

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA

vs.

**TERESA BLUNT,
Defendant**

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: **No. MD-172-2010**

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OPINION AND ORDER

Before the Court is Defendant's Petition to Expunge all criminal history record information regarding a summary offense to which the Defendant pled guilty on or about February 10, 2000.

A hearing was held in this matter on August 17, 2010. Defendant testified that she pled guilty to a retail theft summary offense on or about February 10, 2000. She testified further that in mid to late 2003 she was placed on ARD in Philadelphia County for a controlled substance charge or charges. The ARD disposition was confirmed by the Commonwealth. Defendant also testified that she is a Certified Nursing Aide who works part-time hours as a Home Health Aide. She indicated that because of her summary conviction, she has been unable to obtain a private duty position which would result in fulltime hours. She further indicated that her CNA license will expire in 2011 if she does not obtain a fulltime private duty position.

Defendant is 42 years old and resides with her boyfriend and two of her children who are minors. Her other children are adults and reside outside of the house. There is little question that the Defendant is suffering from specific adverse consequences as a result of the summary offense criminal history record. It is undisputed that from approximately September of 2003 to the present, Defendant has been free of arrest or prosecution.

The Commonwealth opposes Defendant's Petition arguing that the statute does not allow for it under the circumstances. More specifically, the Commonwealth argues that because the Defendant was not free of an arrest or prosecution for the five years immediately following her conviction, she is not entitled to expungement. The Court is convinced that given the statutory language, the presumptive remedial purpose of the statute and the fact that it should be liberally construed, the Defendant's position is more meritorious than that of the Commonwealth. While the Court has found no appellate cases on point, the decision in Commonwealth v. Wubbe, 59 Cumb. 34 (J. Oler 2009) is on point and persuasive. The court adopts the reasoning of Judge Oler in full.

ORDER

AND NOW, this 17th day of August 2010 following a hearing, the Court **GRANTS** the Petition to Expunge Criminal Record of Summary Offense. The Court notes further that it has signed the Proposed Order provided to it and such will be made part of the record and distributed accordingly.

BY THE COURT,

Marc F. Lovecchio, Judge

cc: Jennifer B. Ayers, Esquire
DA
Gary Weber, Esquire (Lycoming Reporter)
Work File