

COURT OF COMMON PLEAS OF CLINTON COUNTY, PENNSYLVANIA

**Guidance for Filing for Expungement of Criminal Charges Pursuant to
Pennsylvania Rule of Criminal Procedure 790
(Court Case Expungement):**

Note: These instructions are to be used as guidelines only and are not a substitute for trained legal counsel. The Court and its officers assume no liability for any inaccuracy of the information provided herein and such information is to be utilized at a Petitioner's own peril.

18 Pa.C.S.A. § 9122 provides circumstances under which a court must and may grant expungements of certain criminal charges in Pennsylvania.

The Pennsylvania Rules of Criminal Procedure govern the procedure by which the Court may be Petitioned for an Order of Expungement. This is the Rule 790 Packet for "Court Case" Expungement. If the charges sought to be expunged were graded as misdemeanors or felonies for which no disposition was entered or summary offenses included in a court case, where the charges were disposed of by the Court of Common Pleas, complete and file this Packet.

Availability of Rule 790 (Court Case) Expungements:

In the context of Rule 790 Expungements, the phrase "graded as misdemeanors or felonies for which no disposition was entered" means that a defendant was charged with a **misdemeanor** or **felony**, but no final determination as to guilt on that charge was made by the court, i.e., due to withdrawal of the charges, or for some other reason, the charges were not "disposed of," by plea, conviction or acquittal of the defendant.

Rule 790 Expungement is also available for any summary offense(s), which were charged and prosecuted as a part of a court case coupled with misdemeanor or felony charges, before the Court of Common Pleas, where defendant either pled guilty to the offense or was convicted of the offense. This represents a guilty "disposition" (by plea or conviction) on the coupled summary offense and there are both conviction and arrest records related to the summary offense, which may be expunged according to the provisions set forth under 18 Pa.C.S. § 9122.

Under Rule 790, **a current copy of Petitioner/Defendant's Pennsylvania State Police criminal record must be attached** to the Petition for Expungement. To qualify as "current," such criminal record **must have been obtained no longer than sixty (60) days prior to filing** the Petition for Expungement with the Clerk of Courts.

The complete Rule 790 packet should contain

- a Form Order (2 pages),
- a Consent or Objection to be completed by the District Attorney (1 page), and
- a Petition for Expungement to be completed by Defendant/Petitioner (1 page)

In **ALL** Rule 790 cases, it is the responsibility of the Defendant/Petitioner for expungement to do the following:

- (1) Complete all requested information on the Rule 790 Petition for Expungement.
- (2) Fill in the name of the Defendant/Petitioner and Criminal Docket Number in caption (top portion of first page) of the Form Order for Expungement.
- (3) Complete all requested demographic information (numbered 1-14) on the second page of the Form Order for Expungement.
- (4) Obtain a copy of Defendant/Petitioner's criminal record from the Pennsylvania State Police. The criminal record check must not be more than sixty (60) days old at the time the Petition for Expungement is filed.

Information on submitting a request for PSP records can be found at the following URL:
<http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx>

- (5) Fill in the name of the Defendant/Petitioner and Criminal Docket Number on the sheet containing the "District Attorney's Consent or Objection."
- (6) Transmit a copy of the completed Petition, Form Order and State Police Criminal History Check along with the Consent or Objection Form to the District Attorney for his/her consent or objection to the requested expungement. The District Attorney will either consent or object to the expungement and transmit the completed Form back to you.

NOTE: If the District Attorney objects to the proposed expungement, after the expungement packet is filed, a hearing will be scheduled at which all parties will have an opportunity to be heard.

- (7) Once every part of the packet is complete, you must make eight (8) copies of the completed packet and file them with the Clerk of Courts. There will be a filing fee associated with this, please remember to bring cash or check at the time of filing.
- (8) Either request one of your time-stamped copies back from the Clerk of Courts and serve that copy upon the District Attorney or include with your filing a request that the Clerk of Courts transmit the eighth copy of your packet to the District Attorney.

No later than 14 days after the expungement packet is filed with the Clerk of Courts, the Court shall grant or deny the petition or shall schedule a hearing, affording all parties an opportunity to be heard.

Pursuant to Pennsylvania Rule of Criminal Procedure 790(B)(4)(b), once an Order for Expungement has been entered by the Court, it must be stayed for thirty (30) days, pending appeal.

If the Court grants the Order for Expungement, after the thirty (30) day appeal period has passed, the Clerk of Courts shall serve a certified copy of the Expungement Order on each criminal justice agency and records repository identified in the Order.

If the Court denies the petition for expungement, the Court shall enter an order denying the petition and stating the reasons for the denial.



