



**DELAWARE COUNTY SOLICITOR’S OFFICE**

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**Attorney for Respondents**

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<b>K.B.</b>	:	
	:	<b>IN THE COMMONWEALTH</b>
	:	<b>COURT OF PENNSYLVANIA</b>
<b>Petitioner</b>	:	
	:	<b>Civil Action No. 446 MD 2023</b>
v.	:	
	:	
<b>DELAWARE COUNTY OFFICE OF</b>	:	
<b>JUDICIAL SUPPORT, and MARY J.</b>	:	
<b>WALK, in her official capacity as</b>	:	
<b>Director of the Delaware County Office</b>	:	
<b>of Judicial Support</b>	:	
	:	
<b>Respondents</b>	:	
	:	

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**RESPONSE WITH NEW MATTER TO PETITIONER’S PETITION FOR REVIEW**

Respondents, Delaware County Office of Judicial Support (“OJS”), and Mary J. Walk (“Walk”), in her official capacity as Director of the Delaware County Office of Judicial Support, by and through their undersigned counsel, hereby submit the following Response with New Matter to Petitioner’s Petition for Review (the “Petition”) in the above-captioned matter:

**INTRODUCTION**

1. Admitted in part; denied in part. It is admitted that K.B. received a pardon from Governor Wolf for his 2019 conviction of possessing marijuana. It is further admitted that the Honorable Anthony D. Scanlon of the Delaware County Court of Common Pleas signed an order. However, the order is a document that speaks for itself, and any interpretation thereof is denied. The remaining allegations in Paragraph 1 of the Petition contain conclusions of law to

which no response is required.

2. Admitted in part; denied in part. It is admitted that Respondents sent K.B. a letter. However, the letter is a document that speaks for itself, and any interpretation thereof is denied. It is further denied that Respondents ignored the pardon and order. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

3. Denied. The order is a document that speaks for itself, and any interpretation thereof is denied. It is further denied that Respondents disregarded the order. The remaining allegations in Paragraph 3 of the Petition contain conclusions of law to which no response is required.

4. Admitted in part; denied in part. It is admitted that Respondents sent a letter. It is also admitted that counsel from the American Civil Liberties Union ("ACLU") of Pennsylvania and Legal Aid of Southeastern Pennsylvania ("LASP") sent a letter to Ms. Walk regarding said individual. It is further admitted that Respondents processed the expungement of said individual following a letter from President Judge Linda Cartisano of the Delaware County Court of Common Pleas. It is denied that Respondents refused to process the expungement of said individual. By way of further response, the various documents referenced in Paragraph 4 of the Petition speak for themselves, and any interpretation thereof is denied.

5. Denied. It is denied that Respondents refuse to comply with court orders to expunge cases where there is unpaid court debt. The remaining allegations in Paragraph 5 of the Petition contain conclusions of law to which no response is required.

6. Denied. The allegations in Paragraph 6 of the Petition contain conclusions of law to which no response is required. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

## **JURISDICTION AND VENUE**

7. Denied. The allegations in Paragraph 7 of the Petition contain conclusions of law to which no response is required.

## **PARTIES**

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

## **FACTS**

12. Admitted.

13. Admitted.

14. Denied. After reasonable investigation, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Petition.

15. Denied. After reasonable investigation, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Petition.

16. Admitted in part; denied in part. It is admitted that K.B. surrendered his firearm license. After reasonable investigation, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegation that K.B. received a notice from the Commonwealth, and therefore deny said allegation. The remaining allegations in Paragraph 16 of the Petition are denied as conclusions of law to which no response is required.

17. Denied. The webpages linked in Paragraph 17 of the Petition, and any quotes

thereof, speak for themselves.

18. Admitted.

19. Denied. The allegations in Paragraph 19 of the Petition contain conclusions of law to which no response is required.

20. Denied. The allegations in Paragraph 20 of the Petition contain conclusions of law to which no response is required.

21. Denied. The allegations in Paragraph 21 of the Petition contain conclusions of law to which no response is required.

22. Denied. The allegations in Paragraph 22 of the Petition contain conclusions of law to which no response is required.

23. Denied. The allegations in Paragraph 23 of the Petition contain conclusions of law to which no response is required.

24. Admitted.

25. Denied. The allegations in Paragraph 25 of the Petition contain conclusions of law to which no response is required.

26. Denied. K.B.'s expungement petition is a document that speaks for itself, and any interpretation thereof is denied.

27. Admitted.

28. Admitted in part; denied in part. It is admitted that the Honorable Anthony D. Scanlon of the Delaware County Court of Common Pleas signed an order (the "Expungement Order"). However, any interpretation of the Expungement Order is denied, as the Expungement Order is a document that speaks for itself.

