

CV-2022-228
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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

KRISTOPHER MARK GELLENBECK,
Plaintiff,

vs.

STATE OF OKLAHOMA,
Defendant.

CV - 2022 - 228

Case No: CV-2022-

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

FEB - 8 2022

RICK WARREN
COURT CLERK

PETITION FOR EXPUNGEMENT AND SEALING OF RECORDS

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COMES NOW, the Plaintiff, Kristopher Mark Gellenbeck, DOB 05/08/1982 & SSN xxx-xx-4115, by and through his attorney of record, Dustin S. Phillips, moves this Court for its Order expunging the records of arrest and all matters and information relating to the complaint, investigation, charging, and criminal causes as well as the above-numbered civil cause currently before this Court. In furtherance of said Petition, the Plaintiff would show the Court as follows:

I. **State of Oklahoma v. Kristopher Gellenbeck CF-2021-2171**

That on or about March 27, 2021, Plaintiff was arrested by the Oklahoma City Police Department in incident number **2021-0021038**. Following the arrest, case number **CPC-2021-2057** was filed in Oklahoma County on March 30, 2021. Plaintiff was subsequently charged on June 6, 2021 in the Oklahoma County District Court, in Case Number **CF-2021-2171**, with one (1) count of Kidnapping, one (1) count of Domestic Assault & Battery, one (1) count of Domestic Assault & Battery, and one (1) count of Interference with Emergency Telephone Call.

A. **Counts 1, 3-4**

1. That on or about October 20, 2021, count 1 of Kidnapping was dismissed without costs.
2. That on or about February 7, 2022, count 3 of Domestic Assault & Battery and count 4 of Interference with Emergency Telephone Call were dismissed without costs.

3. That the charges were not dismissed following the successful completion of a deferred judgment or delayed sentence.
4. That Plaintiff has not been convicted of any felony crimes and that no misdemeanor or felony charges are currently pending against Plaintiff.
5. That the statute of limitations for refiling the charge has expired or the prosecuting agency confirms that the charge will not be refiled.
6. That Plaintiff states that Title 22, § 18 of the Oklahoma Statutes, which deals with the expungement of records, is applicable to these counts. Specifically, Title 22, § 18(7) provides that a person is authorized to file a Petition for Expungement if:
 - i. The person was charged with one or more misdemeanor or felony.
 - ii. All charges have been dismissed.
 - iii. The person has never been convicted of a felony.
 - iv. No misdemeanor or felony charges are pending against the person.
 - v. The statute of limitations for refiling the charge or charges has expired or prosecuting agency confirms that the charge or charges will not be refiled.
 - vi. The charges were not dismissed following the completion of a deferred judgment or delayed sentence.
7. That Plaintiff states that he falls within the terms of Title 22, § 18(7) of the Oklahoma Statutes and the procedural requirements of Title 22, § 19 of the Oklahoma Statutes, allowing for the sealing of the Plaintiff's records on this charge and citation. Thus, the Plaintiff is entitled to his records being expunged in full and sealed by all agencies and departments pursuant to Title 22, §§ 18-19 of the Oklahoma Statutes.
8. That the harm to the Plaintiff's privacy and/or the dangers of unwarranted adverse consequences upon the Plaintiff outweigh the public interest in retaining the records and, as such, this Court shall expunge the Plaintiff's

record in full and seal the same pursuant to Title 22, §§ 18-19 of the Oklahoma Statutes.

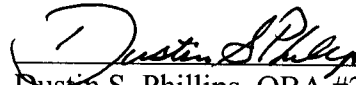
B. Count 2

1. That on or about February 7, 2022, Plaintiff entered an Alford Plea to an amended charge of Disturbing the Peace, and was sentenced to a fine of \$500 only plus court costs. All costs have been paid in full.
2. That Plaintiff has not been convicted of any felony crimes, and no misdemeanor or felony charges are currently pending against Plaintiff.
3. That the Plaintiff states that Title 22, §18 of the Oklahoma Statutes, which deal with the expungement of records, is applicable to this count. Specifically, Title 22, §18(10) provides that a person is authorized to file a Petition for Expungement if the person was convicted of a misdemeanor and sentenced to a fine of less than Five Hundred One Dollars (\$501.00) without a term of imprisonment or suspended sentence, the fine has been paid or satisfied by time served in lieu of the fine, the person has not been convicted of a felony, and no misdemeanor or felony charges are pending against the person.
4. That the Plaintiff states that he falls within the terms of the Title 22, §18(10) of the Oklahoma Statutes, allowing for the sealing of the Plaintiff's records on these charges and citations, provided that Plaintiff's arrest records shall be sealed to the public but not to law enforcement agencies for law enforcement purposes. Thus, the Plaintiff is entitled to his records being expunged in full and sealed by all agencies and departments pursuant to Title 22, §18-19 of the Oklahoma Statutes.
5. That the harm to the Plaintiff's privacy and/or the dangers of unwarranted adverse consequences upon the Plaintiff outweigh the public interest in retaining the records and, as such, this Court shall expunge the Plaintiff's record in full and seal the same pursuant to Title 22, §§ 18-19 of the Oklahoma Statutes.

- II. That Plaintiff requests this Court issue its Order requiring the **Oklahoma County Court Clerk** to completely expunge and seal any and/or all records relating to the complaint, investigation, arrest, bonding, citation, information, charging, disposition and criminal records information as to Oklahoma County case numbers **CPC-2021-2057** and **CF-2021-2171**. The Plaintiff is also requesting that the Oklahoma County Court Clerk completely expunge any record of the above-numbered civil cause. Further, the Plaintiff requests that the **Oklahoma City Police Department (incident number 2021-0021038)**, **Oklahoma County Sheriff's Office**, and the **Oklahoma State Bureau of Investigation (OSBI)** be ordered to likewise completely expunge and seal any and/or all records relating to the complaint, investigation, arrest, bonding, citation, information, charging, disposition and criminal records information as to the above-mentioned criminal and civil cause number.
- III. That the Plaintiff requests that this Court issue an Order mandating that the subject official action shall be deemed never to have occurred and that the Plaintiff and all criminal justice agencies may properly reply upon any inquiry in the matter that no such action ever occurred and that no such record exists with respect to the Plaintiff, provided that, pursuant to Title 22, §28(D) of the Oklahoma Statutes, Plaintiff's arrest records shall be sealed to the public, but not to law enforcement agencies for law enforcement purposes.

WHEREFORE, the Plaintiff, Kristopher Mark Gellenbeck, prays that this Court set this matter for hearing at least thirty (30) days from the date of receipt of this Petition, and, upon the conclusion thereof, issue an Order completely and fully expunging and sealing any and/or all records as set forth above.

Respectfully submitted,



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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING/FACSIMILE

This certifies that upon filing, a true and correct copy of the foregoing instrument was mailed postage pre-paid and/or faxed to:

Oklahoma County District Attorney's Office
Attn: Expungements
320 Robert S. Kerr Ave. #505
Oklahoma City, OK 73102

Oklahoma City Municipal Counselor's Office
Attn: Expungements
200 N. Walker
Oklahoma City, OK 73102

Oklahoma State Bureau of Investigation
Attn: Shannon Desherow
6600 N. Harvey, Bldg. 6, Ste. 300
Oklahoma City, OK 73116



Dustin S. Phillips