STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1521

State of Minnesota,
Appellant,

vs.

L. K. A.,
Respondent.

Filed April 12, 2011
Reversed
Hudson, Judge

Anoka County District Court
File No. 02-K7-02-007077

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

Anthony C. Palumbo, Anoka County Attorney, Robert D. Goodell, Assistant County Attorney, Anoka, Minnesota (for appellant)

Mark J. Miller, Minneapolis, Minnesota (for respondent)

Considered and decided by Toussaint, Presiding Judge; Peterson, Judge; and Hudson, Judge.

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

HUDSON, Judge

Appellant-county challenges an order granting respondent's petition for expungement to the extent that the order directs the sealing of records held by executive-

branch agencies. Because the district court lacked the inherent authority to issue such an order, we reverse.

FACTS

In August 2002, respondent L.K.A. was charged with felony theft of a motor vehicle in violation of Minn. Stat. § 609.52, subd. 2(17) (2000), and felony receipt of stolen property in violation of Minn. Stat. § 609.53, subd. 1 (2000). In March 2003, L.K.A. pleaded guilty to the theft-of-a-motor-vehicle charge and was placed on probation pursuant to a stay of adjudication. The receipt-of-stolen-property charge was dismissed. In April 2005, L.K.A successfully completed probation, and the theft-of-a-motor-vehicle charge was also dismissed. L.K.A. does not have a conviction on her criminal record.

In May 2010, L.K.A. petitioned the district court for expungement of her criminal record for employment purposes. The Anoka County Attorney's Office opposed the petition, but argued that, if it were granted, the remedy should be limited to sealing judicial-branch records. After a hearing, the district court granted L.K.A.'s petition in its entirety and adopted her proposed order verbatim. The order required

> [a]ll parties and entities named below . . . [to] seal from their records any portions of criminal history reports pertaining to the investigation or arrest of [L.K.A.] . . . on or about July, 2002 or continuing incarceration or investigation thereafter, such arrest ultimately having [led] to the filing of the theft of motor vehicle and receiving stolen property charges.

The following parties and entities were named in the order:

> Minnesota Bureau of Criminal Apprehension
> Office of the Minnesota Attorney General
> [Minnesota] Department of Corrections
> Anoka County Attorney's Office

Anoka County Sheriff's Office
Anoka County Community Corrections/Probation
District Court Administrator, Anoka County District Court

The county appeals the district court's order to the extent it requires expungement of records held by the executive branch.

D E C I S I O N

Whether a court has the inherent authority to issue an expungement order directed to the executive branch is a question of law, which is subject to de novo review. *State v. N.G.K.*, 770 N.W.2d 177, 181 (Minn. App. 2009). If a court has such authority, its exercise is reviewed for an abuse of discretion. *State v. Ambaye*, 616 N.W.2d 256, 261 (Minn. 2000).

There are two legal bases for the expungement of criminal records: statutory-expungement provisions and the court's inherent expungement power. *Id.* at 257. In its order, the district court invokes Minn. Stat. § 609A.02 (2008), which permits the expungement of a petitioner's criminal records if the proceedings were resolved in the petitioner's favor. But, as both parties agree, this provision is inapplicable because L.K.A. pleaded guilty to receive a stay of adjudication. *See State v. Davisson*, 624 N.W.2d 292, 295 (Minn. App. 2001) (concluding that a stay of adjudication is not a resolution in favor of the petitioner for purposes of expungement statute), *review denied* (Minn. May 15, 2001).

Thus, the only issue is whether the district court had the inherent authority to order the expungement of L.K.A.'s criminal records held by the executive branch. A court has the inherent power to order the expungement of criminal records held by the executive

branch in three situations. First, a court may order expungement to prevent a serious infringement of the petitioner's constitutional rights. *State v. S.L.H.*, 755 N.W.2d 271, 274 (Minn. 2008). L.K.A. has not claimed any violation of her constitutional rights. Second, a court may order expungement if it is necessary to prevent an injustice resulting from an abuse of discretion in the exercise of a government function. *State v. T.M.B.*, 590 N.W.2d 809, 813 (Minn. App. 1999), *review denied* (Minn. June 16, 1999). L.K.A. has not claimed any such abuse of discretion. Third, in the absence of a constitutional violation or an abuse of discretion, a court may order expungement only when it is necessary for the performance of the judiciary's core functions, when it would not interfere with the powers of the political branches. *Id.* On this basis, L.K.A. claims that the district court had the inherent authority to order the expungement of criminal records held by executive-branch agencies.

"[T]he judiciary's inherent authority governs that which is essential to the existence, dignity, and function of a court because it is a court." *S.L.H.*, 755 N.W.2d at 275 (quotation omitted). "[The courts] do not resort to inherent authority to serve the relative needs or wants of the judiciary but only for practical necessity in performing the judicial function." *Id.* (quotation omitted). For the courts to exercise their inherent authority, the relief requested must be "necessary to the performance of the judicial function." *Id.* (quotation omitted).

