STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1755

Dakota County,
Respondent,

vs.

N. J. H. D.,
Appellant.

Filed May 27, 2014
Affirmed
Stauber, Judge

Dakota County District Court
File No. 19J706057659

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

James C. Backstrom, Dakota County Attorney, Nicole E. Nee, Assistant County Attorney, Hastings, Minnesota (for respondent)

Eric J. Nelson, Christina M. Zauhar, Halberg Criminal Defense, Bloomington, Minnesota (for appellant)

Considered and decided by Stauber, Presiding Judge; Hudson, Judge; and Randall, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

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

STAUBER, Judge

On appeal from the order granting appellant's request to expunge his juvenile delinquency records held by the judiciary, but denying appellant's request to expunge his juvenile delinquency records held by the executive branch, appellant argues that because he was never adjudicated delinquent, he is entitled to expungement of all of his juvenile records related to this case, including those which are held by executive-branch agencies. We affirm.

FACTS

In June 2006, when N.J.H.D. was 12 years old, a delinquency petition was filed charging him with first-degree criminal sexual conduct. After appellant admitted the facts of the offense on the record, the case was continued for dismissal. Appellant subsequently completed the terms and requirements of probation, and his case was then dismissed without adjudication. Several years later, appellant petitioned to have all of the records relating to his juvenile delinquency proceedings expunged under Minn. Stat. § 260B.198, subd. 6 (2012). The district court granted appellant's request with respect to records held by the judiciary, but with the exception of the district court's dispositional order, denied expungement of records held by the executive branch. This appeal followed.

D E C I S I O N

Appellant challenges the district court's denial of his request to expunge his juvenile records held by executive-branch agencies. Statutory interpretation is a question

of law, which is reviewed de novo. *In re Welfare of J.J.P.*, 831 N.W.2d 260, 264 (Minn. 2013).

Minnesota law allows records to be expunged under statute and the judiciary's inherent authority. *See State v. M.D.T.*, 831 N.W.2d 276, 279 (Minn. 2013). But in *M.D.T.*, the supreme court recognized that "[i]ndeed, we have never held that the judiciary's inherent authority to order expungement extends to records held in the executive branch." *Id.* at 281. Because appellant's challenge concerns only expungement of executive-branch records, we must determine whether the relief he seeks is available under the applicable statute.

Minn. Stat. § 260B.198, subd. 6 provides: "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."[1] Our supreme court recently interpreted this statute and reasoned that the phrase "adjudication of delinquency" in section 260B.198, subdivision 6, "means the court order that adjudicates the juvenile delinquent." *J.J.P.*, 831 N.W.2d at 266. In light of this reasoning, the supreme court concluded that "under section 260B.198, subdivision 6, the district court is authorized to expunge from executive branch files the court order adjudicating the juvenile delinquent when the district court deems it advisable." *Id.* at 267. But the supreme court rejected the argument that the phrase "adjudication of delinquency" applied to the entire executive-branch file of the juvenile. *Id.* at 266. The supreme court

[1] The legal custody transfer under subdivision 1, clause (4) refers to a "transfer of legal custody by commitment to the commissioner of corrections." Minn. Stat. § 260B.198, subd. 1(4) (2012).

stated 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.*

Appellant contends that his case is "highly distinguishable" from *J.J.P.* because, unlike the juvenile in *J.J.P.*, he was never adjudicated delinquent. Appellant argues that "i[n] cases where there is not an adjudication of delinquency and a court deems expungement advisable, the expungement of juvenile records must extend to all records held by the judicial and executive branches."

The fact that appellant was not adjudicated delinquent, is not dispositive. Section 260B.198, subdivision 6 plainly states that the expungement of juvenile records held by executive branch agencies is limited to the order adjudicating the juvenile delinquent.[2] There is simply nothing in the plain language of the statute that allows a court to expunge records held by executive-branch agencies other than the dispositive court order. *See J.J.P.*, 831 N.W.2d at 266. And we are not aware of any other statutes that allow for the expungement of juvenile records held by executive-branch agencies.

Appellant argues that because he was never adjudicated delinquent, "complete expungement of [his] juvenile[] records is clearly necessary to the performance of judicial functions." To support his claim, appellant relies on "the unique laws" pertaining to juvenile delinquency, which he asserts were created by the legislature to provide "juveniles with opportunities to move on and become valuable members of society

[2] The parties agree that the phrase "adjudication of delinquency" referenced in section 260B.198, subdivision 6, consists of the dispositive court order regardless of whether the child was actually adjudicated delinquent.

following juvenile delinquency proceedings." Appellant contends that because a similarly situated adult offender would be entitled to expungement of executive-branch records, the intent of the juvenile-delinquency laws is thwarted if he is not entitled to the expungement of his juvenile records held by executive-branch agencies.

