

*Court Of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-07-00870-CV

**EX PARTE** Ernesto R. **HINOJOSA**, Sr.,

From the 79th Judicial District Court, Jim Wells County, Texas  
Trial Court No. 05-08-43651-CV  
Honorable Ricardo H. Garcia, Judge Presiding<sup>1</sup>

Opinion by: Catherine Stone, Justice


Sitting: Alma L. López, Chief Justice  
Catherine Stone, Justice  
Santee Bryan Marion, Justice

Delivered and Filed: October 1, 2008

**AFFIRMED**

Ernesto Hinojosa was arrested on August 19, 1982 for the offense of murder. Hinojosa made bail after his arrest and was released from custody. Hinojosa was never indicted or tried for the offense in the 23 years that followed his arrest, prompting him to file a petition to expunge his arrest from public records. The Texas Department of Criminal Justice filed an opposition to Hinojosa's petition, asserting that Hinojosa failed to prove the facts required to justify an expunction. The trial court rendered an order denying Hinojosa's petition to expunge, and this appeal followed. On appeal, Hinojosa contends the trial court erred in denying his petition to expunge because he qualified for an expunction under the applicable provisions of the Texas Code of Criminal Procedure. *See* TEX. CODE CRIM. PROC. ANN art. 55.01 (Vernon 2006). We affirm.

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<sup>1</sup>  Sitting by assignment.

We review a trial court's ruling on a petition to expunge under an abuse of discretion standard. *Heine v. Tex. Dep't of Pub. Safety*, 92 S.W.3d 642, 646 (Tex. App.—Austin 2002, pet. denied). An expunction proceeding is a civil proceeding, in which the petitioner bears the burden of proof in meeting the statutory requirements for an expunction. *Harris v. State*, 733 S.W.2d 710, 711 (Tex. App.—San Antonio 1987, no writ). One of the statutory conditions that Hinojosa was required to establish for an expunction included that “the limitations period expired before the date on which [the] petition for expunction was filed.” *See* TEX. CODE CRIM. PROC. ANN art. 55.01 (a)(2)(A)(i). The offense for which Hinojosa was arrested, however, has no statute of limitations. *See id.* art. 12.01(1)(A) (Vernon Supp. 2008) (providing murder and manslaughter have no limitations period). Because there is no limitations period applicable to the offense for which Hinojosa was arrested, Hinojosa cannot satisfy at least one of the statutory requirements for obtaining an expunction. *See id.* art. 55.01 (a)(2)(A)(i). Accordingly, we cannot say the trial court abused its discretion in denying Hinojosa's petition to expunge.

The trial court's order denying Hinojosa's petition to expunge is affirmed.

Catherine Stone, Justice