Petition for Expungement Pursuant to Pa.R.Crim.P. 790

AND NOW, the petitioner avers the following and requests that this petition for expungement pursuant to Pa.R.Crim.P. 790 be granted for the reasons set forth below.

| PETITIONER INFORMATION | | | | | | |
|--|---------|------------|--------------------------------|-------------------------|--------------------|--|
| Full Name: | | DOB: | | Social Security Number: | | |
| Address: | | Alias(es): | | | | |
| | | | | | | |
| | | | | | | |
| CASE INFORMATION | | | | | | |
| List name, address of the Judge of the Court of Common Pleas or Philadelphia Municipal Court who accepted the guilty plea or heard the case: | | | | | | |
| Judge: | | | Address: | | | |
| Philadelphia Municipal Court or Court of Common Pleas Docket Number: | | | Offense Tracking Number (OTN): | | | |
| Name of Arresting Agency: | | | Date of Arrest: | | Date on Complaint: | |
| List name and mailing address of the affiant as shown on the complaint, if available: | | | | | | |
| Name of Affiant: | | | Address: | | | |
| List specific charges, as they appear on the charging document, to be expunged and the disposition of each charge (please attach additional sheet(s) of paper if necessary): | | | | | | |
| PA Statute (Title) | Section | Subsection | Statute Description | Counts | Grade | Disposition |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| If the sentence imposed included a fine, costs or restitution, has the amount due been paid? | | | | | | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| List the reason(s) for the expungement (please attach additional sheet(s) of paper if necessary): | | | | | | |
| | | | | | | |
| <input type="checkbox"/> I have attached a copy of my Pennsylvania State Police Criminal History which I have obtained within 60 days before filing this petition. | | | | | | |
| <input type="checkbox"/> I have not attached a copy of my Pennsylvania State Police Criminal History. State reason(s) below: | | | | | | |

When this petition is filed with the Clerk of Courts, the petitioner shall serve a copy upon the attorney for the Commonwealth.

I, the undersigned petitioner, avers that the facts set forth in this petition are true and correct to the best of my personal knowledge or information and belief, and are made subject to the penalties of unsworn falsification to authorities under 18 Pa.C.S § 4904.

Signature of Petitioner

Date

Commonwealth of Pennsylvania

v.

IN THE COURT OF COMMON PLEAS OF
CLINTON COUNTY, PENNSYLVANIA

CRIMINAL DIVISION

DOCKET NO: _____

ORDER

AND NOW, this ____ day of _____, 2____, after consideration of the
_____ presented by _____,
it is ORDERED that the Petition/Motion is _____.

- The criminal charges in the above-captioned case specified below are dismissed.
- The defendant's arrest record regarding these charges shall be expunged. Further, it is ORDERED that the arresting agency shall destroy all criminal records, fingerprints, photographic plates and photographs pertaining to the charge(s) specified below, which resulted from the arrest(s) of _____.
- In addition, all criminal justice agencies upon which this order is served shall expunge and destroy the official and unofficial arrest and other criminal records, files and other documents pertaining to the captioned proceedings.

The information required under Pa.R.Crim.P. 790 appears on the attached page(s) which is hereby incorporated into this ORDER by reference.

BY THE COURT:

Pursuant to Pa.R.Crim.P. 790, the following information is provided:

1. Petitioner Name:
2. Alias(es):
3. Petitioner's Address:
4. Petitioner's Date of Birth: / /
5. Petitioner's Social Security Number: - -
6. Name and address of the judge of the Court of Common Pleas or Philadelphia Municipal Court who accepted the guilty plea or heard the case:

7. Name and mailing address of the affiant as shown on the complaint, if available:

8. Docket Number:
9. Offense Tracking Number (OTN):
10. The date on the complaint, or the date of arrest, and if available, the criminal justice agency that made the arrest:

11. The specific charges, as they appear on the charging document, to be expunged and applicable dispositions (attach additional sheets if needed):

12. If the sentence includes a fine, costs, or restitution, whether the amount due has been paid:

13. The reason for expungement:

14. The criminal justice agencies upon which certified copies of the order shall be served:

COURT OF COMMON PLEAS OF CLINTON COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA)
)
 v.) NO. _____
)
) CRIMINAL-MISC.
)
 _____)
 (name of Petitioner/Defendant))

**DISTRICT ATTORNEY'S
CONSENT OR OBJECTIONS**

I, _____, Clinton County District Attorney, accept service of the attached Petition for Expungement Pursuant to Pa.R.Crim.P. 790 of from Defendant's criminal record and I

_____ **DO NOT OBJECT**

_____ **OBJECT (Objections must be filed within 30 days after service of the petition and copies of the objections must be served on the petitioner's attorney or the petitioner if unrepresented.)**

Date: _____

BY: _____
District Attorney