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**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-2007**

State of Minnesota,
Respondent,

vs.

A. A. S.,
Appellant.

**Filed August 28, 2017
Affirmed
Ross, Judge**

Kandiyohi County District Court
File No. 34-CR-08-1837

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

Shane D. Baker, Kandiyohi County Attorney, Willmar, Minnesota (for respondent)

Patrick C. Nwaneri, Nwaneri Law Firm, PLLC, St. Paul, Minnesota (for appellant)

Considered and decided by Kirk, Presiding Judge; Worke, Judge; and Ross, Judge.

UNPUBLISHED OPINION

ROSS, Judge

A.A.S. appeals from the district court's order denying her expungement petition. She argues that the district court improperly conditioned its inherent expungement authority over judicial records on her eligibility for statutory expungement and that the district court made inadequate findings. Because the district court properly recognized its

inherent authority to expunge judicial records and because the district court's findings support its decision, we affirm.

FACTS

A.A.S. was accused of bludgeoning and then cutting a woman with a glass bottle in 2008. She pleaded guilty to felony third-degree assault in violation of Minnesota Statutes section 609.223, subdivision 1 (2008). The district court placed her on three years' supervised probation, which she successfully completed.

A.A.S. petitioned the district court in March 2016 to expunge the records of her crime, claiming that the records lessened her employability. She argued that the benefit to her outweighed any potential detriment to the public. At the October 2016 hearing on her petition, A.A.S. clarified that she was limiting her request only to expungement of judicial records, not executive records. She argued that, in addition to creating employability difficulties, the existence of the records also made it difficult for her to obtain rental housing.

The district court expressed its doubt that expunging only the judicial records would solve either of the two issues (employment and housing) that drove A.A.S.'s petition. The district court speculated, "If this is just for the Court records, most of the background studies are done through the BCA and their record will remain intact." A.A.S. argued that criminal background checks might begin and end with court records, but that, even if an inquirer went further than a courthouse search and found the executive records, expunging the judicial records would afford some benefit because the inquirer could balance the

existence of executive records against the lack of judicial records. The state argued against the petition by emphasizing the serious and violent nature of A.A.S.'s crime.

The district court denied A.A.S.'s petition. Although A.A.S. had abandoned her request to expunge executive branch records, the district court found that she did not qualify for statutory expungement under Minnesota Statutes section 609A.02 (2016). It also rejected the request as to judicial records, balancing the request against the need for public safety:

The benefits to [A.A.S.] are not greater than the disadvantage to the public and public safety. Since only judicial records can be sealed in this proceeding, employers and landlords still have access to executive records showing [A.A.S.'s] criminal history, greatly limiting the benefit to [A.A.S.] of expunging judicial records.

In a one-paragraph memorandum, the district court expressed that it was “very sympathetic to [A.A.S.'s] plight” but nonetheless denied the expungement request. It opined that, without expungement of executive records, expungement of judicial records would be “essentially meaningless” as it bears on A.A.S.'s employment and housing concerns. It reiterated that the disadvantage to the public outweighed “the negligible benefit” to A.A.S.

A.A.S. appeals.

D E C I S I O N

A.A.S. asks us to reverse and remand for the district court to order expungement. She argues first that the district court erroneously conditioned the exercise of its inherent authority on her eligibility for statutory expungement. She argues second that the district

court failed to make factual findings required by the 12-factor analysis under Minnesota Statutes section 609A.03, subdivision 5(c) (2016). The arguments fail.

I

A.A.S. argues that the district court erred as a matter of law by improperly conditioning its inherent authority to expunge judicial records on A.A.S.'s eligibility for statutory expungement. We review the district court's expungement decision for an abuse of discretion. *State v. M.D.T.*, 831 N.W.2d 276, 279 (Minn. 2013). Questions involving the scope of the district court's inherent expungement authority are questions of law. *See id.*

A.A.S.'s argument that the district court improperly conditioned its inherent authority on A.A.S.'s eligibility for statutory expungement rests on a misunderstanding of the district court's reasoning. The district court may order criminal records expunged based on statutory authority or inherent judicial authority. *M.D.T.*, 831 N.W.2d at 279. The district court's inherent expungement authority is typically limited to expunging *judicial* records, except in circumstances implicating constitutional rights or where expungement is necessary to the performance of a core judicial function. *See M.D.T.*, 831 N.W.2d at 280–81, 284; *State v. S.L.H.*, 755 N.W.2d 271, 277–78 (Minn. 2008); *State v. Ambaye*, 616 N.W.2d 256, 258 (Minn. 2000); *State v. H.A.*, 716 N.W.2d 360, 363 (Minn. App. 2006). And statutory expungement is available only in limited circumstances. *See Minn. Stat. § 609A.02.*

Contrary to A.A.S.'s premise, the district court expressly recognized that district courts have independent authority to expunge records. And it recognized that this authority was limited in A.A.S.'s case to the expungement of judicial records. The district court's

determination that the benefits A.A.S. identified were diminished in the absence of statutory expungement was not a condition on the district court's inherent authority; it was part of the district court's reasoning as to whether to grant the expungement request. Nothing in the district court's explanation suggests that it misunderstood its inherent authority.

