

IN THE SUPREME COURT OF IOWA

SUPREME COURT NO. 19-1413

STATE OF IOWA,
Plaintiff-Appellee

vs.

JANE DOE,
Defendant-Appellant

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
THE HON. KEVIN PARKER, DISTRICT ASSOCIATE JUDGE

APPELLANT'S FINAL BRIEF

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ISSUES PRESENTED FOR REVIEW

- I. Did the district court err when it denied Doe’s application for expungement in this case due to Doe’s court-ordered financial obligations in other cases?

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II. Did the district court err by denying expungement under the misdemeanor conviction expungement law when Doe’s cases were dismissals, not convictions?

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ROUTING STATEMENT

The Iowa Supreme Court should retain jurisdiction because the case presents a substantial issue of first impression that will decide whether the criminal records of thousands of Iowans are eligible for expungement. Iowa R. App. P. 6.1101(2)(a)(2)(c) & 6.1101(2)(c).

STATEMENT OF THE CASE

Jane Doe applied for expungement in three separate cases, which the court consolidated on appeal. In the first, a criminal complaint was filed on August 26, 2004. App. 6. A trial information charging Doe with assault with a weapon, Iowa Code § 708.1(3) and Iowa Code § 708.2(3) and driving while revoked, Iowa Code § 321J.21, was filed September 28, 2004. App. 10. The case was dismissed on October 29, 2004. App. 21. In the second, a criminal complaint was filed on September 30, 2005. App. 8. A trial information charging Doe with domestic abuse assault with a dangerous weapon, Iowa Code § 708.2A(2)(c), was filed October 17, 2005. App. 15. The case was dismissed on December 6, 2005. App. 22. In the third case, a criminal complaint charging Doe with third-offense OWI, Iowa Code § 321J.2, was filed on November 25, 2009. App. 9. The case was dismissed on December 23, 2009. App. 23.

In all three cases, Doe filed an Application for Expungement pursuant to Iowa Code § 901C.2 on July 9, 2019. App. 24–32. The application set forth that all charges in the case had been dismissed; more than 180 days had passed since the date of dismissal; she did not plead not guilty due to insanity; she was not found incompetent to stand trial; and she had paid all court debt in that case. *Id.* A copy of each application was mailed to the Polk County Clerk of Court and the Polk County Attorney. *Id.* A Notice of Expungement Review was filed by the court in each case on July 12, 2019. App. 33–39. The order set a review for July 25, 2019 at 11 a.m. *Id.* The order informed the parties that no hearing would be held and that no party was to appear at that date and time. *Id.* The State filed a response to Doe’s expungement application on July 15, 2019, stating it had no objections to expungement so long as the statutory requirements had been met. App. 40–42.

Doe’s Expungement Applications were denied in three orders, each dated July 30, 2019. App. 43–48. The basis for the denials was the same in each case: Doe’s outstanding financial obligations in other cases. *Id.* The orders read in part, “Monies owed in other matters. See 901C.3(2)(d).” *Id.* Doe filed a Notice of Appeal in each case on August 22, 2019. App. 49–56.

STATEMENT OF FACTS

As this case presents a question of statutory interpretation and no facts are at issue, no statement of facts aside from the statement of the case is necessary.

ARGUMENT

- I. The trial court erred when it denied Doe’s application for expungement because Doe owes court debt in criminal cases other than the one in which she applied for expungement.**

Preservation of Error and Scope of Review

Error is preserved based on Doe’s timely appeal of the order denying her expungement application. The district court’s order denying Doe’s expungement application presents issues of statutory interpretation, which are reviewed for correction of errors at law. *Rhoades v. State*, 848 N.W.2d 22, 26 (Iowa 2014).

Discussion

Iowa Code § 901C.2 addresses expungement of a criminal case upon dismissal or acquittal of all charges in that case. A court shall enter an order expunging the record of such criminal case upon application if the defendant establishes five things:

- (1) The criminal case contains one or more criminal charges in which an acquittal was entered for all criminal charges, or in which all criminal charges were otherwise dismissed.
- (2) All court costs, fees, and other financial obligations ordered by the court or assessed by the clerk of the district court have been paid.
- (3) A minimum of one hundred eighty days have passed since entry of the judgment of acquittal or of the order dismissing the case relating to all criminal charges, unless the court finds good cause to waive this requirement including but not limited to the fact that the defendant was the victim of identity theft or mistaken identity.
- (4) The case was not dismissed due to the defendant being found not guilty by reason of insanity.
- (5) The defendant was not found incompetent to stand trial in the case.

