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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0614**

State of Minnesota, City of Crystal,
Appellant,

vs.

S. P.,
Respondent.

**Filed November 25, 2013
Reversed
Bjorkman, Judge**

Hennepin County District Court
File No. 27-CR-06-080402

Peter A. MacMillan, MacMillan, Wallace, Athanases & Patera, P.A., Minneapolis,
Minnesota (for appellant)

S.P., Minneapolis, Minnesota (pro se respondent)

Considered and decided by Stauber, Presiding Judge; Bjorkman, Judge; and
Minge, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant City of Crystal challenges the district court's order expunging respondent's criminal records held by the executive branch, arguing that the court exceeded its inherent authority. We reverse.

FACTS

Respondent S.P. was convicted of misdemeanor theft in August 2008. On September 14, 2012, S.P. petitioned the district court for expungement of all records of that conviction held by the judicial and executive branches. The city objected to the petition and filed a written argument opposing expungement. After a hearing, the district court found that the benefits to S.P. in seeking employment are commensurate with the disadvantages to the public from elimination of the records and the burden on the court in issuing and enforcing an expungement order. The district court ordered expungement of judicial branch and executive branch records of S.P.'s conviction. This appeal follows.

DECISION

Minnesota courts have inherent judicial authority to expunge criminal records. *State v. Ambaye*, 616 N.W.2d 256, 257 (Minn. 2000). Whether the district court exceeded the scope of this authority is a question of law, which we review de novo. *State v. M.D.T.*, 831 N.W.2d 276, 279 (Minn. 2013).

After the district court issued its order, the supreme court released its opinion in *M.D.T.*, which clarified the limits of inherent judicial authority to expunge records held by the executive branch. The supreme court stated that “the authority the judiciary has to

control its own records does not give the judiciary 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 judicial branch does not have the inherent authority to order expungement of executive-branch records because it is “not necessary to the performance of a judicial function.” *Id.* at 283.

Under *M.D.T.*, the expungement of S.P.’s criminal records held in the executive branch is not necessary to the performance of a judicial function. Accordingly, we reverse the district court’s order to the extent that it applies to records held by the executive branch.

Reversed.