**IN THE DAYTON MUNICIPAL COURT**

**MONTGOMERY COUNTY, OHIO**

**CRIMINAL DIVISION**

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| --- | --- | --- |
| **STATE OF OHIO,**  **Plaintiff,**  **v.**  **INSERT NAME,**  **Defendant.** | **: : : : : : : : :** | **Case No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**    **Judge INSERT NAME**  **MEMORANDUM IN SUPPORT OF EXPUNGEMENT APPLICATION** |
|  |  |  |

1. **INTRODUCTION**

Ms. INSERT NAME is applying to expunge her conviction and non-conviction records in this court. These records occurred as a result of her being a victim of human trafficking, and all legal requirements for expungements are clearly met. Today, Ms. INSERT NAME is an educated, contributing member of the community, working to improve life for herself and others.

1. **EXPUNGEMENT LAW**

In Ohio, survivors of human trafficking to can apply to expunge conviction records under R.C 2953.36 and non-conviction records under R.C. 2953.521. For convictions, a person may apply for the expungement of “any offense, other than a record of conviction of a violation of section 2903.01 [aggravated murder], 2903.02 [murder], or 2907.02 [rape] of the Revised Code, the person’s participation in which was a result of the person having been a victim of human trafficking.”[[1]](#footnote-1) The determination is similar for non-convictions: a person “may apply to the court for an order to expunge the person’s official records in the case if the complaint, information, or finding of not guilty that is the subject of the application was the result of the applicant having been a victim of human trafficking.”[[2]](#footnote-2) These findings must be made by a preponderance of the evidence as the threshold for convictions and non-convictions.

For expungement purposes, a “victim of human trafficking” is defined as a person who is or was a victim of Trafficking in Persons under R.C. 2905.32, “regardless of whether anyone has been convicted of a violation of this section or of any other section for victimizing the person.”[[3]](#footnote-3) Trafficking in Persons occurs when someone knowingly recruits, lures, entices, isolates, harbors, transports, provides, obtains, or maintains another person for the following reasons: (1) to be subjected to involuntary servitude [labor trafficking]; or (2) to be compelled to engage in sexual activity for hire or to engage in obscene, sexually-oriented, or nudity-oriented performance [sex trafficking].[[4]](#footnote-4) A victim is “compelled” through force, fear, duress, intimidation, or fraud; this element does not require openly-displayed or physically-exerted action.[[5]](#footnote-5)

The final step of an expungement is an interests-balancing test. Before sending an expungement order to public agencies, a court must determine that the applicant’s interest in the expungement are not outweighed by any legit needs of the government to maintain the record.

1. **FACTS**
2. **ARGUMENT**
3. *Ms. INSERT NAME meets all legal requirements for expunging convictions and non-convictions.*
4. *Ms. INSERT NAME’s account is supported by public information about her traffickers (IF POSSIBLE).*
5. *Ms. INSERT NAME’s interests in expungement significantly outweigh any state interests in keeping her records.*
6. **CONCLUSION**

For the reasons stated above and as will be presented at the hearing, Ms. INSERT NAME respectfully requests the Court to grant expungements for all offenses listed in the attached application.

Respectfully submitted,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTORNEY NAME (BAR #)

FIRM NAME

ADDRESS

ADDRESS  
Phone:

Fax:

EMAIL

**Attorneys for Defendant/Applicant**

**CERTIFICATE OF SERVICE**

I hereby certify that on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ a copy of this Application for Expungement was served upon the City of Dayton Prosecutor’s Office.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTORNEY/CLERK

1. R.C. 2953.36(B) (emphasis added). Additionally, to be eligible, applicants must have at least one previous conviction for soliciting, loitering to engage in solicitation, or prostitution – to show they were in fact part of the commercial sex industry. These are sometimes called “predicate offenses”. [↑](#footnote-ref-1)
2. R.C. 2953.521(B)(emphasis added). [↑](#footnote-ref-2)
3. R.C. 2953.38(A)(4). [↑](#footnote-ref-3)
4. R.C. 2905.32(A). [↑](#footnote-ref-4)
5. R.C. 2905.32(B). [↑](#footnote-ref-5)