Iowa Code § 901C.2 (1)(a). Here, the district court denied Doe's application for expungement based on her outstanding court debt in cases other than the case that she asked the court to expunge. For a dismissed case to be eligible for expungement, the statute requires payment of court debt only in the case in which the defendant seeks expungement. This reading of § 901C.2 is consistent with rules of statutory interpretation.

Furthermore, the court cited to a different expungement statute, Iowa Code § 901C.3, in denying the applications, which suggests the court may have mistakenly analyzed the applications under the wrong law.

A. Considering the text of all the expungement law’s provisions together, the statute’s fee requirement applies only to the case in which the defendant seeks expungement.

The most plausible reading of the dismissal-acquittal expungement law is that its fee requirement applies only to the case in which the defendant seeks expungement. This interpretation allows both a “just and reasonable result” and one “feasible of execution.” Iowa Code § 4.4. “In interpreting a statute, we look for an interpretation that is reasonable and avoids absurd results.” *Colwell v. Iowa Dep’t of Human Services*, 923 N.W.2d 225, 233 (Iowa 2019).

The court applies statutes to resolve legal disputes by first considering the plain meaning of the statute under consideration. *See State v. Albrecht*, 657 N.W.2d 474, 479 (Iowa 2003). The court engages in statutory construction only if the terms or meaning of the statute are ambiguous. *Id.* The statute is ambiguous if reasonable minds can disagree on the meaning of particular words or after examining all a statute’s provisions. *State v. Hutton*, 796 N.W.2d 898, 904 (Iowa 2011). If the statute is unambiguous, the court applies it as written. *State v. Nall*, 894 N.W.2d 514, 518 (Iowa 2017). In assessing meaning, statutes must be considered in full rather than looking at their component parts. *See, e.g., In re Estate of Melby*, 841 N.W.2d 867, 879 (Iowa 2014) (“When construing statutes, we assess not just isolated words and

phrases, but statutes in their entirety”); *see also* Iowa Code § 4.1(38) (“Words and phrases shall be construed according to the context and the approved usage of the language”).

The provision at issue reads, “All court costs, fees, and other financial obligations ordered by the court or assessed by the clerk of the district court have been paid.” Iowa Code § 901C.2 (1)(a)(2). The district court interpreted that statute as requiring payment of all court debt in *all* Doe’s cases. That reading is not reasonable, particularly when that portion of the statute is read in context and as part of the whole statute. “Context is king.” *Des Moines Flying Serv., Inc. v. Aerial Servs. Inc.*, 880 N.W.2d 212, 221 (Iowa 2016).

Every other requirement for expungement in the statute uses singular nouns and alludes to a singular criminal case. First, the application for expungement is to be made in *a criminal case*. Second, the defendant must establish that “*the criminal case* contains one or more criminal charges” (emphasis added). Third, the defendant must establish “a minimum of one hundred eighty days have passed since entry of the judgment of acquittal or of the order dismissing *the case*” (emphasis added). Fourth, the defendant must establish “*the case* was not dismissed due to the defendant being found not guilty by reason of insanity” (emphasis added). Fifth, the defendant must establish she “was not found incompetent to stand trial in *the case*” (emphasis

added). Finally, even the text of the provision at issue refers to court debt imposed by “*the court*” or “*the clerk*” (emphasis added).

If the legislature had intended for payment of all court debt in all cases to be a prerequisite for expungement of a single criminal case, it would have been clear to the drafters of the statute that specific language to that effect would be necessary to differentiate this section from the others, which all plainly refer to the single criminal case in which application for expungement has been made. But the legislature did not include any such language, instead listing the payment requirement alongside all the other requirements that refer to the single criminal case, which is the subject of the expungement application.

