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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1574**

State of Minnesota,
Appellant,

vs.

T. M. H.,
Respondent.

**Filed August 12, 2013
Reversed
Peterson, Judge**

Chisago County District Court
File No. 13-CR-09-1290

Janet Reiter, Chisago County Attorney, Beth A. Beaman, Assistant County Attorney,
Center City, Minnesota (for appellant)

T.M.H., Rush City, Minnesota (pro se respondent)

Considered and decided by Ross, Presiding Judge; Peterson, Judge; and Chutich,
Judge.

UNPUBLISHED OPINION

PETERSON, Judge

The state challenges the district court's order expunging respondent's criminal records held by the executive branch. Following the Minnesota Supreme Court's decision in *State v. M.D.T.*, 831 N.W.2d 276 (Minn. 2013), we reverse.

FACTS

Respondent T.M.H. was charged with misdemeanor theft after she left a gas station on May 23, 2009, without paying \$26.03 for gas. Unbeknownst to respondent, her credit card was denied, and she left the gas station without knowing that she had not paid for the gas. Respondent was charged with misdemeanor theft, and she entered a guilty plea at the arraignment hearing on September 15, 2009. The district court stayed adjudication of the offense for one year, on condition that respondent pay restitution of \$26.03 and \$50.00 in court costs. Respondent missed the due date for restitution, but paid in full before December 31, 2009.

Before the theft charge, in July 2009, respondent was charged with failing to have proof of automobile insurance. She pleaded guilty to the charge and received a stay of adjudication on condition that she remain law-abiding. In August 2010, she was charged again with failing to have proof of insurance. She pleaded guilty on August 31, 2010, and her probation on the earlier charge was revoked. On October 20, 2010, the probation department filed a violation report on the misdemeanor theft charge. Although the supervisory period had lapsed, probation recommended that the stay of adjudication be revoked. A conviction for theft was entered.

On March 19, 2012, respondent petitioned the district court for expungement of the theft conviction. With the petition, respondent included proof of insurance, a personal statement, a recommendation from her mother, proof of restitution, letters from her college naming her to the dean's list, an acceptance letter from St. Cloud State University, and a letter from a representative of the gas station confirming that restitution

was paid and that the station management supported expungement. In her personal statement, respondent stated that she is a single parent, she is in the third year of a bachelor's degree program in psychology, she is an honor student and volunteers in the community, and she is unable to get a required internship because of the theft conviction. At the expungement hearing, respondent told the court that she had previously been a nursing assistant but could no longer hold that job because of the theft conviction. The state did not oppose expungement of judicial records but opposed expungement of records held by the executive branch.

The district court ruled from the bench that it would order expungement of all records and issued a written opinion confirming this order. The state appealed solely from the district court's order directing expungement of records held by executive branch agencies.

D E C I S I O N

The district court based its expungement order on the courts' inherent authority to grant relief.¹ After the district court issued its order, the supreme court released its opinion in *M.D.T.*, which addresses the limits of the courts' inherent authority to expunge criminal records held by the executive branch. 831 N.W.2d 276. The supreme court held that courts do not have inherent authority to expunge records held by the executive branch, because this action is not "necessary to the performance of the judicial function as contemplated in our state constitution." 831 N.W.2d at 280, 284. The supreme court

¹ The statutory grounds for expungement set forth in Minn. Stat. § 609A.02, subds. 1-3 (2012), do not apply to respondent's situation.

noted “that courts must be mindful not to use judicial authority to enforce or restrain acts which lie within the executive and legislative jurisdictions.” *Id.* at 280 (quotation omitted). “[T]he authority the judiciary has to control its own records does not give the judiciary the inherent authority to reach into the executive branch to control what the executive branch does with records held in that branch, even when those records were created in the judiciary.” *Id.* at 282. The supreme court concluded that to do otherwise would amount to a failure to “respect the equally unique authority of another branch of government.” *Id.* (quotation omitted).

The supreme court stated that a balancing test considering whether the benefit to the petitioner of expungement of criminal records outweighed the disadvantages to the public was “relevant only after the court concludes, as a threshold matter, that expungement is necessary to the performance of a unique judicial function.” *Id.* at 283-84. Because expungement of records of convictions held in the executive branch is not a necessary judicial function, the supreme court ruled that it was not necessary to engage in a balancing of competing interests. *Id.* at 284.

Based on *M.D.T.*, we reverse the district court’s order directing expungement of records held by executive branch agencies.

Reversed.