

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
MODIFICATION OF FORMS FOR USE)	Administrative Directive
IN EXPUNGING MARIJUANA)	No. 2024 - <u>07</u>
OFFENSE RECORDS)	(Affecting Administrative Directive
)	No. 2021-14)

Rule 36(f) of the Rules of Criminal Procedure authorizes the Administrative Director of the Administrative Office of the Courts to create and modify forms and instructions for use by the public and the courts in expunging marijuana offense records.

An opinion from the Arizona Court of Appeals, Division I, clarified that A.R.S. § 36-2862(A)(1) authorizes expungement of sale-related marijuana offenses when they otherwise satisfy the statute’s eligibility requirements. It is therefore necessary to add A.R.S. § 13-3405(A)(2), Possession of Marijuana for Sale and A.R.S. § 13-3408(A)(2), Possession of Cannabis for Sale to the marijuana expungement order forms. Therefore,

IT IS DIRECTED that the marijuana expungement order forms are amended and adopted as attached in Appendix A and are approved for immediate use.

IT IS FURTHER DIRECTED that the marijuana expungement order forms in Appendix A replace the original order forms in Administrative Directive No. 2021-14.

IT IS FURTHER DIRECTED that courts must implement the amended forms by September 1, 2024.

Dated this 30th day of July, 2024.

DAVID K. BYERS
Administrative Director

Appendix A

Municipal/Justice Court Order re: Expungement

_____ Court _____ County, Arizona

State of Arizona, Plaintiff vs. _____ Defendant (First, MI, Last) Address: _____ Date of Birth: _____
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Case Number: _____ _____

ORDER REGARDING PETITION TO EXPUNGE MARIJUANA-RELATED OFFENSE RECORDS PURSUANT TO ARS § 36- 2862

Based on the information presented to the court, pursuant to ARS § 36-2862, the petition requests expungement of the following records:

(Check only those that apply)

- Arrest records of an arrest occurring on or about [insert date] by the following law enforcement agency: _____.
- Charging documents created by the following prosecuting agency: _____.
- All court records relating to the eligible charge(s) in case number _____.

I. THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

(Check only those that apply)

- The Court is initially unable to act on the petition because it lacks a sufficient description of the records to be expunged. *(If this statement is selected, go directly to the Ordering section to dismiss the petition)*
- The offense described in the petition is not eligible for expungement under ARS § 36-2862.
- The petition was filed by the Prosecutor.

OR

A copy of the petition in this matter was provided to the Prosecutor.

AND

The Prosecutor timely responded to the petition.

The Prosecutor has not responded to the petition and 45 days have elapsed since a copy of the petition was provided.

The subject of the petition timely replied to the Prosecutor’s response.

The Court’s case file and electronic records that are the subject of the request for expungement have already been purged pursuant to the record retention schedule.

Pursuant to ARS § 36-2862(B)(3), the subject of the petition is entitled to expungement of the requested records because the State **has not** met its burden by clear and convincing evidence.

Pursuant to ARS § 36-2862(B)(3), the State **has** established by clear and convincing evidence that the subject of the petition is not entitled to expungement of the requested records for the following reason(s):

II. THEREFORE, IT IS ORDERED:

(check one)

A. DISMISSING the petition for lack of sufficient information. A new petition may be filed with additional information.

B. DENYING the petition.

C. GRANTING the petition.

IT IS FURTHER ORDERED, in accordance with ARS § 36-2862,

Expunging any record of the arrest, charge, conviction, adjudication and sentence identified above.

Transmitting a copy of this Order to the Arizona Department of Public Safety, the arresting law enforcement agency and prosecuting agency identified above, if applicable.

(If an expungement-eligible charge was filed, complete the following):

IT IS FURTHER ORDERED,

- Vacating the judgment of conviction and any remaining terms of sentence that the subject of the petition has not yet completed in case number: _____ as to the following expungement-eligible charge(s) only:

(Check only those that apply)

- Count(s) _____, ARS § 13-3405 Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3405(A) Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3405(A)(1) Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3405(A)(2) Possession of marijuana for sale, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate.
- Count(s) _____, ARS § 13-3405(A)(3) Producing marijuana, of which was not more than six marijuana plants.
- Count(s) _____, ARS § 13-3405(A)(4) Transporting marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408 Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.

- Count(s) _____, ARS § 13-3408(A) Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408(A)(1) Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408(A)(2) Possession of cannabis for sale, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate.
- Count(s) _____, ARS § 13-3408(A)(4) Manufacturing cannabis, of which was not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408(A)(7) Transporting cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3415 Possession or use of drug paraphernalia related to marijuana.
- Count(s) _____, ARS § 13-3415(A) Possession or use of drug paraphernalia related to marijuana.
- Count(s) _____, ARS § 13-3415(B) Transporting, delivering or manufacturing with intent to deliver drug paraphernalia related to marijuana.

