bureau of Criminal Apprehension.

The scope of Minn. Stat. § 260B.198, subd. 6, was recently addressed by the supreme court. *J.J.P.*, 831 N.W.2d 260. In *J.J.P.*, the supreme court held that this section gives the district court authority to expunge juvenile delinquency records held by the executive branch but it limited this authority to the order adjudicating the juvenile delinquent. *Id.* at 262. The supreme court reasoned that the phrase “adjudication of delinquency” found in the statute “means the court order that adjudicates the juvenile delinquent.” *Id.* at 266. And the supreme court rejected the argument that the phrase “adjudication of delinquency” applies to the entire executive branch file of the juvenile. *Id.* (“Moreover, the additional documents in executive branch files, such as arrest and investigation records or the petition for delinquency, do not logically fall within the ‘adjudication of delinquency.’”). The court concluded that “[h]ad the Legislature intended to include all records in the executive branch files that precede the court’s adjudication of delinquency, it could have easily said so.” *Id.*

Here, even though M.J.B. moved for expungement under Minn. Stat. § 260B.198, subd. 6, the district court determined that that section was not applicable because the dispositional order in the case was not an “adjudication of delinquency,” and it therefore applied Minn. Stat. § 609A.03. The district court improperly considered chapter 609A as a statutory basis to expunge M.J.B.’s juvenile records as this chapter only applies to criminal records.

Because the district court abused its discretion when it considered M.J.B.’s expungement petition under Minn. Stat. § 609A.03, and because Minn. Stat. § 260B.198,

subd. 6, offers no relief, we reverse the district court's order expunging M.J.B.'s juvenile records.²

Reversed.

² We recognize that the facts of this case leave M.J.B. with no avenue to seek statutory expungement relief. At oral arguments, counsel for both parties referenced an expungement bill currently pending before the legislature. Since oral arguments, the bill has passed the legislature and the governor has signed the bill into law. State of Minnesota, *Journal of the House*, 88th Sess. 10847 (May 15, 2014). This law will give the judiciary broad authority to expunge juvenile records and will provide the proper source for relief in this situation.