The inherent authority of the judiciary grows out of express and implied constitutional provisions mandating a separation of powers and a viable judicial branch of government. *Id.* (quotation omitted). Courts must therefore "proceed cautiously in

exercising that authority in order to respect the equally unique authority of the executive and legislative branches of government over their constitutionally authorized functions." *State v. C.A.*, 304 N.W.2d 353, 358 (Minn. 1981). "It is not for the court[s] to lightly use judicial authority to enforce or restrain acts which lie within the executive and legislative jurisdictions of another department of the state." *Granada Indep. Sch. Dist. No. 455 v. Mattheis*, 284 Minn. 174, 180, 170 N.W.2d 88, 91 (1969).

L.K.A. contends that the expungement of records held by the executive branch is essential to the core judicial function of effectuating court orders, namely, the district court's order to seal records pertaining to L.K.A. held by the judicial branch. But under L.K.A.'s approach, a district court would be permitted to order the expungement of executive-branch records almost as a corollary to an order for the expungement of judicial-branch records. This sweeping view of the court's inherent authority does not comport with the cautious approach required by our supreme court.

L.K.A. attempts to distinguish her situation by pointing out that she received a stay of adjudication and therefore has not been convicted of any offense. L.K.A. argues that for the court to effectuate the stay, it must have the inherent authority to order the expungement of judicial- *and* executive-branch records regarding her case. Otherwise, L.K.A. contends, the judiciary cannot ensure that L.K.A. receives the benefit of the stay it imposed.

"A stay of adjudication, which almost always requires the prosecutor's consent, is a procedure whereby the district court, upon a defendant's guilty plea or a fact-finder's determination of guilt, does not adjudicate the defendant guilty but imposes conditions of

probation" and allows the defendant to avoid a conviction upon successful completion of probation. *State v. C.P.H.*, 707 N.W.2d 699, 702–03 (Minn. App. 2006). L.K.A. does not dispute that pursuant to the terms of the stay, the theft-of-a-motor-vehicle charge was dismissed, and she avoided a conviction. L.K.A. nonetheless argues that she is also entitled to have her criminal record sealed so that members of the public cannot find out that she was arrested on this charge, pleaded guilty to it, and avoided a conviction only by completing probation. But L.K.A. has pointed to no statutory or case law indicating that a stay of adjudication is to have such far-reaching effects.

L.K.A. also contends that, because she received a stay of adjudication and was not convicted of any offense, her situation presents fewer concerns regarding the separation of powers than other cases. In *S.L.H.* and *N.G.K.*, the supreme court placed significant emphasis on the fact that the Minnesota Government Data Practices Act (MGDPA) requires the Minnesota Bureau of Criminal Apprehension (BCA) to make records of criminal convictions available to the public for 15 years following the defendant's discharge from the imposed sentence. *S.L.H.*, 755 N.W.2d at 278–79; *N.G.K.*, 770 N.W.2d at 183. Both courts concluded that because the petitioner in *S.L.H.* had been convicted of the offense at issue, and because 15 years had not elapsed since the completion of her sentence, executive-branch agencies were statutorily required to maintain the records at issue. Therefore, the judicial branch had no inherent authority to order the agencies to ignore their legislative mandates and seal their records. *S.L.H.*, 755 N.W.2d at 279; *N.G.K.*, 770 N.W.2d at 183–84.

L.K.A. argues that, in contrast, her case does not raise such concerns because she was not convicted of a crime and because executive-branch agencies are in fact required to keep private the criminal records relating to her theft-of-a-motor-vehicle charge. L.K.A. notes that Minn. Stat. § 13.87, subd. 1(b) (2010), classifies criminal-history data as private, except for "data created, collected, or maintained by the [BCA] that identify an individual who was convicted of a crime, [and] the offense of which the individual was convicted," which "are public data for 15 years following the discharge of the sentence imposed for the offense." If Minn. Stat. § 13.87, subd. 1(b), were the only relevant provision, L.K.A.'s argument might be more persuasive. But it is not. Minn. Stat. § 13.82, subd. 2 (2010), provides that "data created or collected by law enforcement agencies which document[] any actions taken by them to cite, arrest, incarcerate or otherwise substantially deprive an adult individual of liberty shall be public at all times in the originating agency." This provision clearly requires law-enforcement agencies, such as those listed in the district court's order, to make public criminal records regarding arrests and charges. Thus, while we recognize that L.K.A. has never been convicted of a crime, the legislature has mandated that criminal records of citations and arrests be open to the public, and we are not free to ignore that mandate. Minn. Stat. § 13.82, subd. 2; *S.L.H.*, 755 N.W.2d at 279; *N.G.K.*, 770 N.W.2d at 183–84.

Reversed.