



**ORDER
ON APPLICATION TO VACATE AND
EXPUNGE FELONY CONVICTION**

Case No. _____
Court _____
County _____
Division _____

COMMONWEALTH OF KENTUCKY
VS.

PLAINTIFF

NAME
ADDRESS

DEFENDANT

() _____ PHONE NUMBER Jail ID Number _____ (optional)

Defendant's Birthdate: _____ Defendant's SSN: _____ Violation/Arrest Date: _____

I. FINDINGS OF FACT

A. The Court, having reviewed Defendant's **Application to Vacate and Expunge Felony Conviction** and being sufficiently advised, **FINDS:**

Pursuant to KRS 431.073, Defendant requested the following offense(s) be expunged: *(Attach additional sheet, if needed.)*

CHARGE: _____ CHARGE: _____
CHARGE: _____ CHARGE: _____
CHARGE: _____ CHARGE: _____

(List any underlying district court case number(s) and offense(s) that Defendant requested be expunged.)

CASE NO.: _____
CHARGE: _____ CHARGE: _____
CHARGE: _____ CHARGE: _____
CHARGE: _____ CHARGE: _____

(1) Objection received from the Commonwealth or County Attorney Yes No

(2) Response received from the victim(s) Yes No

B. (Check only one)

(1) The above-listed offense is one of the eligible offenses listed in KRS 431.073(1)(a).

(2) The above-listed offenses are a series of eligible offenses listed in KRS 431.073(1)(a) which arose from a single incident.

(3) A full pardon has been granted by the Governor.

* (4) *(Check one)* The above-listed offense is an eligible offense pursuant to KRS 431.073(1)(d).

OR

The above-listed offenses are a series of eligible offenses pursuant to KRS 431.073(1)(d).

If either of these boxes is checked, make the required finding in **subsection D. below.*

C. **FURTHER**, *(All of these findings are required.)*

- (1) It has been at least five (5) years since the completion of the Defendant's probation or parole, whichever is later.
- (2) The Defendant has not in the five (5) years prior to the filing of the Application to have the judgment vacated been convicted of a felony or a misdemeanor.
- (3) No proceeding concerning a felony or misdemeanor is pending or being instituted against the Defendant.
- (4) The Defendant has not had a felony conviction vacated and expunged pursuant to KRS 431.073.

OR

The Defendant has had a felony conviction expunged pursuant to KRS 431.073 but it was prior to June 28th, 2019.

D. *(Check only if the Defendant has applied pursuant to KRS 431.073(1)(d).)*

The Defendant has been rehabilitated and poses no significant threat of recidivism.

(If the Commonwealth has objected to an Expungement pursuant to KRS 431.073(1)(d), complete Section II. of this Order.)

E. Other Findings:

II. **ADDITIONAL FINDINGS PURSUANT TO KRS 431.073(1)(d)**

(This section must be completed if, and only if, the Commonwealth has objected to an Expungement pursuant to KRS 431.073(1)(d).)

A. The Court, having conducted a hearing and heard evidence, **FINDS** that the Defendant: *(check one)*

Proved **Did Not Prove** by clear and convincing evidence that: *(all of these findings are required for the Application to be granted)*

- (1) Vacating the judgment and expunging the record is consistent with the welfare and safety of the public;
- (2) This action is supported by the Defendant's behavior since the conviction or convictions, as evidenced that he or she has been active in rehabilitative activities in prison and is living a law-abiding life since release;
- (3) The vacation and Expungement is warranted by the interests of justice; and
- (4) Any other matter deemed appropriate or necessary to make a determination regarding the Application:

AND FURTHER, having weighed the public's interest in the Defendant's criminal history record being publicly available with the harm that would otherwise result to the Defendant if the Application is not granted, the Court **FINDS** that circumstances

Warrant **Do Not Warrant** vacation and Expungement.

