

IN THE IOWA DISTRICT COURT FOR THE FIFTH JUDICIAL DISTRICT

IN RE PROCEDURES AND
DIRECTIONS FOR THE CLERK
CONCERNING EXPUNGEMENT OF
DEFERRED JUDGEMENTS
DISCHARGED FROM PROBATION ON
OR BEFORE JULY 1, 2012

ADMINISTRATIVE ORDER 2013-15

WHEREAS Iowa House File 2379 (2012) amended Iowa Code Section 907.9 relating to the expungement of deferred judgments. Because of the sheer number of cases statewide affected by this amendment to the statute, the Iowa Judicial Council has determined that a uniform practice should be adopted by Clerks of Court to expunge these previously-discharged deferred judgments. This Order is necessary to provide for efficiency in the process and for uniformity across the state. The provisions of this Order only relate to those cases where an Order has not already been entered to discharge the defendant from the deferred judgment probation.

IT IS THEREFORE ORDERED that the Clerk of Court in each of the counties of this judicial district shall follow the following process and procedure to expunge deferred judgments that were discharged, or dismissed in lieu of discharge, on or before July 1, 2012, by operation of law:

I. The Clerk shall show the probation is discharged and the deferred judgment expunged for all cases that meet all of the following criteria:

1. For misdemeanors, the deferred judgment was granted on or before July 1, 2010; and for felonies, the deferred judgment was granted on or before July 1, 2007.

2. As of the date the Clerk reviews the file, there is not a pending probation violation complaint, contempt action (including contempt for non-payment of court debt), or active warrant for the defendant's arrest arising out of the count(s) on which the deferred judgment was granted.

3. If the defendant was placed on supervised probation, fees imposed under Section 905.14 including the supervision fee owed to the Department of Correctional Services has been paid.

II. For any cases that have met criterion Number 1 above but not criterion Number 2 or 3, the Clerk shall not expunge the deferred judgment until the case meets

all of the criteria. If it is unclear whether the case meets the criteria for expungement, the Clerk of Court shall submit the file to a Judge for review. The Judge shall determine if an Order discharging the defendant from probation and expunging the deferred judgment should be entered.

III. For all deferred judgment and probation cases under the supervision of the Department of Correctional Services where fees imposed under Section 905.14 have not been paid as of the date of this Order, the Department shall notify the Clerk when the fee is paid and file a discharge if the Department has not already discharged the probation. The Clerk shall determine whether the case shall be expunged in accordance with the above criteria.

IV. For cases with deferred judgments entered on or after the date of this Administrative Order, the Department of Correctional Services shall not grant a defendant who has a deferred judgment a discharge from probation unless his or her supervision fee is paid in full. When the supervision fee is paid and probation is discharged, the Clerk shall determine whether the case shall be expunged in accordance with the above criteria.

V. Any court debt owed pursuant to Iowa Code Section 602.8107 by the defendant in a case expunged by way of this Order shall be subject to collection by the CCU, County Attorney, or private collection agency authorized to do so by the State Court Administrator's Office.

DATED this 1st day of March, 2013



 ARTHUR E. GAMBLE, CHIEF JUDGE
 FIFTH JUDICIAL DISTRICT OF IOWA

CERTIFICATE OF SERVICE: The undersigned certifies that a true copy of this document was served on each person named below, including attorneys of record, or the parties where no attorney is of record, by electronic mail; or by enclosing this document in an envelope addressed to each named person at the respective addresses disclosed by the pleadings of record herein, with postage fully paid, by depositing the envelope in a United States depository; or hand-delivered via courthouse mail, as checked below. The date and manner of service can be verified with the clerk.

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Ms
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 IOWA COUNTY, IA.
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 CLERK DISTRICT COURT