

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

EDWARD COHEN )  
 )  
 v. ) No. 04X-02-009  
 )  
 STATE OF DELAWARE )

**ORDER**

Submitted: May 4, 2004  
Decided: May 5, 2004

*Upon Petition for Expungement of Criminal Record of Edward J. Cohen*  
**DENIED**

1. The Petition for Expungement of Criminal Record of Edward J. Cohen was filed on February 3, 2004. The Petition seeks expungement of Petitioner's plea of guilty on December 15, 1988 to Possession/Consumption of Cocaine. Petitioner accepted the first offenders option.
2. The State of Delaware opposes the Petition on the grounds that Petitioner was convicted of the offense and also has a prior conviction for underage consumption of alcohol.
3. Petitioner argues that he pled guilty to take advantage of the first-time offenders program and that he did not actually possess or consume the cocaine at the time of the arrest. Although the conviction is removed in time, it has inhibited Petitioner's professional advancement.

4. Section 4372(a) of title 11 of the Delaware Code provides that the record of a person charged with a crime may be expunged if the person is acquitted or a nolle prosequi is taken. There is no provision for expungement when a person has knowingly, intelligently, and voluntarily pled guilty to a charge, regardless of the underlying reason for the plea. The manifest injustice analysis set forth in Section 4372(d) does not apply to charges resolved by a guilty plea. Expungement of a criminal record has been denied in Delaware even when the petitioner has been pardoned.

**THEREFORE,** the Petition for Expungement of Criminal Record of Edward J. Cohen is hereby **DENIED.**

**IT IS SO ORDERED.**

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The Honorable Mary M. Johnston