

Expungement

GENERALLY:

Ohio Revised Code 2953.31 provides that a defendant may apply to a court of official record, including the record of arrest in the following criminal circumstances:

1. A conviction, if the defendant is a first offender as defined in O.R.C. 2953.31(A) and the offense that is the subject of the conviction is not prohibited from being expunged and sealed under O.R.C. 2953.36;
2. A verdict or finding of not guilty;
3. A dismissal of a complaint, indictment, or information;
4. A “no bill” entered by the grand jury.

EXCLUSIONS:

Under Ohio Revised Code 2953.36, expungement is not available for the following offenses:

1. Convictions when the offender is subject to a mandatory prison term;
2. Convictions under sections 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.321, 2907.322 or 2907.323, former section 2907.12; or under Chapter 4507, 4510, 4511, or 4549 of the O.R.C., or a conviction for a violation of a municipal ordinance that is substantially similar to any section contained in any of those chapters listed above;
3. Conviction of an offense of violence when the offense is a misdemeanor of the first degree or a felony and when the offense is not a violation of section 2917.03 of the O.R.C. and is not a violation of section 2903.13, 2917.01, 2917.31 of the O.R.C. that is a misdemeanor of the first degree;
4. Convictions of an offense in circumstances in which the victim of the offense was under eighteen years of age when the offense is a misdemeanor of the first degree or a felony;
5. Convictions of a felony of the first or second degree;
6. Bail forfeitures in a traffic case as defined in Traffic Rule 2.

PROCEDURE FOR EXPUNGEMENT:

Application for expungement of a conviction in the Maple Heights Mayor’s Court can be made in writing to the court. Forms are available at the clerk’s office. The application must be accompanied by a \$100.00 fee. Defendants seeking expungement must meet statutory requirements.

The application for expungement may not be filed until one year after the person’s final discharge. “Final discharge” means either the date of conviction, or the date the defendant’s community control sanctions end, whichever is the later.

In deciding whether to grant an expungement the court will consider several factors such as whether the applicant is truly a first offender, whether criminal proceedings are pending against the applicant, whether the person has been rehabilitated to the court’s satisfaction , whether the prosecutor objects and the person’s interest in having the record sealed versus the legitimate needs of the government in maintaining the record.

EFFECT OF EXPUNGEMENT:

In the event the court grants the application, it shall order all official records pertaining to the case sealed, and with certain exceptions order all index references to the case deleted. In essence, the proceedings shall be considered not to have occurred