II

We are not persuaded by A.A.S.'s contention that the district court failed to make factual findings required by law. Generally, the district court must weigh any expungement benefits to the petitioner against the expungement disadvantages to the public and the burden on the court. *See* Minn. Stat. § 609A.03, subd. 5(a)–(b) (2016); *Ambaye*, 616 N.W.2d at 258. The district court determined that the potential benefits of expungement to A.A.S. did not outweigh the countervailing interests. A.A.S.'s argument that the district court failed to make findings under the 12-factor analysis directed by Minnesota Statutes section 609A.03, subdivision 5(c), raises two issues. The first is whether the district court was required to apply the 12-factor statutory analysis to its inherent-authority expungement decision. The second is whether the district court made sufficient findings under the appropriate analysis.

A. Applicability of the Statutory 12-Factor Analysis

We reject A.A.S.'s argument that the district court must analyze the 12 statutory factors to decide whether to exercise its inherent authority to expunge judicial records. We review de novo statutory interpretation issues related to expungement. *See State v. S.A.M.*, 891 N.W.2d 602, 604 (Minn. 2017). The relevant statute describes two circumstances for

statutory expungement. Neither is implicated here. Generally, a petitioner must prove by clear and convincing evidence that the benefit of expungement outweighs the countervailing interests. Minn. Stat. § 609A.03, subd. 5(a). But on certain grounds, the petitioner is presumptively entitled to expungement and the burden falls on the responding party to rebut the presumption. *Id.*, subd. 5(b). Regardless of whether paragraph (a) or (b) applies, paragraph (c) requires the district court, “[i]n making a determination *under this subdivision*,” to consider 12 enumerated factors. Minn. Stat. § 609A.03, subdivision 5(c) (emphasis added) (providing factors addressing offense, risk, timing, rehabilitation, aggravating or mitigating circumstances, reasons for expungement, criminal records, record of employment and community involvement, relevant recommendations, restitution, and other relevant factors). The legislature added these 12 factors in a 2014 amendment. *Compare* 2014 Minn. Laws ch. 246, § 10, at 815–16 (codified at Minn. Stat. § 609A.03, subd. 5(c)), *with* Minn. Stat. § 609A.03, subd. 5 (2012).

A.A.S. contends that the district court must consider the 12 factors provided in paragraph (c) for *all* contested expungement requests. In essence, her position is that subdivision 5, including paragraph (c), applies to statutory *and* inherent-authority expungements. A close statutory reading defeats her argument. Section 609A.02 provides the “grounds” for a statutory expungement order. Whether the standard in section 609A.03, subdivision 5(b) applies unquestionably depends on whether those grounds have been met. We have said that paragraphs (a) and (b) “are complementary and must be read together.” *State v. L.W.J.*, 717 N.W.2d 451, 456 (Minn. App. 2006). That is, when one paragraph relates to the grounds set forth in section 609A.02, the other paragraph must relate to those

grounds. A.A.S. did not satisfy any ground under section 609A.02, so paragraph (c)'s directive to consider the 12 factors "in making a determination under [section 609A.03, subdivision 5]" was not implicated. We also observe that this distinction is consistent with the separation of powers emphasized in Minnesota caselaw distinguishing statutory expungements from inherent-authority expungements. *See S.L.H.*, 755 N.W.2d at 279 ("Because inherent judicial authority is derived from the constitutional doctrine of separation of powers and is grounded in judicial self-preservation, it can be neither augmented nor diminished by legislative acts." (quotation omitted)). The district court was not required to assess the 12 statutory factors to decide whether to exercise its inherent authority to expunge the judicial records of A.A.S.'s assault.

B. Sufficiency of the Findings

A.A.S. impliedly challenges the sufficiency of the district court's findings and analysis. The challenge fails. When findings are inadequate so as to preclude our review of the district court's order, we may reverse and remand for additional findings. *See State v. A.S.E.*, 835 N.W.2d 513, 517 (Minn. App. 2013). A.A.S. argues that the district court "made only a one sentence finding or analysis," referencing the district court's expression that it was "very sympathetic to [A.A.S.'s] plight." The referenced statement came in the district court's one-paragraph memorandum, but A.A.S. overlooks the fact that the order itself made findings concerning her charge, the conviction, the inapplicability of statutory expungement, the possible benefits of expungement, and A.A.S.'s reported difficulties finding a job and housing.

The district court must generally consider “whether expungement will yield a benefit to the petitioner commensurate with the disadvantages to the public from the elimination of the record and the burden on the court in issuing, enforcing and monitoring an expungement order.” *Ambaye*, 616 N.W.2d at 258, 261. The district court’s order and memorandum were short, but they reveal that the court indeed contemplated A.A.S.’s conviction, her stated interests and circumstances, and the diminished benefit to her in the absence of complete expungement. It is true that the district court seems merely to have speculated that employers and landlords would focus their searches on the executive branch records in the absence of judicial branch records, making any expungement benefit to A.A.S. illusory. But this was in response to A.A.S.’s equally speculative assertion that they tend to look no further than judicial branch records. Given the arguments and their minimal factual support, we are confident that the district court did not abuse its discretion by concluding that the diminished benefit of expungement did not outweigh the public’s interest and the burden to the court.

Affirmed.