

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

In re The Expunction of M.T.R.

No. 01-18-00938-CV · No. No. 01-18-00938-CV · Decided February 27, 2020

SUMMARY

The Texas Court of Appeals considered whether M.T.R. was entitled to expunction of records relating to his 2015 DWI arrest after he was acquitted. The court held that the arrest arose from a criminal episode involving M.T.R.'s prior BWI conviction because the offenses were repeated commission of the same or similar offenses under Texas Penal Code section 3.01(2). The court reversed the expunction order and rendered judgment denying the petition.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Richard Hightower; Justice Keyes; Justice Lloyd; Justice Hightower
JURISDICTION	Texas
DECIDED	February 27, 2020
DOCKET	No. 01-18-00938-CV
DISPOSITION	reversed
PROCEDURAL POSTURE	The Texas Department of Public Safety appealed from an order of the Fort Bend County district court granting M.T.R.'s petition to expunge records of his 2015 DWI arrest.
STANDARD OF REVIEW	A petition for expunction is reviewed for abuse of discretion, but legal determinations and statutory-construction issues are reviewed de novo. The appellate court defers to factual determinations committed to the trial court's discretion.
PRECEDENTIAL VALUE	published and precedential Texas intermediate appellate opinion
PARTIES	Texas Department of Public Safety v. M.T.R.

TOPICS

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PRACTICE AREAS

[Civil procedure](#) [Criminal procedure](#) [Statutory interpretation](#) [Expunction and record-clearing remedies](#)

QUESTIONS PRESENTED

1. Whether M.T.R.'s 2015 DWI arrest arose out of a criminal episode with his 2012 BWI conviction under Texas Penal Code section 3.01(2).
2. Whether Code of Criminal Procedure article 55.01(c) barred expunction of the 2015 DWI arrest records despite M.T.R.'s acquittal.

HOLDINGS

1. A prior BWI conviction and a later DWI arrest constitute the repeated commission of the same or similar offenses under Penal Code section 3.01(2), even though the offenses occurred in different years and counties.
2. Article 55.01(c) prohibits expunction of records relating to an arrest for which the person was acquitted when the arrest arose out of a criminal episode and the person was convicted of at least one other offense occurring during that episode.

KEY QUOTATIONS

“Expunction is not a right; it is a statutory privilege.” (at 4)

“We presume that the Legislature chose this statutory language with care and that its decision to omit language imposing a time frame or other limitations on the definition of a criminal episode was purposeful.” (at 7-8)

“we conclude that the plain meaning of section 3.01(2)’s and article 55.01(c)’s statutory language is to prohibit courts from expunging records, even if the person was acquitted, if the acquittal arose out of a criminal episode—i.e., if it was a “repeated commission of the same or similar offense” to one for which the petitioner was convicted.” (at 8)

FACTUAL BACKGROUND

M.T.R. was convicted of boating while intoxicated in Montgomery County in 2012 and served three days' confinement and paid a fine. In 2015, he was arrested and charged with DWI as a second offense in Fort Bend County. A jury acquitted him of the DWI charge in 2018, after which he sought expunction of the arrest records; the trial court granted the petition.

PROCEDURAL HISTORY

M.T.R. was acquitted by a jury of the 2015 DWI charge and then petitioned for expunction. The trial court granted the petition without holding an evidentiary hearing. DPS appealed, arguing that M.T.R.'s prior conviction for boating while intoxicated barred expunction under the criminal-episode exception in Code of Criminal Procedure article 55.01(c).

DISPOSITION

reversed

CASES CITED

- State v. T.S.N., 547 S.W.3d 617, 620 (Tex. 2018)
- In re A.G., 388 S.W.3d 759, 761 (Tex. App.—El Paso 2012, no pet.)
- City of Rockwall v. Hughes, 246 S.W.3d 621, 625-26 (Tex. 2008)
- Ex parte J.A.B., No. 04-19-00772-CV, 2019 WL 5405915, at *2-4 (Tex. App.—San Antonio Oct. 23, 2019, no pet.)
- In re Expunction of J.B., 564 S.W.3d 436, 440-41 (Tex. App.—El Paso 2016, no pet.)
- Ingram v. State, No. 09-10-00346-CV, 2011 WL 5299475, at *3 (Tex. App.—Beaumont Nov. 3, 2011, pet. denied) (mem. op. on reh'g)
- Guidry v. State, 909 S.W.2d 584, 585 (Tex. App.—Corpus Christi 1995, pet. ref'd)
- In re State Bar of Tex., 440 S.W.3d 621, 624 (Tex. 2014)
- In re Expunction of M.T., 495 S.W.3d 617, 620 (Tex. App.—El Paso 2016, no pet.)
- Ex parte Rios, No. 04-19-00149-CV, 2019 WL 4280082, at *2-3 (Tex. App.—San Antonio Sept. 11, 2019, no pet.) (mem. op.)
- T.S.N., 547 S.W.3d 617, 618-19, 621-23 (Tex. 2018)

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