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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0612**

State of Minnesota, City of Crystal,
Appellant,

vs.

J. D. C.,
Respondent.

**Filed December 2, 2013
Reversed
Larkin, Judge**

Hennepin County District Court
File No. 27-CR-05-027120

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

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

J.D.C., St. Paul, Minnesota (pro se respondent)

Considered and decided by Halbrooks, Presiding Judge; Larkin, Judge; and
Huspeni, Judge.*

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

UNPUBLISHED OPINION

LARKIN, Judge

On appeal from the district court's order expunging respondent's criminal records, the state argues that the district court exceeded the scope of its inherent authority when it expunged records held in the executive branch. We reverse.

FACTS

In May 2005, respondent J.D.C. was charged with gross misdemeanor obstructing legal process as well as misdemeanor disorderly conduct, criminal damage to property, and theft of services after she allegedly failed to pay a \$60 cab fare, then fled from, fought with, and threatened the responding police officer, and punched her fist through the glass of a fire extinguisher cabinet in the hallway of an apartment building. J.D.C. subsequently pleaded guilty to criminal damage to property.

In October 2012, J.D.C. filed a petition for expungement, which the state opposed. In the petition, J.D.C. asserts that her criminal record is an obstacle to qualifying for the particular housing she seeks for herself and her nine-year-old son. The district court held a hearing on J.D.C.'s petition and took the matter under advisement. The district court then issued an order granting the expungement as to both judicial and executive records. The state appeals.

DECISION

The state challenges the district court's order only to the extent that it directs the expungement of executive branch records. The district court based its expungement

order on the courts' inherent authority to grant relief.¹ After the district court issued its expungement order, the Minnesota Supreme Court released its opinion in *State v. M.D.T.*, 831 N.W.2d 276 (Minn. 2013), which clarifies the scope of the courts' inherent authority to expunge criminal records held in the executive branch. The supreme court concluded that the judiciary may rely on its inherent authority to expunge criminal records where (1) the petitioner's constitutional rights may be seriously infringed by retention of the records,² or (2) expungement is necessary to "the performance of judicial functions." *Id.* at 280-81.

The supreme court determined in *M.D.T.* that the expungement of petitioner's criminal records held in the executive branch was not "necessary to the performance of a unique judicial function." *Id.* at 284. Thus, the district court did not have inherent authority to expunge petitioner's criminal records held in the executive branch. *Id.*

The supreme court 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

¹ The statutory grounds for expungement under Minn. Stat. § 609A.02, subds. 1-3 (2012), are inapplicable here.

² The district court determined that J.D.C.'s constitutional rights have not been infringed. There is no challenge to that determination on appeal.

do otherwise would amount to a failure to “respect the equally unique authority of another branch of government.” *Id.* (quotation omitted).

The supreme court also ruled that a balancing test considering whether the benefit to the petitioner of expungement of criminal records outweighs the disadvantages to the public is “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 petitioner’s records of convictions held in the executive branch was not a necessary judicial function, the supreme court declined to engage in a balancing of competing interests. *Id.* at 284.

The circumstances of this case fit squarely within the supreme court’s analysis in *M.D.T.* The expungement of J.D.C.’s criminal records held in the executive branch is not necessary to the performance of a unique judicial function. Thus, the expungement of J.D.C.’s criminal records held in the executive branch exceeds the judiciary’s inherent authority. Based on *M.D.T.*, we reverse the district court’s order to the extent that it directs the expungement of J.D.C.’s criminal records held in the executive branch.

Reversed.