

IN THE CITY COURT OF SCOTTSDALE
Maricopa County, State of Arizona

In the Matter of:	)	
	)	COURT ORDER
	)	NO. 2018-06
State's Request for Response on	)	
Motion to Set Aside	)	

In accordance with Rule 29.2(c), Arizona Rules of Criminal Procedure, Setting Aside a Conviction, *"Processing of Application. The court must send a copy of the application to the applicable prosecuting agency no later than 10 days after filing."*

WHEREAS the State filed a Memorandum with this Court dated December 31, 1998, citing: *"Pursuant to this memo, I am requesting the Court to provide copies of motions to expunge or set aside judgment to the Prosecution Division....I am requesting the Court to route a copy of defendant's motions to expunge or set aside judgment in the following cases..."*

WHEREAS this Court has also been notified by the Prosecutor to add to the memorandum, to route copies of the defendant's motions to expunge or set aside judgment of cases convicted of Arizona Revised Statute Title 28, Chapter 4, Article 3: Driving Under the Influence.

IT IS ORDERED that the Court send copies of Motions to Set Aside in accordance to Rule 29.2(c), ARCrP, limited to only cases that is listed on the State's Memorandum attached hereto, and any cases that involves a conviction of Arizona Revised Statute Title 28, Chapter 4, Article 3: Driving Under the Influence.

Dated this 22nd day of October, 2018

/s/
JOSEPH OLCAVAGE
Presiding Judge

MEMORANDUM

TO: Judge Preston
FROM: Ann Garriott
DATE: December 31, 1998
RE: Request to Receive Defendants' Motions for Expungement

According to a previous agreement, Prosecution Division declined its opportunity to review and object to defense motions to expunge or set aside misdemeanor convictions.

Pursuant to this memo, I am requesting the Court to provide copies of motions to expunge or set aside judgement to the Prosecution Division. Based on past experience, the Division has not consistently received copies of such motions from defendants and thus we could not provide assurance that such motions were consistently reviewed. While this request will place an additional burden on the Court staff, a number of situations have recently come to my attention where the prosecutor's input would have been valuable to assist the Court in making its determination whether to grant or deny an expungement request.

In an effort to reduce the workload impact on Court Staff, I am requesting the Court to route a copy of defendant's motions to expunge or set aside judgement in the following cases:

All Domestic Violence offenses.

13-1201	Endangerment
13-1202	Threats and Intimidating
13-1203	Assaults
13-1204(A)(4)	Assault on a minor
13-1303	Unlawful imprisonment
13-1402	Indecent Exposure
13-1403	Public Sexual indecency
13-1406.01	Sexual Assault of a spouse
13-1504	Criminal trespass- 1 st degree
13-2508	Resisting Arrest
13-2810	Interfering w/ Judicial proceedings
13-2904	Disorderly Conduct
13-2910	Cruelty to animals
13-2916	Use of telephone to terrify, threaten, harass

13-2921	Harassment
13-3102	Weapons Misconduct
13-3103	Explosives misconduct
13-3107	Discharging weapon within city limits
13-3110	Misconduct involving simulated explosive devices
13-3415	Possession of Drug Paraphernalia
13-3613	Child dependence/delinquency
13-3619	Child neglect
13-3623	Child abuse/negligence
SRC 4-39	Vicious Dog at Large

According to A.R.S. § 13-907(B), expungement is not available in cases:

1. Involving the infliction of serious physical injury.
2. Involving the use or exhibition of a deadly weapon or dangerous instrument.
3. In violation of chapter 14 (sex offenses) of this title.
4. In which the victim is a minor under fifteen years of age.
5. In violation of 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or title 28, chapter 3 (28-601 through 28-1176), except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693."

As provided by Rule 29, Arizona Rules of Criminal Procedure, the state will file its written response at least 10 days prior to the date set by the court for hearing or ruling on such motions. In all other cases, the Prosecution Division will take no position on motions to expunge or set aside judgement.

I would be happy to work with you to minimizing any inconvenience that this request may cause. Thank you for your cooperation and assistance.

Cc: Tom Brady
Pat Dunn