III. THEREFORE, IT IS HEREBY ORDERED:

The Application is **DENIED**, for the following reason(s): (Doc Code: OFXD)

The Application is **GRANTED** as follows: (Doc Code: OFXG)

The judgment regarding the above listed offense(s) is **VACATED**, upon entry of this Order, and the charge(s) is/are hereby **dismissed with prejudice**.

The Defendant SHALL pay an expungement fee of \$250: *(check one)*

in full.

OR

in installment payments as set out below in Section IV.

Upon receipt of payment in full, Expungement shall be completed and the above listed offense(s) shall be **EXPUNGED** from the Court's records.

*This Order shall not extend or revive an expired statute of limitations, shall not constitute a finding of legal error regarding the proceedings leading to or resulting in the conviction, shall not nullify any findings of fact or conclusions of law made by the trial court or any appellate court regarding the conviction, and shall not constitute a finding of innocence regarding the conviction.

IV. INSTALLMENT PAYMENT PLAN

(Complete only if Defendant shall pay the expungement fee in installment payments.)

Beginning _____, 2_____, installment payments of \$_____ shall be paid to the Circuit Court Clerk as follows: *(check one)*

weekly

every other week

twice per month

monthly

other _____

Defendant is granted until _____, 2_____, to pay the expungement fee of \$250. *(Defendant must be permitted at least 18 months to pay the expungement fee; however, the Defendant has the option to pay the fee sooner if he or she is able.)*

V. NOTICE TO SHOW GOOD CAUSE FOR FAILURE TO COMPLETE INSTALLMENT PAYMENT PLAN

Defendant, you are granted until _____, 2_____, at the hour of _____ a.m. OR p.m. to pay the expungement fee of \$250. **The Expungement cannot be completed until full payment is received. If you fail to pay the expungement fee or have not completed the installment payment plan by the scheduled date(s), you SHALL appear before the same Court on the date and at the hour specified above to show good cause why you are unable to complete the installment payment plan. However, if you have completed your installment payment plan, you will not need to appear on that date.**

*****YOU CANNOT BE ORDERED TO JAIL FOR FAILURE TO COMPLETE YOUR INSTALLMENT PAYMENT PLAN.**

_____, 2_____
Date

Judge

I certify a true and correct copy of the foregoing was hand-delivered OR mailed to the **DEFENDANT** and or his/her **ATTORNEY** if any.

_____, 2_____
Date

Clerk

By: _____, D.C.

Clerk: Upon entry of this Order, provide a copy to Defendant/Attorney.

UPON PAYMENT IN FULL of the Expungement fee, complete Notice of Expungement (AOC-496.5) and distribute copies of the Notice and this Order to all agencies named below.

Upon completion of this Expungement, the Court and other agencies shall reply to any inquiry that no record exists. Defendant shall not have to disclose the fact of the record or any matter relating to it on an application for employment, credit, or other purpose.

The Kentucky State Police, the Kentucky Department of Libraries and Archives, and other following agencies, with custody of records relating to the arrest, charge or other matters arising out of the arrest or charge, shall expunge the record, including but not limited to: arrest records, fingerprints, photographs, index references, or other documentary or electronic data, and shall certify to the Court on this form that the required Expungement has been completed:

_____, 2_____
Date

Judge

AGENCY CERTIFICATION

_____, an above-named agency ordered to expunge records in our custody, hereby certifies that the **agency has no records** in its custody relating to the Defendant/matter OR the **agency has completed the Expungement** as directed by this Court.

Date: _____, 2_____. Agency Records Custodian: _____

For Immediate Distribution: Original - Court File
Copies: Defendant/Attorney; Commonwealth Attorney

For Distribution Upon Receipt of Payment in Full of the Expungement Fee: Defendant/Attorney; Kentucky State Police, 1266 Louisville Road, Frankfort, KY 40601; Kentucky Department of Libraries and Archives, Post Office Box 537, Frankfort, KY 40602; Other Named Agencies

Circuit Clerk: Refer to Clerk's Manual for instructions on filing this certification.