

APPENDIX (B)

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 23rd day of July, 2020.

Warren Scott Taylor, Appellant,

against Record No. 191632
Circuit Court No. CL19-393

Commonwealth of Virginia, Appellee.

From the Circuit Court of Page County

Upon review of the record in this case and consideration of the argument submitted in support of the granting of an appeal, the Court is of the opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

A Copy,

Teste:

Douglas B. Robelen, Clerk

By:


Deputy Clerk

APPENDIX (B)

VIRGINIA: IN THE CIRCUIT COURT OF PAGE COUNTY

APPENDIX A

WARREN SCOTT TAYLOR,
Petitioner

v.

CL19-393

COMMONWEALTH OF VIRGINIA
Respondent

ORDER

Came now the Petitioner, Warren Scott Taylor, *pro se*, and the Commonwealth, by her counsel, Deputy Commonwealth's Attorney Ilona White, Esq. on the Expungement of Police and Court Records pursuant to Va. Code § 19.2-392.2. On September 24, 2019, a hearing was held on this most recent petition for expungement, evidence was taken and the litigants made arguments to the Court. Based on the foregoing, the Court finds the following:

1. The Petitioner was convicted of Third Offense Driving Under the Influence (docket number CR01-184). A refusal charge (docket number CR01-190) in the same set of facts and circumstances was nolled prossed on October 10, 2001.
2. The reports, documents, and orders regarding the refusal (including the sentencing order for the Third Offense Driving Under the Influence) all reference the refusal.
3. Expungement of the "police and court records" regarding the refusal would be impossible without implicating the "police and court records" of the Third Offense Driving Under the Influence CONVICTION.

APPENDIX A

4. The Petitioner conceded during the hearing that his ultimate objective was to attack the Third Offense Driving Under the Influence conviction based on his belief that his initial arrest on that matter lacked sufficient probable cause and thus the subsequent conviction was illegal.
5. The Commonwealth's attorney objects to the petition.
6. The Petitioner's criminal history was reviewed by Court as required by law. The Petitioner's criminal history also includes other convictions, including multiple misdemeanors (Obscene Phone Calls and Disorderly Conduct).
7. Va. Code § 19.2-392.2 provides that a Petitioner may have police and court records expunged if such Petitioner is acquitted or a *nolle prosequi* is taken or the charge is otherwise dismissed.
8. Furthermore, Va. Code § 19.2-392.2 provides such records after acquittal, nolle prose or dismissal may only be expunged "if the court finds that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner. . . . Otherwise, it shall deny the petition."
9. The Third Offense Driving Under the Influence charge is a *conviction*- not an acquittal, nolle prosequi or dismissal. Consequently, records of this charge are not subject to expungement under Virginia law. However, those records would be implicated in expungement of the "police and court records" regarding the nolle prossed refusal.
10. The Petitioner has consequently not shown that the "existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner."

Based on the foregoing findings, it is hereby ADJUDGED, ORDERED and DECREED that the Petitioner's petition for expungement is **DENIED**. The Petitioner's objection is noted. Endorsement of this order is dispensed with pursuant to Va. Sup. Ct. Rule 1:13. The Clerk shall send a certified copy of this order to the Commonwealth's Attorney and to the Petitioner.

ENTERED: September 25, 2019

Judge: Clark A. Ritchie

Clark A. Ritchie

certify that this document to which I have attached my seal is a true copy of an official record, of which I have custody, in the Circuit Court of Page County.

John A. Clark
Clerk/Deputy Clerk

September 25, 2019
Date

**Additional material
from this filing is
available in the
Clerk's Office.**