

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA** :

v. :

**E.B.**, :

**Petitioner** :

**OPINION AND ORDER**

On October 5, 2015, the Petitioner filed a Petition for Expungement of Arrest Record. On November 6, 2015, the Petitioner and the Commonwealth offered argument; neither presented testimony.

**I. Background**

The Petitioner seeks expungement of two charges: Disorderly Conduct and Firearms not to be Carried without a License. The third paragraph of the expungement petition says that the charges were *nolle prossed*. Before argument, Petitioner’s Counsel told the Court that the third paragraph was an error. Counsel said that the charges were in fact withdrawn pursuant to a plea agreement.

The Petitioner argues that the withdrawn charges should be expunged because there was insufficient evidence to support the charges. The Commonwealth contends that insufficient evidence was not the reason for the withdraw of the charges. In addition, the Commonwealth argues that because the charges were withdrawn pursuant to a plea agreement, they should not be expunged.

**II. Discussion**

“When the defendant pleads guilty and the Commonwealth agrees to dismiss charges as part of the plea agreement, a defendant is normally not entitled to expungement of the dropped

charges under the *Wexler* factors. In such a scenario, the Commonwealth dismisses charges in connection with a plea arrangement and, accordingly, there is no implicit or express admission that it lacks evidence to convict a defendant of the crimes. The action of dropping the charges is viewed as a contractual arrangement negotiated as part of the plea bargain. This situation is contrasted with that involved in the *nol pros* setting, where the Commonwealth concedes that there is insufficient evidence to support the dismissed charges. Thus, if expungement were permitted as to charges withdrawn pursuant to a plea bargain rather than due to a lack of evidence, there would not be an accurate record of the agreement reached by the defendant and the Commonwealth.” Commonwealth v. V.G., 9 A.3d 222, 225-26 (Pa. Super. 2010) (citations omitted). Here, the Petitioner admits that the charges were withdrawn pursuant to a plea agreement. Therefore, he is not entitled to expungement of the charges.

### **III. Conclusion**

Because the charges were withdrawn pursuant to a plea agreement, the Petitioner is not entitled to expungement.

### **ORDER**

AND NOW, this \_\_\_\_\_ day of December, 2015, based on the foregoing Opinion, it is ORDERED and DIRECTED that the Petition for Expungement, which was filed on October 5, 2015, is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge