

NOTE: A SEPARATE PETITION MUST BE FILED FOR EACH CRIMINAL CASE AND THE CHARGE(S) MUST BE LISTED IN THIS MOTION FOR THE CHARGE(S) TO BE EXPUNGED.

AOC-497.2 Doc. Code: PEXA
Rev. 7-20
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Commonwealth of Kentucky
Court of Justice www.kycourts.gov
KRS 431.076



PETITION FOR EXPUNGEMENT
(FOR ACQUITTAL, DISMISSAL, OR FAILURE TO INDICT)

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: _____

Comes now the Defendant herein and petitions the Court, pursuant to KRS 431.076, to expunge the following charges which were either acquitted, dismissed, or did not result in indictment in the above-referenced case:

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

In support of this Petition, the Defendant states as follows: *(check all that apply)*

- At least sixty (60) days prior to filing this Petition, the Defendant was **acquitted** of the above-listed charge(s) and the charge(s) was/were not expunged pursuant to KRS 431.076(1)(a);
- At least sixty (60) days prior to filing this Petition, the above-listed charge(s) was/were **dismissed with prejudice** and said dismissal was NOT in exchange for a guilty plea to another offense and the charge(s) was/were not expunged pursuant to KRS 431.076(1)(a);
- For felony charges, at least three (3) years prior to the filing of this Petition, the above-listed charge(s) was/were **dismissed without prejudice** and said dismissal was NOT in exchange for a guilty plea to another offense;
- For misdemeanor charges, at least one (1) year prior to the filing of this Petition, the above-listed charge(s) was/were **dismissed without prejudice** and said dismissal was NOT in exchange for a guilty plea to another offense; AND
- The above-listed felony charge(s) originally filed in District Court has/have not resulted in an indictment by the grand jury or in an information filed by the Commonwealth's Attorney, and six (6) months have elapsed since the date of the District Court decision to hold the matter to the grand jury.

The Defendant prays that this Petition for Expungement for Acquittal, Dismissal, or Failure to Indict be granted and that this Court enter an Order that the following agencies expunge any records in the agencies' custody regarding these charges:

LIST AGENCIES AND ADDRESSES HERE: (Records may be held at multiple agencies. Please identify any government agency that may have a record of your charge(s) such as, but not limited to, jail facilities or arresting agencies.)

Note: Defendant/Petitioner must sign this petition **in the presence of** a notary **or** the circuit court clerk so that the clerk can witness his/her signature.

_____, 2_____
Date

Defendant/Petitioner Signature

Subscribed and sworn to before me by _____ this _____ day of _____, 2_____.

My Commission Expires: _____

Notary/Clerk

By: _____, D.C.

NOTICE TO COMMONWEALTH/COUNTY ATTORNEY

If this Petition is brought under KRS 431.076(1)(c) a response may be filed within ninety (90) days after the filing of the Petition. If a response is not filed, the charges will be dismissed without prejudice and an order shall be entered expunging the records. If a response is filed, the Court shall dismiss the charges without prejudice ninety (90) days after the filing of the response.

For Clerk Use Only

This Petition for Expungement was sent on the _____ day of _____, _____, to Defendant/Petitioner or his/her Attorney; the County or Commonwealth's Attorney, as appropriate.

Clerk

By: _____ D.C.



EXPUNGEMENT ORDER
(FOR ACQUITTAL, DISMISSAL, OR FAILURE TO INDICT)

Case No. _____

Court _____

County _____

Division _____

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

_____ NAME

DEFENDANT

_____ ADDRESS

() _____ PHONE NUMBER

Jail ID Number _____ (optional)

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

FINDINGS OF FACT

The Court, having reviewed Defendant's **Petition to Expunge** and being sufficiently advised, **FINDS:**

1. *(Check all that apply)*

- At least sixty (60) days before the filing of this Petition, Defendant was **acquitted** of the charge(s) listed below. Said acquittal was not expunged pursuant to KRS 431.076(1)(a);
- At least sixty (60) days before the filing of this Petition, the charge(s) listed below was/were **dismissed with prejudice**. Said dismissal was **NOT in exchange for a guilty plea** to another offense and was not expunged pursuant to KRS 431.076(1)(a);
- At least three (3) years prior to the filing of this Petition, the felony charge(s) listed below was/were **dismissed without prejudice**. Said dismissal was **NOT in exchange for a guilty plea** to another offense;
- At least one (1) year prior to the filing of this Petition, the misdemeanor charge(s) listed below was/were **dismissed without prejudice**. Said dismissal was **NOT in exchange for a guilty plea** to another offense; AND
- The charge(s) listed below include felony charge(s) originally filed in District Court that did not result in an indictment by the grand jury or in an information filed by the Commonwealth's attorney. Six (6) months have elapsed since the date of the District Court decision to hold the matter to the grand jury.

CHARGE: _____

CHARGE: _____

CHARGE: _____

CHARGE: _____

CHARGE: _____

CHARGE: _____

2. Other:

THEREFORE, IT IS HEREBY ORDERED:

1. The Petition is **DENIED**. (Doc Code: OEXD)
2. The Petition is **GRANTED**. The Court further **ORDERS**: (Doc Code: OEXG)
 - a. Pursuant to KRS 431.076(3)(b), any felony charge(s) originating in District Court not resulting in an indictment or an information is/are hereby **DISMISSED**.
 - b. The above-listed **charge(s) is/are EXPUNGED from the court records**. Upon entry of this order, the proceedings shall be deemed never to have occurred; the Court shall reply to any inquiry that no record exists; and 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.
 - c. **With the exception of any records in the custody of the Department for Community Based Services**, the Kentucky State Police 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** within sixty (60) days of the entry of this order that the required expunging action 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: _____

Distribution: Original - Court File

Copies: Defendant/Attorney; Kentucky State Police, 1266 Louisville Road, Frankfort, KY 40601; Named Agencies

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