

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT COURT

In re _____, Petitioner. No.

**ORDER ON PETITION TO EXPUNGE ARREST RECORDS AND PUBLIC RECORDS
PURSUANT TO NMSA 1978, SECTION 29-3A-5 (Conviction)**

THIS MATTER came before the Court on Petitioner's Petition to Expunge Arrest Records and Public Records Pursuant to NMSA 1978, Section 29-3A-5 (2019) (*Conviction*). The Court having reviewed the Petition, examined the record, considered any objections filed by the District Attorney, the Department of Public Safety (DPS), the law enforcement agency that arrested Petitioner, and any other person or agency, and conducted a hearing, **FINDS and ORDERS** as follows:

1. Petitioner was convicted and Petition completed any sentence and payment of any fines or fees owed to the state for the conviction; no other charge or proceeding is pending against Petitioner; justice will be served by an order to expunge arrest records and public records; Petitioner has fulfilled any victim restitution ordered by the court in connection with Petition's conviction; and no other criminal conviction has occurred for a period of:

(check applicable time period based upon charges expunged)

- two years** if the petition relates to a conviction for a violation of a municipal ordinance or a misdemeanor not otherwise described in this list;
- four year** if the petition relates to a misdemeanor conviction for aggravated battery as provided in NMSA 1978, Section 30-3-5(B) (1969) or o a conviction for a fourth degree felony not otherwise described in this list;
- six years** if the petition relates to a conviction for a third degree felony not otherwise described in this list;
- eight years** if the petition relates to a conviction for a second degree felony not otherwise described in this list; or
- ten years** if the petition relates to a first degree felony or for any offense provided in the Crimes Against Household Members Act, NMSA 1978, Section 30-3-10 to -18 (2009).

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2. Petitioner's request is denied for all charges sought to be expunged.¹

OR

Petitioner's request to expunge is denied for the following offenses:²

3. Petitioner is not entitled to relief under Section 29-3A-5 because³

Petitioner has failed to provide the required information and the petition is summarily dismissed WITHOUT PREJUDICE.

Petitioner's records are not legally eligible for expungement because

There is a charge or proceedings pending against Petitioner;

Petitioner has not fulfilled victim restitution ordered by the court in connection with Petitioner's conviction;

Petitioner has had another criminal conviction within the time period for the charges sought to be expunged.

Venue is improper because the charges did not originate in this district.

Taking into consideration the nature and gravity of the offense; Petitioner's age, criminal history, and employment history; the length of time that has passed since the offense was committed and sentence completed; the specific consequences to Petitioner if the Petition is denied; and more specifically _____

the Court finds that justice will not be served by an order to expunge.

Other: _____

4. Petitioner's request to expunge is granted for all charges requested.⁴

OR

¹ For use when the Petition is denied in whole.

² For use when the Petition will be granted in part and denied in part.

³ To be completed when any portion of the Petition is denied.

⁴ For use when the Petition will be granted in whole.

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Petitioner's request to expunge is granted only for the following charges⁵;

(Select from the following, applicable)

IT IS THEREFORE ORDERED that Petitioner's Petition to Expunge Arrest Records and Public Records Pursuant to Section 29-3A-5 is

DENIED.

GRANTED.

GRANTED IN PART AND DENIED IN PART.

(Select as applicable for Petitions granted in whole or in part)

IT IS FURTHER ORDERED that, in accordance with Section 29-3A-5, the arrest records and public records specifically relating to:

All the charges requested in the Petition

The following charges:

and contained in:

District Court case number: _____

Appellate Court case number: _____

Magistrate/Municipal Court case number: _____

Metropolitan Court case number: _____

Law Enforcement Agency case number: _____

Arrest number (from fingerprint card): _____ Date: _____

Including information posted on a court or law enforcement website

⁵ For use when the Petition will be granted in part and denied in part.

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SHALL BE EXPUNGED.

IT IS FURTHER ORDERED that the following agencies shall expunge the necessary records within _____ days of the date this Order, the proceedings shall be treated as if they never occurred, and upon inquiry in the matter, Petitioner and officials to whom this Order is directed may properly reply that “no such records exist with respect to such person.”

District Attorney for the Third District

New Mexico Department of Public Safety

Arresting agency: _____

Other: _____

Other: _____

Other: _____

IT IS FURTHER ORDERED that the court clerk for the (*indicate the court that originally disposed of the charges*) District Court for the Third Judicial District, Metropolitan Court in _____ (*location*), Magistrate Court in Dona Ana County, or Municipal Court in _____ (*location*) shall expunge the necessary records within _____ days of the date of this Order, the proceedings shall be treated as if they never occurred, and upon inquiry in the matter, Petitioner and officials to whom this Order is directed may properly reply that “no such records exist with respect to such person.”

Date: _____

District Court Judge