29. Admitted in part; denied in part. It admitted that the Commonwealth did not

appeal. The remaining allegations in Paragraph 29 of the Petition contain conclusions of law to which no response is required.

30. Denied. The allegations in Paragraph 30 of the Petition contain conclusions of law to which no response is required.

31. Denied. The Expungement Order is a document that speaks for itself, and any interpretation thereof is denied.

32. Denied. The Expungement Order is a document that speaks for itself, and any interpretation thereof is denied.

33. Denied. The Expungement Order is a document that speaks for itself, and any interpretation thereof is denied.

34. Denied. The Expungement Order is a document that speaks for itself, and any interpretation thereof is denied.

35. Denied. The Expungement Order is a document that speaks for itself, and any interpretation thereof is denied.

36. Admitted.

37. Admitted.

38. Denied. The letter is a document that speaks for itself, and any interpretation thereof is denied. By way of further response, the letter is attached as Exhibit D to the Petition, not Exhibit C.

39. Denied. The letter is a document that speaks for itself, and any interpretation thereof is denied.

40. Denied. By way of further response, Respondents' policy is attached as Exhibit "A". See Response Ex. A.

41. Denied. By way of further response, Respondents' policy is attached as Exhibit "A". See id.

42. Admitted in part; denied in part. It is admitted that a Delaware County Court of Common Pleas judge signed an expungement order for a different individual in CP-23-CR-0000922-2016. It is denied that Respondents refused to comply with the expungement order of said individual. After reasonable investigation, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegation that said individual had not received a pardon, and therefore deny said allegation. The remaining allegations in Paragraph 42 of the Petition contain conclusions of law to which no response is required.

43. Denied. The expungement order in CP-23-0000922-2016 and K.B.'s Expungement Order are documents that speak for themselves, and any interpretation thereof is denied.

44. Admitted in part; denied in part. It is admitted that Respondents sent a letter to counsel. However, any interpretation of the letter is denied, as the letter is a document that speaks for itself.

45. Admitted in part; denied in part. It is admitted that counsel at the ACLU of Pennsylvania and LASP sent a letter to Ms. Walk and President Judge Cartisano. However, any interpretation of the letter is denied, as the letter is a document that speaks for itself.

46. Admitted in part; denied in part. It is admitted that President Judge Cartisano wrote a letter to Ms. Walk. However, any interpretation of the letter is denied, as the letter is a document that speaks for itself.

47. Admitted.

48. Denied as stated. Respondents must indicate in the Case Management System

that court costs and fees were waived by a court order. That has been the policy and procedure in OJS since before Ms. Walk became the Director in 2020. Ms. Walk interpreted the President Judge's letter to mean that she was to deviate from this policy/procedure in this particular matter.

49. Denied. The receipt of the letter from President Judge Cartisano did not make Respondents aware of anything. President Judge Cartisano's letter did not address the question at issue—whether the costs and fees should be expunged despite the trial court Judge's Order being silent on that issue.

50. Admitted in part; denied in part. It is admitted that counsel for K.B. attempted to resolve the matter informally. It is denied that Respondents did not follow K.B.'s Expungement Order. Any assumptions by counsel for K.B. are denied.

51. Admitted.

52. Admitted.

53. Admitted in part; denied in part. It is admitted that K.B.'s expungement was not completed at the time of filing of the Petition. It is denied that Respondents have still not completed processing the Expungement Order. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

54. Denied. By way of further response, Respondents have processed K.B.'s expungement and served the Expungement Order on the criminal justice agencies listed in the Expungement Order since the filing of the Petition.

55. Denied. By way of further response, Respondents have processed K.B.'s expungement and destroyed all criminal history record information related to the charges in cases CP-23-CR-0000856-2019 and MJ-32237-CR-000003-2019 since the filing of the Petition.

