

STATE OF INDIANA

IN THE ELKHART SUPERIOR/CIRCUIT COURT

COUNTY OF ELKHART

CAUSE NO: \_\_\_\_\_

IN RE THE PETITION FOR EXPUNGEMENT OF: ) Related Cause No(s):

\_\_\_\_\_  
Name )

\_\_\_\_\_  
Address )

DOB: \_\_\_\_\_ )

SSN: \_\_\_\_\_ )

Petitioner. )

**FINDINGS ON VERIFIED PETITION FOR  
EXPUNGEMENT/SEALING OF ARREST RECORDS,  
MISDEMEANOR AND FELONY ARRESTS AND/OR  
CONVICTIONS PURSUANT TO I.C. 35-38-9**

Petitioner, \_\_\_\_\_, self-represented, filed their Verified Petition for Expungement on \_\_\_\_\_. The State of Indiana, by counsel, filed its Response to Petitioner’s Petition on \_\_\_\_\_.

Petitioner’s Verified Petition for Expungement seeks relief as provided by I.C. 35-38-9-1, *et al.*, for arrest records, I.C. 35-38-9-2, *et al.*, for misdemeanors, and I.C. 35-38-9-3, *et al.*, for low level felonies.

Upon review of Petitioner’s Verified Petition for Expungement, the State of Indiana’s Response, and the evidence presented, if any, the Court now enters the following Findings and Order on Petitioner’s Verified Petition for Expungement:

**FINDINGS**

The Court now finds by a preponderance of the evidence that:

1. Petitioner’s full name is \_\_\_\_\_.
2.  Petitioner has used the following other names or aliases:  
\_\_\_\_\_  
 Petitioner has no other legal names or aliases by which Petitioner is or has been known.
3. Petitioner’s date of birth is \_\_\_\_\_.
4. Petitioner’s social security number is \_\_\_\_\_.

5. Petitioner's driver's license number is \_\_\_\_\_.
6. Petitioner's addresses from the date of the offense to the date of this Petition have been:

7. Petitioner's Verified Petition for Expungement complies with the requirements of I.C. 35-38-9-8.
8.  Except as provided in I.C. 35-38-9-9(i) and 35-38-9-9(j), Petitioner has only filed one (1) Verified Petition for Expungement in their lifetime.

Petitioner has also filed a Verified Petition for Expungement in \_\_\_\_\_.

9. No charges or criminal investigations are pending against the Petitioner.
10. Petitioner is not a person who is prohibited from seeking this remedy under the provision of I.C. 35-38-9-2(b) and/or I.C. 35-38-9-3(b).
11. The period required by I.C. 35-38-9-1(b) and/or I.C. 35-38-9-2(c) and/or I.C. 35-38-9-3(c) has elapsed or a shorter period has been agreed to by the Prosecuting Attorney.
12. Petitioner has paid all fines, fees, and court costs and satisfied any restitution obligation imposed as part of the sentence.
13. Petitioner has not committed or been convicted of a crime within the previous one (1) year for arrest records, five (5) years for misdemeanor convictions, and/or eight (8) years for low level felony convictions of the date of this Petition or the time frame required by the State, or the lesser period of time agreed upon by the Prosecuting Attorney.

### **ORDER**

It is therefore **ORDERED, ADJUDGED, and DECREED** that Petitioner's Verified Petition for Expungement is **GRANTED**. Petitioner's arrest records and conviction records shall be marked as expunged and sealed in accordance with I.C. 35-38-9-1 and I.C. 35-38-9-6, and any other applicable section under I.C. 35-38-9-1, *et seq.* This includes expungement of ALL records, including collateral cases and dismissed charges, related to the conviction records. It is therefore **ORDERED** as follows:

1. Except as provided in I.C. 35-38-9-6(c) and notwithstanding I.C. 35-38-9-6(d), the following records of the sentencing court shall be permanently sealed and/or expunged:

<b>Criminal Cause No.</b>	
<b>County/City of Arrest:</b>	
<b>Arresting Agency: (if known)</b>	
<b>Arresting Officer: (if known)</b>	
<b>Date of Offense:</b>	
<b>Filing Date:</b>	
<b>Date of Arrest:</b>	
<b>Date of Disposition:</b>	
<b><u>Arrest Charges:</u></b>	<b><u>Disposition of Charges:</u></b>

