



VETERANS' JUSTICE PROJECT

A Service of Metropolitan Public Defenders

Practice Pointer: Expungement (Civil Sealing of Criminal Convictions) in Oregon

Date: 9 March 2015

Dear Colleagues:

As we all know, criminal convictions can be a significant barrier to housing stability for our SSVF Participants. One service we provide is “expungement” of convictions, which generally means sealing an Oregon conviction for all civil purposes. (This allows an SSVF Participant to honestly answer “no” to the question of “Have you been convicted of an offense in housing and employment applications.)

Basic eligibility for sealing of an Oregon conviction, or “expungement,” is governed by ORS [137.225](#). The system isn't perfect, but it often provides a route for otherwise law-abiding Participants to get offenses off their records.

Arrests, acquittals, and convictions may be expunged. Arrests and acquittals are rarely an impediment to housing stability; convictions often are, even convictions for non-traffic violations (minor offense which fall below felonies and misdemeanors).

The basic rules for expungement of a conviction are as follows:

1. The matter to be expunged must be an Oregon state offense (no federal, no other states).
2. The *conviction* which the individual wants expunged must be more than three years old ... date of offense is irrelevant.
3. All requirements imposed by the court must be completed (including probation).
4. The conviction must be eligible for expungement (most violations, misdemeanors, Class C felonies, and those felonies that may be treated as misdemeanors; most Class A and Class B felony convictions may not be set aside; cannot set aside any type of traffic violation (such as speeding) or traffic crime (such as DUII); violent felonies covered by Ballot Measure 11, most sex offenses and offenses involving child abuse may not be set aside; there is a new provision in the law which allows some very old but serious drug convictions to be set aside under very limited circumstances),
5. Other than the offense to be expunged, there must be no other convictions (for non-traffic violations or any crimes) in the preceding 10 years, including other expunged violations or crimes. (Traffic violations – including parking violations – are not relevant to the timeline.)

Often we see serious, drug-related crimes years and years ago and some minor violation – fishing, Trimet – occurring recently. Remember, the most recent two non-traffic convictions – for anything – set the timeline. Traffic violations don't count in the timeline (although traffic

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crimes, like DUII, do). Multiple non-traffic violations (like interfering with public transport or public drunkenness) count.

For example, if the most recent conviction is Alcohol on Public Property in July 2014 and the second most recent is August 2012 (Non-payment of Fare), then the Participant would need to wait until August 2022 to address the July 2014 offense (ten years after the next-most-recent offense); and the Participant wouldn't be able to address the rest until July 2024, when ten years had passed since the July 2014 offense. (The only work-around for this situation is for the Participant to go to the Judge and ask that the matter be dismissed. That actually worked once.)

However, remember from my earlier Practice Pointer that *violations* may not be a basis for denial of a tenancy:

The only criminal convictions that can be considered in evaluating a tenancy are “A drug-related crime;” “A person crime;” “A sex offense;” “A crime involving financial fraud, including identity theft and forgery; or” “Any other crime if the conduct for which the applicant was convicted or charged is of a nature that would adversely affect: (A) Property of the landlord or a tenant; or (B) The health, safety or right to peaceful enjoyment of the premises of residents, the landlord or the landlord’s agent.” If the Landlord is vague on what “criminal conviction” is the basis of his denial, then ask him to specify. The reporting agency may have only reported it as a “conviction,” in which case I may be able to force the guy into the tenancy unless the Landlord is willing to go and find the specific offense.