56. Denied. By way of further response, Respondents have processed K.B.'s



expungement and served the Expungement Order on the criminal justice agencies listed in the Expungement Order since the filing of the Petition.

57. Denied. It is denied that records of K.B.'s conviction have not been destroyed. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition. After reasonable investigation, Respondents are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 57 of the Petition.

58. Denied. After reasonable investigation, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 58 of the Petition.

59. Admitted in part; denied in part. It is admitted that K.B. surrendered his firearm license. The remaining allegations in Paragraph 59 of the Petition are denied as conclusions of law to which no response is required.

60. Denied. The allegations in Paragraph 60 of the Petition contain conclusions of law to which no response is required.

61. Denied. The allegations in Paragraph 61 of the Petition contain conclusions of law to which no response is required.

62. Denied. The allegations in Paragraph 62 of the Petition contain conclusions of law to which no response is required.

63. Denied. The Expungement Order is a document that speaks for itself, and any interpretation thereof is denied.

64. Denied. The allegations in Paragraph 64 of the Petition contain conclusions of law to which no response is required.

65. Denied. By way of further response, Respondents have processed K.B.'s expungement and served the Expungement Order on the criminal justice agencies listed in the Expungement Order since the filing of the Petition. After reasonable investigation, Respondents are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 65 of the Petition.

66. Denied. The allegations in Paragraph 66 of the Petition contain conclusions of law to which no response is required.

67. Admitted.

#### **COUNT 1:**

**Failure to Comply with Ministerial Duties, in Violation of  
Pa. Const. art. V., Schedule to the Judiciary Article § 15,  
42 Pa.C.S. §§ 2756-57, 18 Pa.C.S. § 9101, et seq., and Pa. R. Crim. P. 790**

68. The preceding paragraphs are incorporated by reference as if fully set forth herein.

69. Denied. It is denied that Respondents chose to disregard a court order and refused to process the Expungement Order. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

70. Denied. The allegations in Paragraph 70 of the Petition contain conclusions of law to which no response is required.

71. Denied. The allegations in Paragraph 71 of the Petition contain conclusions of law to which no response is required.

72. Denied. The allegations in Paragraph 72 of the Petition contain conclusions of law to which no response is required.

73. Denied. The allegations in Paragraph 73 of the Petition contain conclusions of law

to which no response is required.

74. Denied. The allegations in Paragraph 74 of the Petition contain conclusions of law to which no response is required.

75. Denied. The allegations in Paragraph 75 of the Petition contain conclusions of law to which no response is required.

76. Denied. The allegations in Paragraph 76 of the Petition contain conclusions of law to which no response is required.

77. Denied. The allegations in Paragraph 77 of the Petition contain conclusions of law to which no response is required.

78. Denied. The allegations in Paragraph 78 of the Petition contain conclusions of law to which no response is required.

79. Denied. The allegations in Paragraph 79 of the Petition contain conclusions of law to which no response is required. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

**COUNT 2:**

**Violation of the Criminal History Record Information Act,  
18 Pa.C.S. § 9101, et seq.**

80. The preceding paragraphs are incorporated by reference as if fully set forth herein.

81. Denied. The allegations in Paragraph 81 of the Petition contain conclusions of law to which no response is required.

82. Denied. The allegations in Paragraph 82 of the Petition contain conclusions of law to which no response is required.

83. Denied. The allegations in Paragraph 83 of the Petition contain conclusions of law

to which no response is required. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

84. Denied. The allegations in Paragraph 84 of the Petition contain conclusions of law to which no response is required.

85. Denied. After reasonable investigation, Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 85 of the Petition.

86. Denied. The allegations in Paragraph 86 of the Petition contain conclusions of law to which no response is required.

87. Denied. The allegations in Paragraph 87 of the Petition contain conclusions of law to which no response is required.

88. Admitted in part; denied in part. It is admitted that President Judge Cartisano wrote a letter to Ms. Walk. However, any interpretation of the letter is denied, as the letter is a document that speaks for itself. It is further denied that Respondents willfully, knowingly, and/or intentionally refused to comply with the Expungement Order or any alleged instruction from President Judge Cartisano. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

89. Denied. The allegations in Paragraph 89 of the Petition contain conclusions of law to which no response is required. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

### **COUNT 3:**

#### **Violation of K.B.'s Fundamental Right to Reputation in Article 1, Section 1 of the Pennsylvania Constitution**

90. The preceding paragraphs are incorporated by reference as if fully set forth

herein.