We acknowledge that the legislature treats an adjudication of delinquency as distinct from a criminal conviction. *See J.J.P.*, 831 N.W.2d at 269. As this court has recognized, "[t]he purpose of a juvenile disposition is to 'promote the public safety and reduce juvenile delinquency' by 'developing individual responsibility for lawful behavior.'" *In re Welfare of E.S.C.*, 731 N.W.2d 149, 152 (Minn. App. 2007) (quoting Minn. Stat. § 260B.001, subd. 2 (2006)). Consequently, the standards under chapter 609A, and section 299C.11, subd. 1, which govern the expungement of adult criminal records, are different from the standards under section 260B.198, subdivision 6, which govern the expungement of delinquency-adjudication records. *See also J.J.P.*, 831 N.W.2d at 269; c*ompare* Minn. Stat. §§ 609A.01-.03, 299C.11, subd. 1 (2012) *with* Minn. Stat. § 260B.198, subd. 6.

To expunge an adult criminal record under Minn. Stat. § 609A.02, subd. 3, or to order the return of identification data furnished to the bureau of criminal apprehension under Minn. Stat. § 299C.11, subd. 1, the district court must first determine that all pending actions or proceedings were resolved "in favor" of the defendant. In *State v. Davisson*, this court stated that when there was a plea or finding of guilt, even if a stay of adjudication and dismissal eventually result, there has not been a resolution in favor of the petitioner within the meaning of section 609A.02, subd. 3. 624 N.W.2d 292, 295-96

(Minn. App. 2001), *review denied* (Minn. May 15, 2001); *see also City of St. Paul v. Froysland*, 310 Minn. 268, 275-76, 246 N.W.2d 435, 439 (1976) (stating that "in favor of" does not encompass situations in which the petitioner pleaded guilty and the state later dismissed the charges); *State v. P.A.D.*, 436 N.W.2d 808, 809-10 (Minn. App. 1989) (noting that when defendant pleaded guilty, district court stayed imposition of sentence, and conviction was vacated and dismissed, defendant was not entitled to expungement under section 299C.11), *review denied* (Minn. May 12, 1989). Conversely, this court has held that a continuance for dismissal was a resolution in favor of the defendant and, thus, the defendant was entitled to expungement of charges against him upon successful completion of conditions. *State v. C.P.H.*, 707 N.W.2d 699, 706 (Minn. App. 2006). In concluding that the defendant in *C.P.H.* was entitled to expungement, this court stated that "[t]he critical distinction in our analysis of whether the resolution was in favor of the petitioner turns on whether there has been an admission or a finding of guilt." *Id.* at 703; *see also State v. L.K.*, 359 N.W.2d 305, 306-08 (Minn. App. 1984) (stating that where a defendant's misdemeanor charges have been continued for one year without a guilty plea and subsequently dismissed, the dismissal is a determination in the defendant's favor for expungement purposes under section 299C.11).

Nonetheless, although an adult offender whose case was continued for dismissal may be entitled to expungement of executive branch records under chapter 609A and 299C.11, subd. 1, an adult offender situated similarly to appellant would not be entitled to the expungement of his or her executive-branch records. The record reflects that the proceedings in this matter were consistently referred to as a continuance for dismissal.

But the record also reflects that appellant admitted on the record the facts of the offense. By admitting the facts on the record, the proceedings were more akin to a stay of adjudication than a continuance for dismissal. Moreover, an admission of guilt is not a resolution in favor of a petitioner for purposes of expungement under chapter 609A and section 299C.11, subd. 1. *See C.P.H.*, 707 N.W.2d at 703. A procedure's form and substance actually determine entitlement to statutory expungement, not the labels the parties use. *See id.* at 702-04. Accordingly, under the facts of this case, an adult offender, situated similarly to appellant, would not be entitled to the expungement of his or her criminal records held by the executive branch.[3]

Because the judiciary has no inherent authority to expunge records held by the executive branch, and because Minn. Stat. § 260B.198, subd. 6, does not allow for the expungement of all juvenile-delinquency records held by executive-branch agencies, we conclude that the district court did not err by denying appellant's request to expunge all of his juvenile records held by the executive branch.

Affirmed.

[3] We note that even if appellant did not admit the facts of the offense on the record, and the case was resolved "in favor" of appellant, he would not be entitled to expungement of all his juvenile records held by executive branch agencies because expungement of such records under section 260B.198, subdivision 6, is limited to the dispositional order, and there are no other statutes that provide for the relief requested.