Nonetheless, in denying expungement here, the district court read this language as applying to all the defendant’s cases rather than just this one, effectively inserting three words into the court debt payment language of the statute: *in all cases*. Of course, if the legislature had intended such a requirement, it would have been easy to use those words. But the legislature did not do so. The legislature crafted specific conditions for granting expungement, and every word of the statutory enactment must be given force.

B. Other tools of statutory construction support the interpretation that the fee requirement applies only to the case in which the defendant seeks expungement.

All provisions of the Iowa Code are to be “liberally construed with a view to promote its objects and assist the parties in obtaining justice.” Iowa Code § 4.2. The tools of statutory construction set forth in that chapter are to be observed, but not if “construction would be inconsistent with the manifest intent of the general assembly, or repugnant to the context of the statute.” *Id.* As set forth below, the clear intention of the General Assembly in approving passage of Senate File 385 was to create a meaningful, accessible, and administratively feasible mechanism for expunging criminal cases that resulted in a dismissal or acquittal.

In enacting a statute, it is presumed the legislature intended “a result feasible of execution” as well as “a just and reasonable result.” *See* Iowa Code § 4.4. And in determining the intent of the legislature, this court may look to the consequences of an alternative construction. *See* Iowa Code § 4.6. Interpreting the statute to disallow expungement based on the existence of any court debt does not result in a statute that can feasibly be executed; nor, due to the administrative nightmares set forth below, does it lead to a just and reasonable result. Finally, the consequences of the construction of the statute adopted by the district court are dire.

If the statute indeed requires payment of all court costs, fees, or other financial obligations ordered by the court or assessed by the clerk of the district court in all cases, not just the case for which expungement was applied, this court must then ask several further questions about the scope of that requirement:

1. Does this requirement to pay all court costs, fees, and other financial obligations ordered by the court or assessed by the clerk of the district court apply only to criminal cases, or to civil cases as well?

2. Does it apply just to monies owed to the state, counties, or municipalities, or does it apply to monies owed to private parties based on a civil judgment?

3. Is the court responsible for determining whether debt is owed in other cases and jurisdictions, and for ruling accordingly on the expungement application, or must the State or the defendant prove or disprove the existence of any such debt? If this responsibility falls to the court, is it administratively feasible or even possible for a district court to determine whether a defendant who applies for expungement owes court debt in a case in another county or judicial district?

4. What about court debt in other states or countries? Do such debts prevent expungement of a specific criminal case in Iowa? If so, is the defendant obligated to demonstrate she owes no court debt in other jurisdictions?

When one considers the difficult questions raised by the district court's interpretation, the statute cannot mean what the district court says it means. Such a reading would render execution of the statute infeasible, and all statutes are presumed to have been enacted in such a way to be feasible of execution. Iowa Code § 4.4(4).

Importantly, the Iowa Supreme Court has previously interpreted § 901C.2 with an eye toward these practical considerations. This court should do the same. In *State v. Doe* (Iowa 2017), the court rejected the State's argument that the phrase "criminal case" in the statute means all factually-related offenses and instead found "criminal case" simply means a single numbered legal proceeding. *State v. Doe*, 903 N.W.2d 347, 349 (Iowa 2017), as amended (Nov. 15, 2017) (noting defendant's position is more sound in part because "it is easier to administer.").

Just as interpreting "criminal case" in *Doe* to include any factually-related offenses would present numerous practical problems, so would interpreting § 901C.2 as requiring payment of court costs in all other cases.

The statute could not feasibly be executed if the language at issue has the meaning the district court gave it, leading to unreasonable results and dire administrative consequences. *See State v. Iowa Dist. Court for Scott Cty.*, 889 N.W.2d 467, 473 (Iowa 2017) (“Practicality is also important. Generally, we try to interpret statutes so they are reasonable and workable”). On the other hand, a strict rule that a defendant must only pay court debt in the case the defendant seeks to expunge “can be applied predictably, quickly, and in a ministerial way.” *Doe*, 903 N.W.2d 347 at 353. Execution of the statute as interpreted by the district court would be infeasible, difficult to administer, and lead to unreasonable results.