<b>Criminal Cause No.</b>	
<b>County/City of Arrest:</b>	
<b>Arresting Agency: (if known)</b>	
<b>Arresting Officer: (if known)</b>	
<b>Date of Offense:</b>	
<b>Filing Date:</b>	
<b>Date of Arrest:</b>	
<b>Date of Disposition:</b>	
<b><u>Arrest Charges:</u></b>	<b><u>Disposition of Charges:</u></b>

2. Any related records described in I.C. 35-38-9-1(h) are ordered sealed or redacted in the manner described in I.C. 35-38-9-1 unless the records described in Section 1(h) have been ordered sealed and redacted under I.C. 35-38-9-6.
3. The following agencies and entities are hereby prohibited from releasing Petitioner's records of information in Petitioner's records of information without a court order, other than a law enforcement officer acting the course of the officer's official duty:
  - a. The Indiana Department of Corrections;
  - b. The Indiana Bureau of Motor Vehicles;
  - c. Each law enforcement agency, person or entity who incarcerated, provided treatment for, or provided other services for the person under an order of the court, including: **ELKHART COUNTY, INDIANA SHERIFF'S DEPARTMENT; ELKHART, INDIANA POLICE DEPARTMENT; GOSHEN, INDIANA POLICE DEPARTMENT; ELKHART, INDIANA COUNTY JAIL; ELKHART COUNTY ADULT PROBATION OFFICE; INDIANA STATE POLICE AND ALL OTHER AGENCIES ASSOCIATED WITH THE LISTED CONVICTIONS.**
4. The Indiana State Police Central Repository for Criminal History information is ordered to seal Petitioner's expunged conviction records. Records sealed may be disclosed only to:
  - a. a prosecuting attorney if authorized by court order and needed to carry out the official duties of the prosecuting attorney;
  - b. a defense attorney, if authorized by a court order and needed to carry out the professional duties of the defense attorney;
  - c. a probation department, if authorized by a court order and necessary to prepare a presentence report;
  - d. the Federal Bureau of Investigation and the Department of Homeland Security, if disclosure is required to comply with an agreement to the sharing of criminal history information;
  - e. the Indiana Supreme Court, members, the executive directors, or employees of the Indiana State Board of Law Examiners in accordance with rules adopted by such board for determining whether an applicant possesses the necessary good moral character for admission to the bar;
  - f. a person required to access expunged records to comply with the Secure and Fair Enforcement of Mortgage Licensing Act (12 U.S.C. 5101 et seq.) or regulations adopted under such act; and
  - g. the Bureau of Motor Vehicles, the Federal Motor Carrier Administration, and the Commercial Driver's License Information System (CDLIS), if disclosure is required to comply with I.C. 9-24-6-2(d) relating to reporting a conviction for a violation of a traffic control law.
  - h. a school (as defined in I.C. 22-4-2-37), for the purpose of determining: whether to employ or continue a person's employment, including volunteer employment, with the school; or grant access or

admission to the school to an applicant contractor or a contractor, if the person, contractor, or applicant contractor is likely to have contact with a student enrolled in school, regardless of the age of the student; and