91. Denied. The allegations in Paragraph 91 of the Petition contain conclusions of law to which no response is required.

92. Denied. The allegations in Paragraph 92 of the Petition contain conclusions of law to which no response is required.

93. Denied. The allegations in Paragraph 93 of the Petition contain conclusions of law to which no response is required.

94. Denied. The allegations in Paragraph 94 of the Petition contain conclusions of law to which no response is required.

95. Denied. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

96. Denied. The Expungement Order is a document that speaks for itself, and any interpretation thereof is denied. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

97. Denied. It is denied that Respondents refused to process the Expungement Order. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

98. Denied. The allegations in Paragraph 98 of the Petition contain conclusions of law to which no response is required.

99. Denied. The allegations in Paragraph 99 of the Petition contain conclusions of law to which no response is required. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

100. Denied. The allegations in Paragraph 100 of the Petition contain conclusions of

law to which no response is required. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

**COUNT 4:**

**Declaratory Relief Pursuant to 42 Pa.C.S. § 7531, et seq.**

101. The preceding paragraphs are incorporated by reference as if fully set forth herein.

102. Denied. It is denied that Respondents refused to comply with the Expungement Order. The remaining allegations in Paragraph 102 of the Petition contain conclusions of law to which no response is required. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

103. Denied. The allegations in Paragraph 103 of the Petition contain conclusions of law to which no response is required. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

104. Denied. The allegations in Paragraph 104 of the Petition contain conclusions of law to which no response is required. By way of further response, Respondents have processed K.B.'s expungement since the filing of the Petition.

**NEW MATTER**

105. The preceding paragraphs are incorporated by reference as if fully set forth herein.

106. A petition for expungement must set forth "the disposition and, if the sentence includes a fine, costs, or restitution, whether the amount due has been paid." Pa. R. Crim. P. 790(A)(2)(h).

107. "If the judge grants the petition for expungement, the judge shall enter an order

directing expungement.” Id. at 790(B)(4).

108. The order for expungement must include “the disposition and, if the sentence includes a fine, costs, or restitution, whether the amount due has been paid.” Id. at 790(C)(1)(h).

109. “Criminal history record information shall be expunged in a specific criminal proceeding when: a court requires that such nonconviction data be expunged.” 18 Pa.C.S. § 9122(a)(2).

110. 42 Pa.C.S. § 8546(2) provides that:

In any action brought against an employee of a local agency for damages on account of an injury to a person or property based upon claims arising from, or reasonably related to, the office or the performance of the duties of the employee, the employee may assert on his own behalf, or the local agency may assert on his behalf: . . .

(2) The defense that the conduct of the employee which gave rise to the claim was authorized or required by law, or that he in good faith reasonably believed the conduct was authorized or required by law.

42 Pa.C.S. § 8546(2).

111. “[O]fficial immunity is a preliminary question for resolution by the court.”

Dorsey v. Redman, 96 A.3d 332, 345 (Pa. 2014).

112. In this case, K.B.’s petition for expungement indicated that his “sentence includes fines, costs and/or restitution in the amount of \$1,032.75 and \$135.00 has been paid off/adjusted. The balance of \$897.75 was owed prior to the Governor’s granting of a pardon in this matter.” See Petition Ex. A at “Petition for Expungement”.

113. Likewise, the Expungement Order indicated that K.B.’s “sentence includes fines, costs and/or restitution in the amount of \$1,032.75 and \$135.00 has been paid off/adjusted. The balance of \$897.75 was owed prior to the Governor’s granting of a pardon in this matter.” See id. Ex. A at “Order” ¶ 12.

114. However, the Expungement Order did not indicate the waiver of the outstanding \$897.75 in court costs and fees. See id. Ex. A at “Order”.

115. Respondents use the Case Management System mandated by the Administrative Office of Pennsylvania Courts (“AOPC”) in criminal matters.

