STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1789

State of Minnesota,
Respondent,

vs.

G.E.A.,
Appellant.

Filed August 18, 2009
Affirmed
Johnson, Judge

Hennepin County District Court
File No. 27-CR-95-086355

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Michael O. Freeman, Hennepin County Attorney, Michael Richardson, Assistant County Attorney, C-2000 Government Center, Minneapolis, MN 55487 (for respondent)

Stan Nathanson, PMB #336, 14700 North FLW Boulevard, Suite 157, Scottsdale, AZ 85260 (for appellant)

Considered and decided by Connolly, Presiding Judge; Peterson, Judge; and Johnson, Judge.

U N P U B L I S H E D O P I N I O N

JOHNSON, Judge

G.E.A. appeals from the district court's denial in part of his petition for expungement of the records of a 1995 criminal case in which he was charged with first-

degree damage to property and attempted first-degree criminal sexual conduct. We affirm.

FACTS

In November 1995, the state filed a complaint against G.E.A., charging him with first-degree damage to property and attempted first-degree criminal sexual conduct. In March 1996, pursuant to a plea agreement, the state dismissed the complaint and refiled the two charges in separate, new cases. As far as it appears in the district court record of the expungement proceedings, G.E.A. pleaded guilty to the charge of first-degree damage to property, and the charge of attempted first-degree criminal sexual conduct was submitted to the district court on stipulated facts. After the stipulated-facts trial, the district court rendered a sealed verdict and stayed adjudication for one year. In April 1997, after G.E.A. had met the conditions of the stay, the charge was dismissed.

In April 2008, G.E.A. petitioned the district court for expungement of the records of the original case. After a hearing, the district court granted the petition in part and ordered that the court file be sealed. The district court denied the remainder of the petition. G.E.A. appeals.

D E C I S I O N

G.E.A. argues that the district court erred by denying in part his petition to expunge the records of the original 1995 criminal case. There are two legal bases for the expungement of criminal records: Minnesota Statutes chapter 609A and a court's inherent authority. *State v. Ambaye*, 616 N.W.2d 256, 257 (Minn. 2000). G.E.A. sought expungement only pursuant to the statute. This court applies a *de novo* standard of

review to the district court's interpretation and application of the expungement statute. *State v. Bunde*, 556 N.W.2d 917, 918 (Minn. App. 1996). We review a district court's findings of fact for clear error. *State v. H.A.*, 716 N.W.2d 360, 363 (Minn. App. 2006).

Under the statutory expungement provisions of chapter 609A, a person may file a petition "to seal all records relating to an arrest, indictment or information, trial, or verdict . . . if all pending actions or proceedings were resolved in favor of the petitioner." Minn. Stat. § 609A.02, subd. 3 (2008). If "all pending actions or proceedings were resolved in favor of the petitioner," *id.*, a presumption of expungement arises. *Ambaye*, 616 N.W.2d at 257-58. To overcome that presumption, the state must prove by clear and convincing evidence that the public's interest in the availability of criminal records outweighs the petitioner's interest in expungement. Minn. Stat. § 609A.03, subd. 5(b) (2008).

In this case, the district court found that the criminal proceedings arising from the original case had *not* been resolved in G.E.A.'s favor. The district court reasoned that the original case was a "duplicate" of the later, separate cases and that the three cases "are inextricably intertwined." Furthermore, the district court found that the state proved by clear and convincing evidence that the public's interest in open records outweighed the disadvantages to G.E.A. In its conclusions of law, the district court stated that G.E.A. is not entitled to expungement under the statute. Nonetheless, to ensure that "the records of the judicial branch [are] accurate," the district court granted a "very limited expungement" by ordering that the records of the original case be sealed "so that Petitioner does not show duplicate charges for the same offenses stemming from the

September 20, 1995 incident." The district court then stated, "In all other respects, Petitioner's request is "DENIED." It appears that the district court's partial grant of relief was an exercise of its inherent authority rather than the fulfillment of a statutory right to expungement.

On appeal, G.E.A. argues that the district court erred because it made no findings regarding "any prior or subsequent . . . convictions" or the public interest in maintaining public records. G.E.A. does not challenge the district court's finding that "all proceedings . . . were not resolved in Petitioner's favor."

Before going further, we note that G.E.A.'s appellate argument appears to be based on an assumption that the district court denied some identifiable part of his petition. But the district court essentially granted relief by sealing the court file of G.E.A.'s original case. The district court then denied the petition "in all other respects," but there is no indication what additional remedy G.E.A. sought that was not granted to him. G.E.A.'s petition (which consists of a three-page pre-printed form in which his case-specific information was inserted) states simply that he is "petitioning the court for expungement (sealing) of a criminal record" but does not identify with specificity any other form of requested relief. G.E.A.'s two-page appellate brief also does not identify the additional relief he seeks.

In any event, G.E.A.'s arguments are inconsistent with the face of the district court's order. The district court specifically found, "On March 4, 1996, Petitioner pled guilty to the First Degree Damage to Property charge in case 27-CR-96- . . . ." The district court also made detailed findings concerning the resolution of the charge of

attempted first-degree criminal sexual assault. In addition, the district court noted the state's argument that G.E.A. had engaged in "a pattern of harassing and violent conduct directed at the same victim" and specifically found "that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record." Furthermore, the district court's findings of fact support its conclusions of law.

In sum, the district court did not err in its interpretation of the expungement statute and did not clearly err in its findings of fact. Because G.E.A. has not established that the district court committed error, it is unnecessary to determine whether G.E.A. has identified an appropriate appellate remedy.

Affirmed.