- i. the state police department, if disclosure is required for the purpose of expunging or marking as expunged records in the central repository for criminal history information.
5. Expungement of a crime of domestic violence under I.C. 35-38-9-2 does not restore a person's right to possess a firearm. I.C. 35-38-9-6(f). The right of a person convicted of a crime of domestic violence to possess a firearm may be restored only in accordance with I.C. 35-47-4-7.
  6. Except as provided in I.C. 35-38-9-6(f), Petitioner's civil rights shall be fully restored, including the right to vote, to hold public office, to be a proper person under I.C. 35-47-1-7(2), and to serve as a juror.
  7. Petitioner shall be treated as if Petitioner had never been convicted of the offense. However, upon subsequent arrest or conviction for an unrelated offense, the expunged conviction: (1) may be considered by the Court in determining the sentence imposed for the new offense; (2) is a prior unrelated conviction for the purposes of a habitual offender enhancement and enhancing the new offense based on a prior conviction; and (3) may be admitted as evidence in the proceeding for a new offense as if the conviction had not been expunged.
  8. It is unlawful discrimination for any person to: suspend; expel; refuse to employ; refuse to admit; refuse to grant or renew a license, permit, or certificate necessary to engage in any activity, occupation, or profession; or otherwise discriminate against Petitioner because of a conviction or arrest record expunged or sealed under this order.
  9. In any application for employment, a license, or other right or privilege, Petitioner may be questioned about a previous criminal record only in terms that exclude expunged convictions or arrests, such as "Have you ever been arrested for or convicted of a crime that has not been expunged by a court?"
  10. Expungement of any conviction records in accordance with this order does not affect any existing or pending driver's license suspension.
  11. The Indiana Supreme Court and the Court of Appeals of Indiana shall redact the opinion or memorandum decision as it appears on the computer gateway administered by the Office of Technology so that it does not include the Petitioner's name and provide a redacted copy of such opinion or memorandum decision to any publisher or organization that publishes the opinion or memorandum decision as required by I.C. 35-38-9-6(c); however this does not require the destruction of any existing copy of an opinion or memorandum decision that includes the Petitioner's name.
  12. If Petitioner is obligated to register as a sex offender based on the commission of the felony which has been expunged, such registration obligation is not altered by this order nor does this order affect the operation of the sex offender registry website, any person's ability to access the petitioner's records, or records required to be maintained concerning sex or violent offenders; however, the expunged conviction(s) must be clearly marked as expunged on the sex offender registry website.

13. The Clerk shall send a copy of this order to all parties of record or their attorneys, to the Indiana State Police Central Repository for Criminal History; to the Indiana Department of Corrections; to the Indiana Bureau of Motor Vehicles; and the following law enforcement agencies or entities that possess records related to Petitioner's conviction: **ELKHART COUNTY, INDIANA SHERIFF'S DEPARTMENT; ELKHART, INDIANA POLICE DEPARTMENT; GOSHEN, INDIANA POLICE DEPARTMENT; ELKHART, INDIANA COUNTY JAIL; ELKHART COUNTY ADULT PROBATION OFFICE AND ALL OTHER AGENCIES ASSOCIATED WITH THE LISTED CONVICTIONS.**
14. If any of the expunged conviction records were appealed, the Clerk shall also send a copy of this order to the Clerk of the Indiana Supreme Court, Court of Appeals, and Tax Court.

**SO ORDERED** \_\_\_\_\_

\_\_\_\_\_  
 Judicial Officer  
 Elkhart Superior/Circuit Court

Distribution of Order:

Name: _____ Address:	Vicki Becker Elkhart County Prosecuting Attorney 301 S. Main St. Elkhart, IN 46516
<b>Indiana State Police</b> <b>Attn: Records Division</b> <b>100 N. Senate Ave., Rm N301 (East)</b> <b>Indianapolis, IN 46204</b>	<b>Indiana Bureau of Motor Vehicles</b> <b>IGC North, Room 402</b> <b>100 North Senate Avenue</b> <b>Indianapolis, IN 46204</b>
Indiana Department of Corrections <a href="mailto:docexpungements@idoc.in.gov">docexpungements@idoc.in.gov</a> Attn. Records Division 302 W. Washington St., Rm E-334 Indianapolis, IN 46204	Elkhart County Jail 26861 County Road 26, Elkhart, IN 46517
<b>Elkhart County Sheriff's Department</b> <b>26861 CR 26</b> <b>Elkhart, IN 46517</b>	<b>Elkhart County Probation</b> <b>1905 Reliance Rd.</b> <b>Goshen, IN 46526</b>
Elkhart County Community Corrections 201 N. Cottage Ave. Goshen, IN 46528	Office of the Indiana Attorney General Indiana Government Center South, 5 <sup>th</sup> Floor 302 W. Washington Street Indianapolis, IN 46204
<b>Elkhart Police Department</b> <b>175 Waterfall Dr.,</b> <b>Elkhart, IN 46516</b>	<b>Goshen Police Department</b> <b>111 E. Jefferson St.</b> <b>Goshen, IN 46528</b>
Clerk of the Indiana Supreme Court 200 W. Washington St., Indianapolis, IN 46204	Court of Appeals 115 W. Washington St. Indianapolis, IN 46204
<b>Indiana Tax Court</b> <b>115 W. Washington St., Ste. 9605</b> <b>Indianapolis, IN 46204</b>	<b>Elkhart City Court</b> <b>229 S. Second St.</b> <b>Elkhart, IN 46516</b>