It is also unreasonable to interpret the statute to preclude expungement of a criminal case that resulted in an acquittal or dismissal because of court debt owed in other cases. It is hard to imagine the legislature intended for an unpaid traffic ticket or court costs in a civil case to foreclose the expungement of a dismissed criminal case, the existence of which may be detrimental to the defendant.

Limiting the statute’s fee requirement to the case in which the defendant seeks expungement is also supported by other considerations courts make when determining the intention of the legislature: the object of the statute, the circumstances under which the statute was enacted, the legislative history, and

statements of policy made by the architects of the legislation. Iowa Code § 4.6.

Senate File 385 established new Iowa Code Chapter 901C relating to expungement of not-guilty verdicts and dismissed criminal charge records. It unanimously passed both chambers of the Iowa Legislature, was signed by the governor on May 1, 2015, and took effect on January 1, 2016. 2015 Iowa Acts ch. 83, § 1; *see also* 2016 Iowa Acts ch. 1073, § 188 (moving Iowa Code § 901C.1 to Iowa Code § 901C.2). The Iowa Supreme Court has noted the law apparently came about in response to this court's holding that existing laws did not allow the removal of information relating to dismissed criminal cases from the courts' statewide computerized docket. *See Doe*, 903 N.W.2d 347, 351, citing *Judicial Branch v. Iowa District Court*, 800 N.W.2d 569 (Iowa 2011).

What became Senate File 385 was originally introduced as House File 78 on January 21, 2015 and Senate Study Bill 1110 on January 28, 2015. H.F. 78, 86th Gen. Assemb. (Iowa 2015); S.S.B. 1110, 86th Gen. Assemb. (Iowa 2015). Those bills were identical when introduced and far less complex than the final language. *See id.* They read in relevant part, "One year after a person has been found not guilty of a charge or one year after a charge is dismissed against the person ... the charge shall be expunged by the clerk of the district

court.” *Id.* The bills contained no further requirements to get expungement. *Id.* The Senate version proceeded quickly and gained unanimous support from the Senate Judiciary Committee on March 4, 2015. An amended version of the bill was approved unanimously in the Senate and sent to the House for consideration on March 17, 2015. S. Journal, 86th Gen. Assemb., 445 (2015). The House Judiciary Committee recommended amendment and passage on April 2, 2015. H. Journal, 86th Gen. Assemb., 749–50 (2015). A strike-after amendment was adopted by the House on April 14 and the bill subsequently passed the House unanimously. *Id.* at 832–33.

Importantly, the major change to the bill in the amended version passed by the House was to make *more* cases eligible for expungement than the version initially passed by the Senate. S.F. 385 (Enrolled version), 86th Gen. Assemb., (Iowa 2015). The version that initially passed the Senate prohibited expungement of a dismissed criminal case if the person had pending charges in a related case, if the defendant was convicted of a crime in a related case, or if dismissal of the case was part of a plea bargain. S.F. 385 (Reprinted version, as amended and passed by the Senate March 17, 2015), 86th Gen. Assemb. (Iowa 2015). The House version removed those prohibitions. S.F. 385 (Enrolled version), 86th Gen. Assemb. (Iowa 2015). The final version passed by the House also removed the requirement that the criminal case must

have been dismissed with prejudice or be beyond the statute of limitations, instead requiring only that all criminal charges in the case were dismissed. *Id.* Finally, the House version allowed for expungement of cases resulting in acquittal, a provision that did not exist in the Senate version. *Id.*

The Senate concurred with the amended version and passed the bill unanimously on April 16, 2015. S. Journal, 86th Gen. Assemb., 885–86 (2015). The governor signed the bill on May 1, 2015. *Id.* at 962.

The legislative record demonstrates that the intent of Senate File 385 was to remove from public view criminal cases which resulted in dismissal or acquittal. Several legislators shared stories about constituents who were unable to find work and housing due to the existence of such records, and others who were embarrassed by an unjustified charge and afraid of others discovering those records. *See* Senate Video on S.F. 385, 86th Gen. Assemb. (Mar. 17, 2015), *available at* <https://www.legis.iowa.gov/dashboard?view=video&chamber=S&clip=1386&dt=2015-03-17&offset=3266&bill=SF%20385&status=i>; House Video on S.F. 385, 86th Gen. Assemb. (Apr. 14, 2015), *available at* <https://www.legis.iowa.gov/dashboard?view=video&chamber=H&clip=1488&dt=2015-04-14&offset=1205&bill=SF%20385&status=r>.