116. When processing an expungement pursuant to a court order, Respondents must indicate in the AOPC mandated Case Management System that court costs and fees were waived by a court order. That has been the policy and procedure in OJS since before Ms. Walk became the Director in 2020.

117. Since K.B.’s Expungement Order did not waive the outstanding court costs and fees, OJS could not indicate the same in the AOPC mandated Case Management System.

118. Accordingly, Respondents sent counsel for K.B. a letter informing them that OJS was unable to complete the expungement until the outstanding balance of \$897.75 was paid. See Petition Ex. D “Letter dated April 24, 2023”. Respondents did not refuse to process the expungement.

119. Following the filing of the Petition, President Judge Cartisano directed Ms. Walk to process K.B.’s expungement.

120. Accordingly, Respondents deviated from their policy and processed K.B.’s expungement after the filing of the Petition.

121. Ms. Walk, as the Director of OJS, is an employee of a local agency.

122. Due to OJS’ policy and procedure that was in place prior to Ms. Walk’s employment as the Director of OJS, and the AOPC mandated Case Management System’s requirement to indicate whether court costs and fees are waived, Ms. Walk reasonably believed that K.B.’s outstanding court costs and fees were required to be paid prior to processing his



expungement.

123. Therefore, Ms. Walk is immune from any claims arising out of this matter pursuant to 42 Pa.C.S. § 8546(2).

WHEREFORE, Respondents respectfully request that the Court dismiss Petitioner's claims against Respondents.


Dated: 12/18/2023

By: /s/ Ali M. Alkhatib  
ALI M. ALKHATIB, ESQUIRE  
*Attorney for Respondents*

**VERIFICATION**

I, Ali M. Alkhatib, hereby verify that I am counsel for Respondents in this matter, that I am authorized to make this Verification on behalf of Respondents, and that the statements contained in Respondents' Response with New Matter to Petitioner's Petition for Review are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: 12/18/2023

  
\_\_\_\_\_  
Ali M. Alkhatib, Esquire  
*Attorney for Respondents*

# **Exhibit “A”**

## Expungements Forms

**\*\*\*\*\*Go to : ujportal.pacourts.us\*\*\*\*\***

### On Home Page of AOPC

- 1<sup>st</sup> click on - UJS FORMS (TOP LEFT)
- 2<sup>nd</sup> click on - For the Public (On a MIDDLE)
- Go Down to where it says EXPUNGEMENTS

\*\*\* ONLY Summary Offenses use the **490 Petition and Order** forms

\*\*\* for ALL OTHERS use the **790 Petition and Order** forms

On the 1<sup>st</sup> page of the Order where it says presented by : you must put ATTORNEY's or PETITION's name. (Please Use a BLUE Pen for all Documents)

The Attorney's or the Petitioner's full name and address **HAS** to be on the 1<sup>st</sup> page of the Order page (either TOP LEFT or BOTTOM LEFT) if the information is not there.

**^^^^^ALL CASES HAVE TO HAVE A ZERO BALANCE, ALL COSTS AND FINES HAVE TO BE PAID IN FULL BEFORE YOU CAN FILE THE EXPUNGEMENT ^^^^^**

\*\*\*\*\* All Expungements are required to have a Certificate of Service and Verification Letter

<http://www.co.delaware.pa.us>

\*\*\*\*\* All Expungements EXCEPT ARD cases HAVE to have a CURRENT Pennsylvania State Police background check, done with the last sixty (60) days.

\*\*\*\*\* All Attorneys **MUST** enter their Appearance unless they already represent Petitioner.

\*\*\*\*\* ARD's **MUST** be signed off on by Christine Catch (*Adult Probation & Parole*) and the Certificate of Completion of ARD has to be attached, along with 319 Verification Letter.

\*\*\*\*\* You need One (1) Original PLUS Six (6) Copies \*\*\*\*\*

**FILING FEES:** - If the case is closed at DISTRICT COURT– \$154.50;

- If case ALREADY has a Common Pleas number - \$149.50

(cash, Money Order or Attorney's check)

After a Judge will sign the Order, it will stay at the OJS for thirty (30) day Appeal Period. You will receive a letter notifying you when you may purchase certified copies.