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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1959**

State of Minnesota,
Appellant,

vs.

A. B. A.,
Respondent.

**Filed July 22, 2013
Reversed
Stauber, Judge**

Washington County District Court
File No. 82CR095476

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

Pete Orput, Washington County Attorney, Richard D. Hodsdon, Assistant County
Attorney, Stillwater, Minnesota (for appellant)

A.B.A., Oakdale, Minnesota (pro se respondent)

Considered and decided by Hudson, Presiding Judge; Schellhas, Judge; and
Stauber, Judge.

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

STAUBER, Judge

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

FACTS

In October 2009, respondent A.B.A. pleaded guilty to disorderly conduct. Respondent was fined \$1,000 and ordered to serve 90 days in jail, with the jail-time and \$700 of the fine suspended for one year on the conditions that respondent remain law-abiding and have no same or similar offenses.

In July 2012, respondent filed a petition for expungement claiming that he is seeking an expungement because he is looking for employment and has “already been denied a position with a potential employer because of my criminal history.” Respondent also claimed that his “criminal record will or may prevent me from obtaining credit, scholarships or grants, if I return to school, difficulty or higher rates when obtaining insurance, inability to volunteer for certain positions, inability to work with children or vulnerable adults, inability to get certain types of licensing.” Respondent further stated that he would like the expungement so that his friends and family would not be able to see records of the incident.

At the conclusion of the hearing, the district court granted respondent’s petition for expungement of both judicial and executive records. 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

Expungement of records is based on either statutory authority or the courts’ inherent authority to grant the relief. Minn. Stat. §§ 609A.01-.03 (2012); *State v. Ambaye*, 616 N.W.2d 256, 257 (Minn. 2000). It is undisputed that the district court here

was relying on its inherent authority when it ordered expungement of executive branch records.

After the district court issued its order, the supreme court released its opinion in *State v. M.D.T.*, 831 N.W.2d 276 (Minn. 2013), which clarified the limits of the courts' inherent authority to expunge records held by the executive branch. In considering the state's claim that the district court exceeded the scope of its inherent authority when it expunged "all official records" of M.D.T.'s conviction that were held in the executive branch, 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." *M.D.T.*, 831 N.W.2d at 280 (quotations omitted). The supreme court stated that "the 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 the 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 further stated that a balancing test that considered 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 284. But the supreme court held that expungement of criminal records held in the executive branch is "not necessary to the performance of a unique

judicial function.” *Id.* Thus, the court held that “the district court did not have the authority to expunge M.D.T.’s criminal records held in the executive branch.” *Id.*

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

Reversed.