



**IN THE
TENTH COURT OF APPEALS**

No. 10-19-00282-CV

EX PARTE Q.D.B.

**From the 272nd District Court
Brazos County, Texas
Trial Court No. 17-002197-CV-272**

MEMORANDUM OPINION

Q.D.B. appeals from trial court's order denying his petition for expunction. We affirm.

BACKGROUND FACTS

Q.D.B. was arrested for the offense of aggravated assault. He was later charged with deadly conduct and felon in possession of a firearm based on the same events as the arrest for aggravated assault. Q.D.B. was convicted of deadly conduct and sentenced to 62 years confinement. After Q.D.B.'s conviction for deadly conduct, the State dismissed the charges for aggravated assault and felon in possession of a firearm. Q.D.B. filed a

petition to expunge the record related to the offenses for aggravated assault and felon in possession of a firearm, and the trial court denied the petition for expunction.

EXPUNCTION OF RECORDS

In the first issue, Q.D.B. complains that the trial court abused its discretion in denying his petition for expunction. We review a trial court's ruling on a petition for expunction for abuse of discretion. *State v. T.S.N.*, 547 S.W.3d 617, 620 (Tex. 2018). A trial court abuses its discretion if it renders a decision that is arbitrary, unreasonable, and without reference to any guiding rules or principles. *Texas Department of Public Safety v. J.H.J.*, 274 S.W.3d 803, 806 (Tex. App. —Houston [14th Dist.] 2008, no pet.). In deciding whether the trial court abused its discretion, we consider whether the ruling is supported by the evidence. *Texas Department of Public Safety v. G.B.E.*, 459 S.W.3d 622, 624 (Tex. App. —Austin 2014, pet. den'd).

In his petition for expunction, Q.D.B. stated that he was entitled to expunction of his records because the charges were dismissed. Section 55.01 (a) (2) of the Code of Criminal Procedure provides that a person who has been placed under arrest for either a felony or misdemeanor is entitled to have the records related to the arrest expunged if:

(2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court-ordered community supervision under Chapter 42A for the offense, unless the offense is a Class C misdemeanor, provided that:

(A) regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, an indictment or information charging the person with the commission of a misdemeanor offense based on the person's arrest or charging the person with the commission of any felony offense arising out of the same transaction for which the person was arrested:

...

(ii) if presented at any time following the arrest, was dismissed or quashed, and the court finds that the indictment or information was dismissed or quashed because:

...

(d) the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense

TEX. CODE CRIM. PRO. ANN. § 55.01 (a) (2) (A) (ii) (d) (West Supp. 2019).

The traditional and primary purpose of the expunction statute is to remove records of wrongful arrests. *S.J. v. State*, 438 S.W.3d 838, 841 (Tex. App. —Fort Worth 2014, no pet.). Q.D.B. was arrested for aggravated assault but convicted of deadly conduct based upon the events from that same arrest. The charge was not dismissed because of mistake, false information, or lack of probable cause at the time of the dismissal to believe Q.D.B. committed the offense. It was dismissed because the State obtained a conviction from that arrest. Where an arrest is made pursuant to a charge or charges for multiple related offenses as part of a criminal episode, Article 55.01 does not entitle the person to expunction of any files and records relating to the episode if the person is convicted of one of the offenses or charges. *See State v. T.S.N.*, 547 S.W.3d at 621. The trial court did not abuse its discretion in denying the petition for expunction. We overrule the first issue.

JURISDICTION

In the second issue, Q.D.B. argues that the trial court lacked jurisdiction to consider his petition for expunction. Q.D.B. contends that criminal courts with jurisdiction over criminal matters only do not have jurisdiction to preside over a petition for expunction. The trial judge for the 272nd District Court of Brazos County presided over the petition for expunction. The 272nd District Court has “jurisdiction prescribed by general law for district courts.” TEX. GOV’T CODE ANN. § 24.449 (b) (West 2004). The trial court had jurisdiction to preside over the petition for expunction. We overrule the second issue.

CONCLUSION

We affirm the trial court’s judgment.

JOHN E. NEILL
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Neill

Affirmed

Opinion delivered and filed July 20, 2020

[CV06]

[RWR]

