

**IN THE DISTRICT COURT OF THE STATE OF MAYFLOWER
IN AND FOR THE COUNTY OF CLARK**

KOZJANI

Petitioner,

CASE NO.: EX-0096-24

v.

JUDGE: HON. KRABZATONIN

STATE OF MAYFLOWER

Respondent.

ORDER TO DENY PETITION FOR EXPUNGEMENT

THIS MATTER came before the Court on Petitioner Kozjani's ("Petitioner") petition filed with the Mayflower District Court for the County of Clark on November 11th, 2024, requesting for expungement of all their records under 5 M.S.C. 1 § 1502.1. State Attorney Xolaaz from the Mayflower Department of Justice entered an appearance on November 17th, 2024 on behalf of the State of Mayflower to argue against the expungement petition under 5 M.S.C. 1 § 1501.1(b). The Court permitted both parties to articulate their arguments. Petitioner expressed remorse and rebutted the State Attorney's argument that a separate criminal case involving Petitioner, which had been originally dismissed with prejudice but has a pending motion to reconsider, warranted denial of the expungement petition. The State Attorney argued that an expungement must be filed in good faith and that having an open criminal trial against Petitioner renders any possible good faith moot. Based on the foregoing, Petitioner's expungement request is **DENIED**, for the reasons explained in this order.

I. BACKGROUND

Petitioner is a resident of the State of Mayflower who has filed for expungement under 5 M.S.C. 1 § 1502.1. Petitioner wishes to expunge their records for contraventions of 2 M.S.C. § 2102, 2 M.S.C. § 1205, and 2 M.S.C. § 1212/1 M.S.C. § 2306. With three records, the petition falls under a "Category A" petition.

The Court requested Petitioner to provide a series answers to questions stated in a paperless order, with Petitioner being required to answer: (1) what assurances does the Court have that Petitioner would remain crime free; (2) what steps has Petitioner taken to repair the harm done to the community; and (3) where does Petitioner see themselves in two months if an expungement was granted. After asking Petitioner to clarify their answers, the Court is satisfied that Petitioner has sufficiently met its request. The Court must note that Petitioner attempted to argue that their charge for 2 M.S.C. § 2102 "Operating a Commercial Vehicle without a CDL" was not fully valid, to which the Court reminded Petitioner that an expungement petition is not the proper venue to contest an arrest—with the proper venue being a petition for a writ of habeas corpus. State Attorney Xolaaz appeared on behalf of Respondent, the State of Mayflower.

State Attorney Xolaaz submitted numerous statements for the Court to consider, in which

the underlying message urged the Court to stay or deny the expungement request. The State Attorney argued that expungement petitions are required to be made in good faith and that a pending criminal proceeding, separately labeled as CR-0030-24, removed the good faith nature of the expungement.

II. LEGAL STANDARDS

In this matter, the Court must consider two different prongs in order to properly adjudicate this matter: (1) if Petitioner “has demonstrated they are in good standing with the community[;]” and (2) if Petitioner “ha[s] not committed any crimes in the last twenty days[.]” 5 M.S.C. 1 § 1502.1; Mayfl. R. Lim. 6(2)(a).

On the first prong, the Court must find common ground on its interpretation of an individual being in good standing with the community. The principle of an expungement is for the Petitioner to accept responsibility for any crimes committed and to express remorse for those crimes. See, e.g., *Ex parte 9jelq*, No. EX-0016-24, slip op. at ¶ 3 (Mayf. Dist. Ct. September 22, 2024) (holding that the Court considers “the petitioner’s remorse, rehabilitation, and the lack of subsequent infractions[.]”). As such, the Court must decide if Petitioner has demonstrated sufficient remorse and rehabilitation.

The second prong is trivial and simply requires Petitioner to not obtain any new records for twenty days prior to filing for expungement.

III. ANALYSIS

For the Court to effectively determine whether Petitioner has demonstrated sufficient remorse and rehabilitation to enough of a degree to award expungement, it is axiomatic that the Court is able to take a complete view of Petitioner’s character. As of the writing of this order, Chief Judge Albert Wellesley of the Court has yet to enter an order regarding a motion to reconsider submitted by the State in *State of Mayflower v. Kozjani*, No. CR-0030-24, a criminal matter originally dismissed with prejudice by former District Judge sadoimpacto in which Petitioner was named the Defendant.

It is, at the very least, close to impossible for the Court to fully gauge Petitioner’s shown remorse and attempts at rehabilitation if Petitioner has a criminal matter against them that is either ongoing or has a plausible chance at being revived. The ongoing existence or plausible imminent existence of a criminal case against Petitioner obstructs the judgement of character required by the Court. Given such a conundrum, it is in the best interests of the judicial economy for the Court to wait for criminal proceedings involving Petitioner to either terminate or have no pending motions which could plausibly lead to its revival, for the Court to appropriately consider Petitioner’s request for expungement. See, e.g., *United States v. Mellon Bank*, 545 F.2d 869, 873 (3d Cir. 1976) (recognizing that “resolution of the criminal case may moot, clarify, or otherwise affect various contentions in [a] civil case”). The Court finds that Petitioner fails the first prong.

IV. CONCLUSION

Accordingly, the Court therefore **DENIES** Petitioner’s expungement request and dismisses the matter without prejudice. Petitioner may re-file their petition at a later date.

SO ORDERED, ADJUDGED, AND DECREED in chambers in Mersea, Clark County,
Mayflower, this 19th day of November 2024.

/s/ krabzatonin
HON. KRABZATONIN
MAYFLOWER DISTRICT JUDGE