STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0618

State of Minnesota,
City of Crystal,
Appellant,

vs.

R. M. B.,
Respondent.

Filed December 30, 2013
Reversed
Peterson, Judge

Hennepin County District Court
File No. 27-CR-05-045759

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

R.M.B., Golden Valley, Minnesota (pro se respondent)

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

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

PETERSON, Judge

Appellant city challenges a district court order that expunges respondent's criminal records held by executive branch agencies. In light of the Minnesota Supreme

Court's decision in *State v. M.D.T.*, 831 N.W.2d 276 (Minn. 2013) (*M.D.T. II*), we reverse.

FACTS

In 2004, respondent R.M.B. pleaded guilty to a misdemeanor theft charge in Bloomington. Imposition of sentence was stayed, and the case was dismissed after one year. In 2005, respondent was charged with misdemeanor theft in Crystal. Respondent pleaded guilty, and her 30-day sentence was stayed for a year on condition that she remained law abiding. In 2009, respondent pleaded guilty to a misdemeanor theft charge in Minnetonka, and she was convicted and sentenced.

In 2012, respondent petitioned the district court for expungement of all judicial and executive branch records related to these offenses. The City of Bloomington and the City of Crystal submitted objections to the expungement, and the Minnesota Attorney General's office submitted an objection to expungement of records of the Minnesota Bureau of Criminal Apprehension. The City of Minnetonka and the Hennepin County Attorney's Office, on behalf of the Hennepin County Sheriff's Office and the Hennepin County Department of Community Corrections, did not appear or object.

Respondent requested expungement because she was having difficulty finding employment; respondent did not allege an infringement of her constitutional rights. On February 12, 2013, the district court filed its order for expungement of all judicial and executive branch records relating to the three convictions.

Appellant City of Crystal filed a notice of appeal contesting the district court's order as it applied to the city and the Crystal Police Department with regard to the 2005

offense that occurred in Crystal. Appellant seeks to vacate "those portions of the order entered in this file by the district court directing that criminal records held by the executive branch agencies be sealed" and asks this court to modify the district court's order so that it applies "only to judicial records and not to any records held by any executive branch entity."

D E C I S I O N

The district court based its order on this court's decision in *State v. M.D.T.*, 815 N.W.2d 628 (Minn. App. 2012) (*M.D.T. I*), *rev'd* by 831 N.W.2d 276 (Minn. 2013), which stated that a court has inherent authority to expunge records held by the executive branch. *Id.* at 638-39. That opinion was overturned by the supreme court in *M.D.T. II*. In its opinion, the supreme court examined various bases for permitting expungement of criminal records. It acknowledged the judiciary's authority to expunge executive-branch records if necessary to protect a person's constitutional rights. 831 N.W.2d at 280. The district court here found that respondent's constitutional rights were not infringed.

The supreme court also stated that executive-branch records may be expunged if expungement is necessary for "the performance of judicial functions." *Id.* at 281 (quotation omitted). The judicial function must be one "contemplated in [the] state constitution." *Id.* at 280 (quotation omitted). The supreme court "recognized that courts must be mindful not to use judicial authority to enforce or restrain acts which lie within the executive and legislative jurisdictions." *Id.* (quotation omitted). The supreme court explained 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. Generally, a petitioner's difficulty in obtaining employment does not implicate a core judicial function. *See State v. S.L.H.*, 755 N.W.2d 271, 278-79 (Minn. 2008) ("[H]elping individuals achieve employment goals is not essential to the existence, dignity, and function of a court because it is a court").

Finally, the supreme court concluded that a court must first determine "as a threshold matter, that expungement is necessary to the performance of a unique judicial function" before balancing any benefit to the petitioner against disadvantages to the public. *M.D.T. II*, 831 N.W.2d at 284. Relying on *M.D.T. I*, the district court weighed the benefits to respondent against the disadvantages to the public without first identifying a core judicial function other than the judiciary's right to control its records.

In summary, the district court erred by ordering expungement of respondent's criminal records held by an executive-branch entity because her constitutional rights were not infringed, no core judicial function was identified that would support expungement, and respondent's difficulty in obtaining employment does not implicate a core judicial function. Under the supreme court's decision in *M.D.T. II*, we are obliged to reverse the district court's order.

Although only the City of Crystal appealed, and, ordinarily, the district court's order as to the non-appealing agencies would be final, this court has concluded in similar cases that "a single appellant may raise issues affecting parties to the district court action that did not appeal." *State v. N.G.K.*, 770 N.W.2d 177, 183 (Minn. App. 2009). This court determined that it would be unjust to leave the district court's judgment intact as to

the non-appealing executive branch agencies because the "intrusion upon the constitutional functions of the executive branch . . . is impermissible under the separation of powers doctrine." *Id.* (quotation omitted). We, therefore, reverse the district court's order as to all of the executive-branch agencies named in the petition.

Reversed.