(Check only those that apply)

- Quashing all outstanding warrants issued in this case.

OR

- Quashing all outstanding warrants issued in this case and reissuing a warrant as to the counts not expunged by this Order.
- Cancelling all outstanding court-ordered financial obligations attached to the eligible charge(s), if applicable; and

Case Number: _____

- Sealing all court records relating to the expunged charge, adjudication, conviction or sentence, including the Petition to Expunge and related records, and permitting access only by the subject of the petition or that person's attorney.

Dated this _____ day of _____, _____

Judicial Officer

For Clerk's Use Only

Superior Court Order Re: Expungement

COURT

IN _____ COUNTY, ARIZONA

State of Arizona, Plaintiff

Case Number: _____

vs.

Defendant (*FIRST, MI, LAST*)

Address: _____

Date of Birth: _____

**ORDER REGARDING PETITION TO
EXPUNGE MARIJUANA-RELATED
OFFENSE RECORDS AND TO
RESTORE CIVIL RIGHTS,
INCLUDING FIREARM RIGHTS,
PURSUANT TO ARS § 36-2862**

Based on the information presented to the court, pursuant to ARS § 36-2862, the petition requests expungement of the following records:

(Check only those that apply)

- Arrest records of an arrest occurring on or about [insert date] by the following law enforcement agency: _____.
- Charging documents created by the following prosecuting agency: _____.
- All court records relating to the eligible charge(s) in the case number identified above.

I. THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- The Court is initially unable to act on the petition because it lacks a sufficient description of the records to be expunged. *(If this statement is selected, go directly to the Ordering section to dismiss the petition)*
- The offense described in the petition is not eligible for expungement under ARS § 36-2862.
- The petition was filed by the Prosecutor.

OR

- A copy of the petition in this matter was provided to the Prosecutor.

AND

- The Prosecutor timely responded to the petition.
- The Prosecutor has not responded to the petition and 45 days have elapsed since a copy of the petition was provided.
- The subject of the petition timely replied to the Prosecutor's response.
- Pursuant to ARS § 36-2862(B)(3), the subject of the petition is entitled to expungement of the requested records because the State **has not** met its burden by clear and convincing evidence.
- Pursuant to ARS § 36-2862(B)(3), the State **has** established by clear and convincing evidence that the subject of the petition is not entitled to expungement of the requested records for the following reason(s):

II. THEREFORE, IT IS ORDERED

(Check one):

- A. DISMISSING the petition for lack of sufficient information. A new petition may be filed with additional information.
- B. DENYING the petition.
- C. GRANTING the petition.

(1) IT IS FURTHER ORDERED, in accordance with ARS § 36-2862

Expunging any record of the arrest, charge, conviction, adjudication and sentence identified above.

Transmitting a copy of this Order to the Arizona Department of Public Safety, the arresting law enforcement agency and prosecuting agency identified above, if applicable.

(If an expungement-eligible charge was filed, complete the following):

(2) IT IS FURTHER ORDERED,

- Vacating the judgment of conviction and any remaining terms of sentence that the subject of the petition has not yet completed in case number: _____ as to the following expungement-eligible charge(s) only:

(Check only those that apply)

- Count(s) _____, ARS § 13-3405 Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3405(A) Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3405(A)(1) Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3405(A)(2) Possession of marijuana for sale, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate.
- Count(s) _____, ARS § 13-3405(A)(3) Producing marijuana, of which was not more than six marijuana plants.

- Count(s) _____, ARS § 13-3405(A)(4) Transporting marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408 Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408(A) Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408(A)(1) Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408(A)(2) Possession of cannabis for sale, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate.
- Count(s) _____, ARS § 13-3408(A)(4) Manufacturing cannabis, of which was not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408(A)(7) Transporting cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3415 Possession or use of drug paraphernalia related to marijuana.
- Count(s) _____, ARS § 13-3415(A) Possession or use of drug paraphernalia related to marijuana.
- Count(s) _____, ARS § 13-3415(B) Transporting, delivering, or manufacturing with intent to deliver drug paraphernalia related to marijuana.

- Cancelling all outstanding court-ordered financial obligations attached to the eligible charge(s), if applicable; and
- Sealing all court records relating to the expunged charge, adjudication, conviction or sentence, including the Petition to Expunge and related records, and permitting access only by the subject of the petition or that person's attorney.

(Check only those that apply):

- The _____ Justice Court shall seal all case records relating to the eligible charge(s) in Justice Court case number: _____.
- The Probation Department shall seal all probation records relating to the eligible charge(s).
- Quashing all outstanding warrants issued in this case.

OR

- Quashing all outstanding warrants issued in this case and reissuing a warrant as to the counts not expunged by this Order.

(Check one):

- The subject of the petition **is restored** the subject's civil rights including the right to possess a firearm, as to this case only. **PLEASE NOTE: Even if you are granted the right to possess a firearm pursuant to this Order you may still be prohibited from possessing a firearm under other state or federal laws or as a result of another case.**
- The subject of the petition **is not restored** the subject's civil rights including the right to possess a firearm because the Court finds there is an ineligible conviction under this case number.