Representative Chris Hagenow, the House Majority Leader at the time, was the floor manager of the bill. His statements on the floor of the Iowa House urging passage of the bill help illuminate the object sought to be attained by the statute and the policy goals of the architects of the legislation. “It’s just simply the right thing to do to make sure that people’s fundamental rights are protected,” Hagenow said. “That they [don’t]...have a lingering penalty or societal black mark for a crime for which they have been found not guilty.” *See id.*

The intent of the legislature in approving Senate File 385 was to allow a reasonable and meaningful mechanism for expungement of criminal cases resulting in dismissal or acquittal. This legislation was adopted in response to a holding finding no such mechanism existed in law, and so the legislature created one. To interpret this legislation as the district court did and as a result largely foreclosing thousands of Iowans from obtaining expungement would directly contradict that legislative intent.

Legislative inaction also strongly supports the reading urged by Doe. There have undoubtedly been thousands of applications for expungement granted in Iowa courts since the law went into effect nearly four years ago. A large portion of those would have been denied if the district court’s reading of the statute in this case was the legislature’s intent, given the staggering

amount of outstanding court debt in the state. *See* Legislative Services Agency Issue Review, Court Debt Collection (Jan. 3, 2018), available at <https://www.legis.iowa.gov/docs/publications/IR/916685.pdf> (noting total outstanding court debt of about \$2.687 billion in the state at the end of fiscal year 2017). This equates to approximately \$850.00 of court debt for every man, woman, and child in the state, strongly indicating many individuals with expungable cases likely have some balance of court debt. However, there is no indication that courts have been doing anything other than routinely granting applications for expungement in cases where the defendant owes court debt in other cases.

If the legislature had intended expungement under § 901C.2 to require payment of all court debt in all criminal cases, it has made no effort to clarify that language in response to the widespread practice of courts across the state to implement the statute as urged here. The legislature's silence in the face of this also helps to illuminate its intent and the meaning of the language at issue. *See, e.g., Lockray v. State*, 495 N.W.2d 754 (Iowa 1993) (issues of statutory interpretation settled by the courts and not disturbed by the legislature over time indicate tacit acceptance of that interpretation by the legislative branch).

II. If the court denied expungement under the new misdemeanor conviction expungement law, the court erred because Doe's cases were dismissed.

In its order denying the application to expunge, the court references Doe's debt in other matters but also cites Iowa Code § 901C.3(2)(d). In each of the three cases, Doe properly filed an application under § 901C.2, a law designed for expungement of dismissed cases. All three cases appealed by Doe were dismissals.

Section 901C.3, enacted in 2019, allows defendants to seek expungement of one misdemeanor criminal conviction in a lifetime. Iowa Code § 901C.3; 2019 Iowa Acts ch. 140, § 2. The statute contains several other requirements, including a fee requirement, and lists 25 categories of offenses that are ineligible for expungement under the law. Iowa Code § 901C.3. Notably, each of the cases in which Doe sought expungement under § 901C.2 would be prohibited from expungement relief under § 901C.3, if they were convictions. *See* Iowa Code § 901C.3(2)(d) (prohibiting expungement of a driving while revoked conviction under § 321J.21); Iowa Code § 901C.3(2)(i) (prohibiting expungement of a domestic abuse assault conviction under § 708.2A); Iowa Code § 901C.3(2)(e) (prohibiting expungement of an OWI conviction under § 321J.2).

If the court denied expungement of Doe's cases because of the prohibition on expungement under § 901C.3(2), this was improper because all charges in all three cases were dismissed. Doe applied for and is entitled to expungement of the cases under § 901C.2.

CONCLUSION

For the reasons stated, Doe asks that this court reverse the ruling of the district court and grant her request for expungement.

REQUEST FOR ORAL SUBMISSION

Jane Doe respectfully requests oral argument.

Respectfully submitted,

/S/

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I certify that this document was served upon the following parties
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ATTORNEY FOR APPELLANT

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