

Case Summary

Appellant Larry P. Raymer appeals the denial of his motion to correct error on his request to have a past criminal history record destroyed.

In April and May 1988, the State charged Raymer in three separate cause numbers with a total of two counts of burglary and four counts of theft. A jury trial was held on these charges on August 16-17. Before the jury trial was completed, Raymer, pursuant to a plea agreement, pled guilty in two of the cause numbers – constituting one count of burglary and two counts of theft – and the remaining charges were dismissed.

Raymer v. State, No. 31A01-0302-PC-52, slip op. at 2 (Nov. 7, 2003). In 2000, Raymer filed a Verified Petition for Expungement, which was denied. However, the petition is not in the record. On October 3, 2003, Raymer filed a Motion to Destroy Criminal History Record,¹ which was denied on June 21, 2005. However, the Harrison Circuit Court Clerk sent a letter to Raymer explaining that the file for the dismissed case from 1988, 31C01-8805-CF-48, had been destroyed but all permanent records would still reflect the occurrence of the case. It also noted that the only method to remove the case from his criminal history record was to have it expunged.

In 2009, Raymer sent a letter to the Clerk of the Harrison Circuit Court again requesting that his case, 31C01-8805-CF-48, be removed or destroyed as it was still listed on his FBI record. As the trial court had already destroyed the record, the trial court treated the letter as a request for expungement and denied the request. Raymer filed a Motion to Correct Error, which was also denied.

¹ The motion was not included in the Appendix.

Basing his request for relief on Indiana Administrative Rule 7,² Raymer misconprehends the purpose and effect of this administrative rule. The destruction of a criminal case file pursuant to Rule 7 does not affect the defendant's criminal history record because the purpose of this rule is to keep a balance between retaining file records for possible further petitions and motions and freeing up space in record rooms for new files. Cf. Ind. Code § 5-15-6-1.6 (generally defines management techniques to improve efficiency and reduce costs of public record keeping). Furthermore, even if we were to consider Raymer's request as one for expungement, he presents no argument to satisfy the requirements.³ Thus, Raymer is not entitled to the relief sought.

Affirmed.

BAKER, C.J., and ROBB, J., concur.

² Indiana Administrative Rule 7 provides Clerks of Circuit Courts, Judges and other court officers with the authority to dispose of records according to retention schedules detailed in the rule.

³ Indiana Code Section 35-38-5-1(a) provides:

Whenever:

(1) an individual is arrested but no criminal charges are filed against the individual; or

(2) all criminal charges filed against an individual are dropped because:

(A) of a mistaken identity;

(B) no offense was in fact committed; or

(C) there was an absence of probable cause;

the individual may petition the court for expungement of the records related to the arrest.