Dated this _____ day of _____, _____

Judicial Officer

For Clerk's Use Only

Juvenile Court Order Re: Expungement

_____ COURT
IN _____ COUNTY, ARIZONA

In the Matter of:

Case Number: _____

(FIRST, MI, LAST)

Address: _____

Date of Birth: _____

**ORDER REGARDING PETITION TO
EXPUNGE MARIJUANA-RELATED
OFFENSE RECORDS AND TO
RESTORE FIREARM RIGHTS,
PURSUANT TO ARS § 36-2862**

Based on the information presented to the court, pursuant to ARS § 36-2862, the petition requests expungement of the following records:

(Check only those that apply)

- Referral/arrest records of a referral/arrest occurring on or about [insert date] by the following law enforcement agency: _____.
- Charging documents created by the following prosecuting agency: _____.
- All court records relating to the eligible charge(s) in the case number identified above.

I. THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

(Check only those that apply)

- The Court is initially unable to act on the petition because it lacks a sufficient description of the

records to be expunged. *(If this statement is selected, go directly to the Ordering section to dismiss the petition)*

- The offense described in the petition is not eligible for expungement under ARS § 36-2862.
- The petition was filed by the Prosecutor.

OR

- A copy of the petition in this matter was provided to the Prosecutor.

AND

- The Prosecutor timely responded to the petition.
- The Prosecutor has not responded to the petition and 45 days have elapsed since a copy of the petition was provided.
- The subject of the petition timely replied to the Prosecutor’s response.
- Pursuant to ARS § 36-2862(B)(3), the subject of the petition is entitled to expungement of the requested records because the State **has not** met its burden by clear and convincing evidence.
- Pursuant to ARS § 36-2862(B)(3), the State **has** established by clear and convincing evidence that the subject of the petition is not entitled to expungement of the requested records for the following reason(s):

II. THEREFORE, IT IS ORDERED:

(check one)

- A. DISMISSING the petition for lack of sufficient information. A new petition may be filed with additional information.
- B. DENYING the petition.
- C. GRANTING the petition.

(1) IT IS FURTHER ORDERED, in accordance with ARS § 36-2862

Expunging any record of the arrest, charge, adjudication and disposition identified above.

Transmitting a copy of this Order to the Arizona Department of Public Safety, the referring/arresting law enforcement agency and prosecuting agency identified above, if applicable.

(If an expungement-eligible charge was filed, complete the following):

(2) IT IS FURTHER ORDERED,

- Vacating the adjudication of delinquency and any remaining terms of disposition that the subject of the petition has not yet completed in case number: _____ as to the following expungement-eligible charge(s) only.

(Check only those that apply):

- Count(s) _____, ARS § 13-3405 Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3405(A) Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3405(A)(1) Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3405(A)(2) Possession of marijuana for sale, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate.
- Count(s) _____, ARS § 13-3405(A)(3) Producing marijuana, of which was not more than six marijuana plants.
- Count(s) _____, ARS § 13-3405(A)(4) Transporting marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve

and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.

- Count(s) _____, ARS § 13-3408 Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408(A) Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408(A)(1) Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408(A)(2) Possession of cannabis for sale, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate.
- Count(s) _____, ARS § 13-3408(A)(4) Manufacturing cannabis, of which was not more than six marijuana plants.
- Count(s) _____, ARS § 13-3408(A)(7) Transporting cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- Count(s) _____, ARS § 13-3415 Possession or use of drug paraphernalia related to marijuana.
- Count(s) _____, ARS § 13-3415(A) Possession or use of drug paraphernalia related to marijuana.
- Count(s) _____, ARS § 13-3415(B) Transporting, delivering, or manufacturing with intent to deliver drug paraphernalia related to marijuana.

- Cancelling all outstanding court-ordered financial obligations attached to the eligible

charge(s), if applicable; and

- Sealing all court records relating to the expunged charge, adjudication, or disposition, including the Petition to Expunge and related records, and permitting access only by the subject of the petition or that person's attorney.

(Check only those that apply):

- The Juvenile Probation Department shall seal all probation records relating to the eligible charge(s).
- Quashing all outstanding warrants issued in this case.

OR

- Quashing all outstanding warrants issued in this case and reissuing a warrant as to the counts not expunged by this Order.

(Check one):

- The subject of the petition **is restored** the subject's right to possess a firearm, as to this case only. **PLEASE NOTE: Even if you are granted the right to possess a firearm pursuant to this Order you may still be prohibited from possessing a firearm under other state or federal laws or as a result of another case.**
- The subject of the petition **is not restored** the subject's right to possess a firearm because the Court finds there is an ineligible adjudication under this case number.

Dated this _____ day of _____, _____

Judicial Officer